

# Trafficking in Women: Moldova and Ukraine



December 2000



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## TABLE OF CONTENTS

I.	PREFACE	1
	A. Summary of Findings.....	3
	B. Recommendations.....	4
II.	CURRENT CONDITIONS	7
	A. Background.....	7
	B. Women’s Economic Status and Employment.....	10
	C. Prostitution.....	12
	D. Sexually Transmitted Diseases and HIV/AIDS.....	14
	E. Children.....	15
III.	TRAFFICKING IN MOLDOVA AND UKRAINE	16
	A. Introduction.....	16
	B. Causes and Complicating Factors.....	17
	C. Mechanisms of Trafficking.....	20
IV.	NGO RESPONSE	24
	A. Prevention.....	24
	B. Rescue Efforts.....	26
	C. Reintegration.....	27
V.	GOVERNMENT REPOSENSE TO TRAFFICKING	29
	A. Police Response.....	30
	B. National Laws.....	34
	1. Ukrainian Law.....	34
	2. Moldovan Law.....	42
	C. Licensing Firms.....	43
VI.	MOLDOVAN AND UKRAINIAN OBLIGATIONS UNDER INTERNATIONAL LAW	44
	A. Women in Moldova and Ukraine are being denied the right to security of person and the right to be free from torture, cruel, inhuman and degrading treatment.....	45
	B. Women in Moldova and Ukraine are being denied the right to be free from forced labor and slavery.....	47
	C. Women in Moldova and Ukraine are not protected against trafficking or forced prostitution.....	48
	D. Women in Moldova and Ukraine are being denied the right to favorable work conditions.....	49
	E. Women in Moldova and Ukraine are being denied an effective remedy for acts violating their fundamental human rights.....	50
VII.	CONCLUSION	50
	APPENDIX	i

## **ACKNOWLEDGMENTS**

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This research was conducted in collaboration with Winrock International as the first phase of a larger project entitled, "DOS-INL Anti-Domestic Violence and Trafficking in Women and Children Project."

## **DEDICATION**

This report is dedicated to the women of Ukraine and Moldova.

**This project was funded, in part, through Grant Number S-OPRAQ-99-H-N005. The opinions, findings and conclusions or recommendations expressed herein are those of the Authors and do not necessarily reflect those of the Department of State.**

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## TRAFFICKING IN WOMEN: MOLDOVA AND UKRAINE

*A young woman from rural Ukraine was kept for a year and a half in forced prostitution abroad. She was one of five children; her father was dead and her mother ill. She had been a high school student with a job in a café when she was offered a job in Hungary for \$500 per month. Although it usually takes three months, she had a passport in a week. She was taken in a car with two other girls to Hungary. At the border, a man took their passports, brought them to a bar and locked them in a room. He attempted to rape the girl but when she said that she was a virgin, he left her alone. A woman told them that they were to “do everything [they were] told” which they understood to mean that they would be forced into prostitution. Her friends agreed, but the young woman refused. She was then raped and beaten. After this incident she was sold to people in Austria. Eventually she escaped with another young girl. They called a former client who had said he would help them. He took them to his house promising to help but later brought clients to them for sex. The young woman resisted again but was beaten so severely she sustained serious injuries. The man then locked her in a cellar room. She was eventually able to escape. She went to the bar where she had been forced to work to ask the owner for help. The woman agreed to help and bought the girl’s passport. She then forced the girl to prostitute herself to pay for the passport. The girl had no more power left to fight. Eventually she was “lucky” because the police raided the brothel and arrested her. With the help of an NGO, the woman was brought back to Ukraine. The woman filed a complaint but the traffickers were never punished. The woman could not go back to her hometown because the people who sold her are in high levels of political power.<sup>1</sup>*

### I. PREFACE

Trafficking of women<sup>2</sup> across national borders for the commercial sex industry is increasing at an alarming rate. Although the problem is centuries old, the United Nations and international aid agencies have responded to this recent increase, dedicating substantial resources to developing effective solutions. Governments around the world are also attempting to implement new laws and legal strategies to meet the challenges of this problem.

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<sup>1</sup> Summarized from an Interview, February 15-16, 2000 (Ukraine). For the purposes of this report, interviews will be identified only by the country in which they occurred to help maintain the anonymity of the people who participated in this research.

<sup>2</sup> The term “women” will be used in this report to describe both women and girls.

There is currently no single internationally accepted definition of trafficking in women. Amnesty International, in acknowledging the lack of an accepted definition, identified several basic aspects of trafficking, including the following:

- each year, women constitute a large proportion of the overall number of people trafficked, that is, transferred within or across national borders from their place of habitual residence;
- the illicit movement of women takes place at the hands of “traffickers,” loosely defined as people profiteering from organizing, carrying out or otherwise facilitating the illicit transit of persons;
- the majority of trafficked women find themselves trapped in debt bondage, servitude or slavery-like conditions as a result of being trafficked;
- one of the reasons ultimately driving trafficking in women is demand for their employment – be it “voluntary” or “coerced” – in the sex industry;
- many of the women trafficked for work in the sex industry are subjected to human rights abuses directly resulting from being trafficked;
- there is evidence that the fewest trafficking-related human rights abuses occur at the women’s places of habitual residence, while such abuses often commence at transit locations, and they become more prevalent at the final destination;
- trafficking in women reaps huge financial profits for the traffickers and has, therefore, seen an ever-increasing involvement on the part of international organized crime; and
- since the trafficking of women was placed on the international agenda as a global phenomenon in the early 1990s, governmental and intergovernmental responses have been inadequate, and in the main, have focused on combating organized crime without paying sufficient attention to supporting trafficked women’s specific needs, and developing strategies for preventing, investigating, punishing and providing adequate remedies for human rights abuses committed against trafficked women as a result of their being trafficked.<sup>3</sup>

Although the commercial sex industry is one of the principal sectors into which individuals are trafficked, people are also trafficked into begging, the service industry (restaurants, hotels), sweatshops, agricultural work, domestic work and other forced labor and marriage situations.<sup>4</sup> The overwhelming majority of people trafficked into sweatshops, domestic work and prostitution are women.

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<sup>3</sup> ISRAEL, *Human rights abuses of women trafficked from countries of the former Soviet Union into Israel’s sex industry*, Amnesty International, 18 May 2000, AI Index: MDE 15/17/00

<sup>4</sup> *Trafficking in Human Beings: Implications for the OSCE*, ODIHR Background paper, 1999/3.

In February and May of 2000, Minnesota Advocates for Human Rights (“Minnesota Advocates”) sent research delegations<sup>5</sup> to Ukraine and the Republic of Moldova (“Moldova”) to document the problem of trafficking in women.<sup>6</sup> Although trafficking in women is an international problem that is not confined to any one country or region, the purpose of this research was to investigate and expose human rights violations associated with trafficking by focusing on two countries currently attempting to address the problem. While Moldova and Ukraine are independent countries with rich historical and cultural traditions that make them unique, this report includes the findings from both countries to highlight the significant similarities in the situation for women who have been trafficked into the commercial sex industry.

## **A. Summary of Findings**

Trafficking of women into the commercial sex industry is a serious problem and is increasing in Moldova and Ukraine. Weekly, women from Moldova and Ukraine are trafficked through formal and informal channels all over the world, including countries in the Balkans, Central and Eastern Europe and the Middle East. In some cases, women go abroad knowing that they will work in the sex industry without knowing of the terrible work conditions and violence that accompany the trafficking business. Other women answer job advertisements for positions abroad such as dancers, waitresses, and nannies, only to find themselves held against their will and forced into prostitution and sexual slavery. Still others are kidnapped and taken to other countries without ever consenting to travel. In the destination countries, women are at risk of being beaten, raped and sometimes killed.

Trafficking in women is a complicated phenomenon with many forces impacting women’s decisions to work abroad. Perhaps the strongest factor is the desperate economic situation impacting the availability of satisfactory employment in both countries. In some cases, women who are rescued after being subjected to severe human rights abuses, including sexual and physical assault, voluntarily return to the countries to which they were originally trafficked. Often, they return because they are unable to find work in their home countries. In other cases, the women find reintegrating back into their former life too difficult.

The current laws in Moldova and Ukraine are not sufficient to respond to the complicated issues involved in trafficking. The laws do not provide adequate mechanisms to prosecute traffickers nor do they provide adequate protections or remedies for victims. Although some laws exist, they are largely ineffective and as a result, have rarely been enforced. For example, in Moldova, the law most frequently cited by legal professionals for use in trafficking cases is a pandering statute. The law is rarely used and only prohibits soliciting prostitution, just one aspect of trafficking. The Moldovan

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<sup>5</sup> The delegations consisted of Suzanna Banwell, Erin Barclay, Belinda Cooper, Elisabeth Duban, Diane Knust, Robin Phillips and Nicole Willis-Grimes.

<sup>6</sup> This research was conducted in collaboration with Winrock International as the first phase of a larger project entitled “DOS-INL Anti-Domestic Violence and Trafficking in Women and Children Project.”

Parliament, however, has recently created a working group on trafficking charged with coordination of activities on trafficking prevention. In Ukraine, a trafficking law exists but there is virtually no commentary to assist in its interpretation. Moreover, with a few notable exceptions, police, prosecutors and judges have been reluctant to enforce the law against traffickers. The Ukrainian government has created a Program for Prevention of Trafficking in Women and Children but has not yet dedicated sufficient resources to effectively implement the program.

In addition to problems with the laws and their implementation, many report that traffickers have been successful in bribing government officials to ignore their activities or actively assist in the trafficking process. Government officials and NGO representatives also identified the involvement of international organized crime rings as a serious obstacle to implementing programs and policies to address the problem.

Nongovernmental organizations (“NGOs”) have begun organizing to meet the needs of victims, but the demand is much too high for their limited resources. Some rescue efforts have been successful, but to increase the number of women rescued from sexual slavery, both governments must better coordinate their efforts with NGOs. If and when women return from being trafficked, there are no governmental services and only a few services provided to them by NGOs. NGOs in Moldova and Ukraine are only able to offer limited information, training, social services and healthcare to assist women attempting to reintegrate into society after they return from being trafficked. The licensing systems for businesses in Moldova and Ukraine are not effective in preventing the participation of those businesses in illegal trafficking of women.

The governments of Moldova and Ukraine are obligated under international law to protect the human rights of their residents. Both countries are members of the United Nations and the Council of Europe and accordingly must adhere to international instruments such as the Universal Declaration of Human Rights and the Declaration on the Elimination of Violence Against Women. In addition, both countries have ratified the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination Against Women and the [European] Convention for the Protection of Human Rights and Fundamental Freedoms. In failing to protect effectively the human rights of women who are trafficked, Moldova and Ukraine are not in compliance with their international obligations under these and other treaties.

## **B. Recommendations**

Based upon the findings of its delegation, Minnesota Advocates recommends that the Moldovan and Ukrainian governments take the following steps:

1. Enforce existing legislation that could be used to convict traffickers.
2. Ensure that their laws and law enforcement efforts hold traffickers accountable for their crimes.

3. Review existing laws and procedures to license and monitor more effectively businesses to ensure their legitimacy and prevent their involvement in trafficking activities and take swift and effective measures against those businesses known to be involved.
4. Work to eradicate corruption both in their own ranks and in business communities.
5. Focus on poverty alleviation and economic development programs, especially for women in rural areas.
6. Initiate further research on trafficking, particularly on specific regions, on the dangers of trafficking channels and countries that are recipients of trafficked women.
7. Initiate a broad informational and educational media campaign on trafficking with a particular emphasis on reaching rural communities.
8. Develop on-going monitoring of trafficking using data from the police and travel agencies.
9. Work with experienced NGOs to develop and implement broad training for all law enforcement officers to ensure proper detection and response to trafficking situations.
10. Monitor more effectively their borders to address illegal trafficking activities and train their border guards to recognize and appropriately respond to potential trafficking situations.
11. Work with the governments of the countries identified as transit and destination countries for women trafficked from Moldova and Ukraine to ensure their proper treatment and safe repatriation, if they seek repatriation.
12. Encourage existing cooperation and develop new networks among government agencies and NGOs to assist with rescuing and reintegrating women who have been trafficked.
13. Support prevention, intervention and reintegration efforts of all government agencies and NGOs that prioritize the health and safety of victims.
14. Ensure the rapid and safe repatriation of their citizens who have been trafficked by assisting them in obtaining appropriate travel documents and adequate financial resources to return home.

15. Ensure that the healthcare needs of trafficked women and girls are met, including proper, confidential, voluntary testing and treatment for HIV/AIDS and other sexually transmitted diseases.

## II. CURRENT CONDITIONS

### A. Background

The transition from communism to democracy throughout the Commonwealth of Independent States (“CIS”) was initially met with great enthusiasm. However, the reality for many people of this region, particularly for women, is under representation in politics, drastic unemployment and a reemergence of traditional societal values regarding women. Increased social problems such as poverty, domestic violence<sup>7</sup> and trafficking in women have also accompanied the transition.

In Moldova and Ukraine, the female role has become much more circumscribed in the name of tradition. Women in the earliest phases of transition from communism showed signs of developing a new social force that would break with the discriminatory aspects of tradition, but ultimately women have emerged to face strengthened levels of misogyny, discrimination and inequality. In the course of researching this report, numerous interviewees told Minnesota Advocates of the “strong Ukrainian [and Moldovan] woman,” the provider for the family, the keeper of traditions, a person to be revered and respected. This mythology starkly contrasts with the reality of women’s lives. This reality is more likely to be defined by poverty, unemployment, domestic violence, and trafficking.

The countries of the former Soviet Union are currently suffering significant economic depression. Both Moldova and Ukraine face high unemployment, hyperinflation and corruption. Social challenges arise from these economic difficulties and include an increase in social stratification, with a minority achieving significant wealth while the majority slides deeper into poverty. As the United Nations Development Program (“UNDP”) Report for Central and Eastern Europe and the CIS states, “the losses in human security [during the transition from communism to a free market economy] have been severe. The gains in freedom have been accompanied by the loss of many basic economic and social rights that the population had come to enjoy and expect over the course of decades. Millions of people in the region are unemployed or underemployed. . . . The whole previous comprehensive system of social protection has been allowed to crumble.”<sup>8</sup>

The UNDP report on Moldova adds that:

*The situation is aggravated by the fact that in these conditions of mass poverty, when the bulk of the population cannot maintain even the modest standard of living that they used to have not long ago, the so-called “new*

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<sup>7</sup> It is not clear, however, whether the actual rate of domestic violence is increasing or whether reporting of domestic violence has changed since independence. See *Domestic Violence in Moldova*, Minnesota Advocates for Human Rights (December 2000) and *Domestic Violence in Ukraine*, Minnesota Advocates for Human Rights (2000).

<sup>8</sup> *Transition 1999 – Human Development Report for Central and Eastern Europe and the Commonwealth of Independent States*, United Nations Development Program (1999).



*rich” engage in conspicuous consumption and flaunt their wealth. This irrational behavior cannot fail to cause social antagonism, especially if the dubious origin of many incomes is taken into account.*<sup>9</sup>

One indicator of the sharpness of the economic decline in the CIS is that “in 1989, about 14 million people in the transition economies of the CIS were living under the poverty line of four dollars per day. By the mid-90s that number was about 147 million, or one person in three. In most of these countries inequality increased very fast.”<sup>10</sup>

The situation is especially acute in Ukraine and Moldova. In Ukraine, economic hardships have resulted in consistent decreases in wages and in the standard of living. Family incomes have dropped so low that as of 1997, 70% of families surveyed by the UNDP identified their incomes as insufficient.<sup>11</sup> As a result of these low incomes many people, particularly women, have begun to work second jobs.<sup>12</sup>

Moldova is faring even worse. “In accordance with UNDP evaluations (1998), about 90% of the population of Moldova have incomes of less than U.S. \$2 per day, while the ratio of the incomes of the 20% richest over those of the 20% poorest groups of the population is 12.6 (against 7.0 in 1993).”<sup>13</sup> Real personal income has fallen by as much as 70%.<sup>14</sup> Indeed, “a retrospective analysis of seven years of transition attests to a *deep worsening of all parameters of the quality of life.*”<sup>15</sup>

Such conditions are ripe for corruption. The Moldovan government noted that when groups who have acquired capital through illegal means have access to power, they threaten “the chances of economic prosperity for the majority of [Moldova’s] citizens.”<sup>16</sup> At the same time, the “shadow economy” continues to grow. The shadow economy includes “the informal economy, the emergence of a large-scale underground economy and corruption. A high degree of corruption in countries under transition favors black market development. The index of the black market in Moldova, as well as in . . . Ukraine . . . has reached [four], the maximum being [five] . . . .”<sup>17</sup> While shadow

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<sup>9</sup> *National Human Development Report, Republic of Moldova*, United Nations Development Program at 20 (1999) [hereinafter UNDP MOLDOVA REPORT].

<sup>10</sup> *Id.*

<sup>11</sup> *Gender Analysis of Ukrainian Society*, 1999, United Nations Development Program at 36 (1999).

<sup>12</sup> *Id.*

<sup>13</sup> UNDP MOLDOVA REPORT, *supra* note 9 at 25.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 26 (emphasis in the original).

<sup>16</sup> UNDP MOLDOVA REPORT, *supra* note 9 at 28.

<sup>17</sup> *Id.* at 59-60.

economies do generate additional income for participants, that income is unequally distributed between rich and poor, and the gap between the newly rich and the vast number of poor is widening. Furthermore, “with no political influence, the vulnerable layers of society are often subject to increased social pressure.”<sup>18</sup> As the shadow economy expands, the government’s tax base erodes and state revenue falls. This dynamic creates “a vicious cycle with ever worsening impact such as corruption, economic decline, shortage of budget resources, wage arrears to state officers, and expansion of corruption” as state employees come to rely on bribes as their source of personal income.<sup>19</sup> Making matters worse, people who rely on the shadow economy for their livelihood have no social or legal protection and are therefore easily exploited and even enslaved.<sup>20</sup>

Senior police officials in Ukraine reported that there are multiple international organized rings involved in trafficking cases.<sup>21</sup> A lawyer in eastern Ukraine active in prosecuting trafficking cases pointed out, “There are many cases in which control is exercised by Eastern European and CIS-based mafia.” He added, “it is easy to make agreements with corrupt officials. Local law enforcement officials in receiving countries are also corrupt.”<sup>22</sup> The UNDP report on women in Ukraine identifies graft of officials and political corruption as two of the factors causing the expansion of trafficking and prostitution in Ukraine.<sup>23</sup>

Although corruption is by its very nature difficult to document, many people interviewed described rampant corruption in both Moldova and Ukraine. Corruption influences trafficking in numerous ways, including providing traffickers with easy access to official documents for victims. Bribery of militia and border guards and money laundering are reportedly rampant. According to the Berlin-based anti-corruption organization, Transparency International, which ranks government levels of corruption, Denmark has the lowest level of government corruption, the United States is number eighteen, and Moldova and Ukraine are tied at 75.<sup>24</sup>

These political, economic and social conditions fuel the trafficking of women. “People are forced to look outside of the country for work. Pimps take advantage of the

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<sup>18</sup> UNDP MOLDOVA REPORT, *supra* note 9 at 61.

<sup>19</sup> *Id.* at 63.

<sup>20</sup> *Id.* at 62.

<sup>21</sup> *E.g.*, Interview, May 15, 2000 (Ukraine).

<sup>22</sup> Interview, June 7, 2000 (Ukraine).

<sup>23</sup> *Gender Analysis of Ukrainian Society*, *supra* note 11 at 231.

<sup>24</sup> Transparency International, 1999 Corruption Perceptions Index, found at <http://www.transparency.de/documents/cpi>.

difficult situation people find themselves in.”<sup>25</sup> Minnesota Advocates researchers were repeatedly told that Moldova’s main source of revenue is now trafficking in drugs, weapons and women. The research team was also regularly told that virtually “everyone [in the system] is corrupt to some degree,” a sentiment borne out by research that showed that “85% of respondents declared it impossible to solve a problem without bribing state employees, . . . more than 92% feared criminals and their cruelty.”<sup>26</sup>

## **B. Women’s Economic Status and Employment**

The devastating economic situation in Ukraine and Moldova contributes significantly to voluntary international migration. In research conducted in Ukraine by the International Organization for Migration<sup>27</sup> (“IOM”), Ukrainian women who wanted to work abroad identified the poor economic situation as their primary motivation to leave the country.<sup>28</sup> A psychologist in Lviv, Ukraine, noted:

*. . . [T]here are no jobs, . . . most people are unemployed. Highly educated people are unemployed because the old production processes have stopped. The free market is the only way to make money. Often, men stay with the kids here in Ukraine and women go abroad to earn money. Women with high levels of education go abroad to waitress and teach children [for very low wages].*<sup>29</sup>

While unemployment and under employment have affected the entire population of Moldova and Ukraine, women have been disproportionately impacted. For example, between 1994 and 1997, while Moldovan men experienced a slight decrease in their unemployment rate from 37% to 32%, the unemployment rate for women over the same time period increased from 62% to 68%.<sup>30</sup>

The effects of rapidly deteriorating economic conditions were compounded during that time by discrimination against women in the labor market. In 1989, women’s salaries within the same fields and occupational levels were an average of 28% less than

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<sup>25</sup> Interview, May 20, 2000 (Moldova).

<sup>26</sup> UNDP MOLDOVA REPORT, *supra* note 9 at 111.

<sup>27</sup> The IOM is an international organization dedicated to: 1) assisting in the operational challenges of migration; 2) advancing the understanding of migration issues; 3) encouraging social and economic development through migration; and 4) protecting the human dignity and well-being of migrants. In Ukraine, much of the work of the IOM has focused on trafficking in women.

<sup>28</sup> *Information Campaign Against Trafficking in Women in Ukraine*, International Organization for Migration (July 1998).

<sup>29</sup> Roundtable discussion, February 15-16, 2000 (Ukraine).

<sup>30</sup> *Implementation of the Beijing Platform of Actions in the Republic of Moldova*, Beijing+5, Gender Center of the Republic of Moldova, Chisinau, 2000.

those of men.<sup>31</sup> This inequality has not been addressed during the period of transition. Also, the disappearance of communist era employment guarantees has negatively affected women.<sup>32</sup> By 1996, 70% to 80% of the unemployed in Ukraine were women, two thirds of whom had post high school degrees.<sup>33</sup> Among those at greatest risk were mothers with young children and women of pension age. Fear of unemployment was one of the greatest concerns women faced during the last decade, greatly contributing to the psychological burdens of daily living.<sup>34</sup>

Those women who do have jobs often face discrimination in the work place. A representative of a human rights organization in Dnipropetrovsk, Ukraine explained:

*Most of our clients are women; women's rights are constantly violated. Women are often the first to be fired. Or employers don't hire women because they are afraid that they will get pregnant. If a woman is hired, she will be told "no kids, no pregnancy." Advertisements that say "woman up to 35 years with no moral reservations needed to supply services" are as common as they are humiliating and discriminatory. Here the majority of people graduating from high school and college with honors are female but then they disappear; they're not in business, not even in small business.*<sup>35</sup>

Women in Moldova and Ukraine may also face age discrimination when seeking employment in many professions. An NGO activist identified the problem, stating that "a woman 35 or older has experience and knowledge that could be very valuable and useful. Companies have a sexist attitude in hiring only young women. Employers ask how old are you, how pretty are you, what is your chest size, how much do you weigh, are you married. Only later do they ask about professional ability. Very often women older than 35 have technical skills that younger women do not, but they still cannot get jobs."<sup>36</sup>

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<sup>31</sup> *Id.* at 672.

<sup>32</sup> Solomea Palychko, *Progress on Hold: the conservative faces of women in Ukraine*, in POST-SOVIET WOMEN; FROM THE BALTIC TO CENTRAL ASIA 225 (Mary Buckley ed., 1997).

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* This fear of unemployment was confirmed in numerous interviews of women and NGO representatives in Moldova and Ukraine.

<sup>35</sup> Interview, May 18, 2000 (Ukraine). Many people interviewed described discrimination against women in the workplace as a serious problem facing women in both Ukraine and Moldova.

<sup>36</sup> Interview, May 15, 2000 (Ukraine). NGOs also reported that some international funders seeking to aid women at risk for trafficking have indirectly reinforced this age discrimination by limiting employment services to women under age 35. While the desperate economic situation impacts women of all ages, some NGOs are forced to turn away people in great need because of these restrictions.

### C. Prostitution

Many people in Ukraine and Moldova described the extremely high demand for the commercial sex industry. A reproductive health doctor stated that the “majority of men in Ukraine have multiple sex partners regardless of whether they are married.”<sup>37</sup> Another described three married friends of his, all of whom go to commercial sex workers. He said that “their families are very respectful but probably because of additional fantasies or puritanical relationships in the family, they want sex elsewhere.”<sup>38</sup> A reproductive health worker in Moldova also said that married men in Moldova visit commercial sex workers “quite often.”<sup>39</sup> Research among commercial sex workers in Odesa, Ukraine, has shown that “a majority of their clients are married.”<sup>40</sup>

Although some of this activity is unpaid, in the realm of an “affair,” much of it involves men who pay for sexual services. Rates of prostitution among children as well as grown women are increasing among Moldovans and Ukrainians both within the country and abroad.<sup>41</sup> As one doctor said, “Everyone knows about prostitution throughout Moldova. Anyone can find a woman to buy at any time.”<sup>42</sup> While it is against the law to solicit prostitution services in both Moldova and Ukraine, it is not against the law to pay for those services.<sup>43</sup> A foreign prosecutor suggested at a law reform conference that a law against those who pay for prostitution services might help curtail the problem. In response, “the men just laughed.”<sup>44</sup>

The relationship between prostitution and trafficking for sex purposes is a complicated one. Some women are deceived, coerced, drugged or kidnapped before being trafficked for sex purposes. These women have never before worked as prostitutes and generally do not know what is happening until they find themselves in a brothel being forced to take clients. Other women who have never before worked as prostitutes may suspect that they will work in the sex industry if they arrange their employment with a trafficker. Many people interviewed reported that over the last few years they have noticed an increase in the number of women who know they will be working in

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<sup>37</sup> Interview, May 19, 2000 (Ukraine).

<sup>38</sup> Interview, May 17, 2000 (Ukraine).

<sup>39</sup> Interview, February 24, 2000 (Moldova).

<sup>40</sup> *Evaluation of the Situation of Spreading HIV and STD in the Sphere of Commercial Sex in Odesa*, conducted by the NGO “Faith, Hope and Love,” January 1999.

<sup>41</sup> UNDP MOLDOVA REPORT, *supra* note 9 at 112.

<sup>42</sup> Interview, May 19, 2000 (Moldova).

<sup>43</sup> Moldovan Criminal Code, Article 222; *see infra* Section IVB1(b) for a description of Moldovan law; Ukrainian Code of Administrative Offenses, Article 181.

<sup>44</sup> Interview, May 12, 2000 (Moldova).

prostitution and a decrease in the number of women who do not. There are also women who work as prostitutes in their home countries who willingly travel to other countries because they believe they will earn more as sex workers abroad. Regardless of how women become involved in trafficking and prostitution, there is no doubt that the terrible conditions under which they are generally forced to work violate their fundamental human rights. Similarly, conditions under which prostitutes work in their own countries are often deplorable.

In both Moldova and Ukraine, despite the fact that their clients may be viewed as “respectable,” prostitutes themselves are held very much in disdain. One police officer said, “People just dismiss prostitutes as no-good people.”<sup>45</sup> Currently, the feeling that prostitution fundamentally threatens Moldovan and Ukrainian society seems to be particularly acute. For example, the research team interviewed several officials who referred to the impending “deterioration of the gene pool” as a result of prostitution and trafficking.<sup>46</sup> Notably, this concern was directed toward the woman and her responsibility not to endanger society. These same people did not express concern about the number of men who pay for sexual services on a regular basis and who fuel the trafficking industry worldwide. Nor did anyone identify a change in the behavior of men as necessary to alleviate the perceived threat to society from prostitution and trafficking. Instead, Minnesota Advocates heard repeatedly that it was women who needed education and “psychological correction,”<sup>47</sup> and that this was the most effective way to address trafficking.

Many young women glamorize prostitution and do not have a realistic idea about the harsh conditions in which women in prostitution are often forced to work. One observer noted:

*No one has started a dialogue with women who have worked in prostitution. They are treated as though all of their problems are their own fault. Society is very rigid. In one college, a social opinion poll was conducted.<sup>48</sup> More than 50% of the girls said they wanted to be hard currency prostitutes because they have fancy clothes, fancy cars, lots of money, and they go to fancy restaurants. For many young girls, prostitution seems to be an adventure; they do not understand that they do not get all of the money. Some of them get sick, some die. For police, it is easier to write up the prostitute than the man.<sup>49</sup>*

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<sup>45</sup> Interview, May 17, 2000 (Ukraine).

<sup>46</sup> This opinion was also published in the UNDP report, *Gender Analysis of Ukrainian Society*, *supra* note 11 at 231.

<sup>47</sup> E.g., Interview, May 23, 2000 (Odesa).

<sup>48</sup> Minnesota Advocates was never able to obtain a copy of this survey or confirm its existence.

<sup>49</sup> Interview, May 13, 2000 (Moldova).

In both countries, the danger that prostitutes face is often extreme. For example, an emergency medical technician in eastern Ukraine noted, “Some prostitutes are seen with heavy physical injuries with serious consequences. In the winter many of them are beaten and left outside to freeze.”<sup>50</sup> A doctor who is trying to bring health services to women working as prostitutes said simply “these women live like slaves.” He described how guards, usually men, and pimps, often women, constantly watch prostitutes. This results in difficulties for doctors in providing the women basic health care services.<sup>51</sup>

In addition to the dangerous conditions, most women working in prostitution earn very little money. According to research conducted among commercial sex workers in Odesa,<sup>52</sup> the “low level prostitutes,” defined as the women working at the bus and railway stations, earn from three to five hryvnia per client (between U.S. \$.50 and \$1).<sup>53</sup> In contrast, a bottle of beer costs 1.5 to 2 hryvnia; a pack of cigarettes cost three. Those women working as prostitutes on the highways make 10 to 15 hryvnia or just fewer than US \$2 to \$3 per client. Only those that work in bars, restaurants or casinos (US \$20-\$50 per client) or saunas and elite hotels (US \$50-\$100 per client) can expect to earn a higher wage.<sup>54</sup>

Although some police officials are trying to work with prostitutes in a positive manner, many simply arrest the women and avoid addressing other, more complicated, issues surrounding prostitution.<sup>55</sup>

#### **D. Sexually Transmitted Diseases and HIV/AIDS**

Women who are forced into prostitution abroad are at risk of acquiring sexually transmitted diseases (“STDs’), including HIV/AIDS. In addition, these women’s lives are often threatened by pimps, clients, husbands, and by suicide either due to the trauma of the trafficking experience itself<sup>56</sup> or as a result of discovering that they have contracted HIV/AIDS in the process. One doctor said:

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<sup>50</sup> Interview, June 8, 2000 (Ukraine).

<sup>51</sup> Interview, May 17, 2000 (Ukraine).

<sup>52</sup> Interview, May 24, 2000 (Ukraine); *Evaluation of the Situation of Spreading HIV and STD in the Sphere of Commercial Sex in Odessa*, conducted by the NGO “Faith, Hope and Love,” January, 1999.

<sup>53</sup> At the time that Minnesota Advocates was conducting this research in Ukraine the hryvnia/dollar exchange rate was approximately five to one.

<sup>54</sup> *Id.*

<sup>55</sup> A Moldovan police officer summarized the most common response to prostitution: “The police will arrest women working in prostitution in Moldova if they can prove it.” Interview, May 19, 2000 (Moldova).

<sup>56</sup> *See infra*, Section III.

*A group of five women with a security guard came to the STD clinic. They said that they were going abroad to be dancers and they wanted to be tested. Sometime later they came back to be tested again. Our center doesn't get information from them about their circumstances. We just focus on life before and after the AIDS test to keep them from committing suicide.<sup>57</sup>*

This doctor was encouraged, however, because “bringing them to the [STD] center helped to change the attitude of the doctors because they had no idea that these women are almost like slaves. They had no idea how deep the problems these women face are.”<sup>58</sup> Unfortunately, it seems that there are very few doctors or centers like this in either country.

## **E. Children**

In some cases, children may also be at risk of trafficking to the commercial sex industry. The director of an NGO in Moldova noted:

*Some of the parents know that their daughters are being trafficked into prostitution. In one case, a woman had two daughters and lived on the streets. When one of the daughters was 12 years old, the mother proposed that she go abroad to work in prostitution. The girl went to the television station to appeal for help. She wanted to go to school. After two and a half years, both the girl and her sister were in [a children's care] facility.<sup>59</sup>*

Children may be at risk for trafficking for other purposes such as illegal adoption. For example, an NGO working on human rights in Dnipropetrovsk told of a case in which a mother, who was a drug addict, sold her seven-year-old daughter. The girl's grandmother had custody, but the child's mother kidnapped the girl and sold her to a couple in Poland who intended to adopt her. With the help of the Ukrainian Ambassador in Poland, the NGO was able to get her back. The head of the NGO said that afterwards she wondered if she had done the right thing but in the end she decided that it was best for the girl to be raised by her relatives in Ukraine.<sup>60</sup>

Children may also be secondary victims of trafficking. For example, the deputy head of a hospital in Moldova reported seeing patients who have been trafficked and are being treated for health problems, such as STDs. She related the following case:

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<sup>57</sup> Interview, May 17, 2000 (Ukraine).

<sup>58</sup> Interview, May 17, 2000 (Ukraine).

<sup>59</sup> *Id.*

<sup>60</sup> Interview, May 18, 2000 (Ukraine).



*A woman left her three children and went to Romania to work. She sent money to her children and came home after six months to see them and get medical treatment. She said she had to earn money some way and prostitution is what she did. After being home for three weeks she went back to Romania to work. She has since disappeared; no one has heard from her. She does not send money any more. Her children have dropped out of school and no one cares for them.*<sup>61</sup>

### III. TRAFFICKING IN MOLDOVA AND UKRAINE

#### A. Introduction

Although no one has formal statistics on trafficking from any country, research reveals that the problem is widespread. The problem is also increasing in both Moldova and Ukraine. The evidence comes from a wide variety of sources, ranging from police to NGOs, health care providers to prosecutors, and international organizations such as the IOM and La Strada.<sup>62</sup>

In 1999, La Strada, an NGO working on trafficking of women in Ukraine, reported that 420,000 Ukrainian women had been taken out of country.<sup>63</sup> A police officer in Ukraine reported that in the summer, about 20 women a week leave Luhansk.<sup>64</sup> One senior member of the police force in Donetsk, Ukraine, who is active in fighting trafficking, estimated, “500-1000 girls leave Donetsk for Turkey and other places monthly. In some towns, 95% of the girls have gone to Greece or Turkey to work as prostitutes. Three to five years ago, girls were tricked and cheated into going. But now they often go voluntarily in order to make money.”<sup>65</sup> He said he knows of some women who have been deported five or six times, “they change their passport and try to go again.”<sup>66</sup>

The Director of the Moldovan Intelligence and Security Service estimated that more than 600,000 citizens of Moldova are working abroad illegally.<sup>67</sup> A woman

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<sup>61</sup> Interview, May 19, 2000 (Moldova).

<sup>62</sup> La Strada in Ukraine is affiliated with the Dutch organization of the same name and was opened in Ukraine in 1997; *see infra* Section IV A for a description of La Strada.

<sup>63</sup> Interview, May 17, 2000 (Ukraine).

<sup>64</sup> Interview, May 17, 2000 (Ukraine).

<sup>65</sup> Interview, May 15, 2000 (Ukraine).

<sup>66</sup> Interview, May 15, 2000 (Ukraine).

<sup>67</sup> *Moldova: Poverty Causing Brain Drain, Thousands Work Abroad Illegally*, BBC Worldwide Monitoring, Feb. 27, 2000, available in Lexis, Nexis Library, News Group File.

parliamentarian in Moldova reported, “Prosecutors tell me that there are 50 to 60 women per day leaving Moldova being trafficked into sex work. In 10% of these cases, the women are drugged.”<sup>68</sup> Several people interviewed in Moldova expressed the opinion that the problem is particularly severe in the villages where in some places, as many as “75% of the women are working abroad.”<sup>69</sup>

## **B. Causes and Complicating Factors**

There are many factors that influence trafficking in the CIS. Although the strongest factor appears to be the harsh economic conditions, other factors include romanticized views of work abroad, domestic violence, perceived marriage opportunities and coercion from parents, colleagues, friends and acquaintances. Staff from an NGO in Ukraine asserted that some problems are caused by women who earn money abroad and tell their friends about it when they return home.<sup>70</sup> They maintained that many young women are enticed into going abroad by these stories, “especially women from families with conflict, mainly children and orphans.”<sup>71</sup>

There is no “typical” victim of trafficking. One psychologist in Moldova who has several patients who have been victims of trafficking said:

*They are not all simple, naive people who are tricked. Even women who are educated and have high social status will travel abroad to work. They think they can work abroad for a year and save a lot of money.*<sup>72</sup>

Minnesota Advocates spoke with several professionals who knew of cases of trafficking among their friends and colleagues, as well as their clients and patients. Because the phenomenon is so widespread, they sometimes assume that because a woman has worked abroad she has been trafficked into prostitution. For example, one doctor in Moldova stated:

*I know about 40 or 50 women who work in the medical field who have gone abroad. Some were hard workers and others were very lazy. I am sure that when they return with significant amounts of money, \$2,000 to \$3,000, they have worked in prostitution. Especially in the case of the lazy ones, that they could not have earned the money any other way. They could not be doing any physical work other than sex work.*<sup>73</sup>

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<sup>68</sup> Interview, February 21, 2000 (Moldova).

<sup>69</sup> *E.g.*, Interviews, May 15, 2000 (Moldova).

<sup>70</sup> Interview, May 19, 2000 (Ukraine).

<sup>71</sup> *Id.*

<sup>72</sup> Interview, May 17, 2000 (Moldova).

<sup>73</sup> Interview, May 19, 2000 (Moldova).

In one case, a Moldovan psychologist provided counseling to a young woman who was HIV positive. The psychologist recounted the following story:

*The young woman was getting no assistance in Moldova. People knew she had HIV and she could not get a job. She was discriminated against at every turn. She went voluntarily to Italy with a trafficking group because there was nothing for her in Moldova. She arrived in Italy and stayed for a while in a monastery. I do not know exactly what she is doing but she e-mails me periodically to discuss her problems. The young woman was working in prostitution in Chisinau, so I believe she is working in prostitution again.*<sup>74</sup>

Many women who are trafficked from Ukraine and Moldova agree to travel abroad without fully understanding what is involved. Some of the NGOs working on trafficking have established hotlines to respond to victims. Among these NGOs are the Donbas Women's Center in Luhansk and the Women for Women Centers in Donetsk, Dnipropetrovsk, and Lviv, Ukraine. These hotlines keep data related to the women they serve. For example, the Women for Women Center<sup>75</sup> in Dnipropetrovsk conducted a survey that revealed that more than 50% of women aged 15-22 thought it was possible that they would go abroad for work, and 9% said they would definitely go. The director interpreted these results as "very alarming, because this is the high-risk group for trafficking." The questionnaire included questions about knowledge of legal issues and foreign languages. The results showed that the young women did not know about basic visa or immigration procedures. The director added, "they knew nothing, so this survey was an eye opener."<sup>76</sup>

In addition to economic reasons,<sup>77</sup> some women choose to work abroad because they are victims of domestic violence. Hotline workers at the Women for Women Center in Donetsk, Ukraine, explained:

*If a woman wants to leave a violent relationship or household she has to start from scratch. She has to change everything, including where she lives and where she works. This is why women are so attracted by ads for jobs in other countries. They are often desperate to get out and go somewhere new. If you tell them that they are likely to be forced into*

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<sup>74</sup> Interview, May 17, 2000 (Moldova).

<sup>75</sup> The Women for Women Centers were created by the NIS-US Women's Consortium in partnership with local women's NGOs. The Women for Women Centers receive on-going funding from the NIS-US Women's Consortium, Kyiv.

<sup>76</sup> Interview, May 20, 2000 (Ukraine).

<sup>77</sup> See *Domestic Violence in Ukraine*, Minnesota Advocates for Human Rights (December 2000), and *Domestic Violence in Moldova*, Minnesota Advocates for Human Rights (December 2000).

*prostitution they say “well, better to be a prostitute there than to be raped and abused by my husband.”<sup>78</sup>*

Similarly, the director of an NGO in Moldova said he “believes, unfortunately, that almost every family has domestic violence. There is also a lot of unemployment. Drinking is a problem for many.”<sup>79</sup> He added that domestic violence contributed to the large number of women from the villages going abroad to work<sup>80</sup> saying, “it is an issue behind trafficking, young women are desperate to leave home because the situation of violence is unbearable.”<sup>81</sup>

Coercion by parents or friends is another reason why women are trafficked from Ukraine and Moldova. One foreign lawyer who has been studying the issue of trafficking in Moldova stated:

*Because of the severe lack of economic opportunities for women, families want their daughters to go abroad to make some money. The attitude in some small villages is that it is not such a big deal to go abroad to work in prostitution if it means making money. Unfortunately, most of the women from the villages are not equipped to deal with the problems they encounter in trafficking. Many of the villages don’t even have electricity. Even women who think they know what they are getting into do not know what really happens in trafficking.<sup>82</sup>*

A Moldovan police officer echoed her words, “Sometimes parents will send their daughters abroad. They know that their daughters are working in prostitution in Moldova and they are not getting paid well. They want them to get paid more money.”<sup>83</sup>

The head of an NGO in Moldova described a “typical” trafficking story from a small village:

*A man, known to the family, helped the parents of two beautiful young women by lending them money. A year later, he approached them for payment. As payment, he agreed to find jobs for the women, promising that they would be able to earn \$2,000. The parents agreed and the women were brought to Chisinau where the trafficker prepared passports*

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<sup>78</sup> Interview, May 15-16, 2000 (Ukraine).

<sup>79</sup> Interview, May 17, 2000 (Moldova).

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> Interview, May 19, 2000 (Moldova).

<sup>83</sup> Interview, May 19, 2000 (Moldova).

*and transportation for them. They stayed there for a couple of weeks or a month, until a [larger] group of women was collected. Using contacts with the border police they traveled abroad, through the mountains in Albania, where they were resold to a different pimp.*<sup>84</sup>

In another case, a woman who was trafficked returned home to encourage several of her friends to join her. This Ukrainian woman worked in prostitution in Yugoslavia. An NGO representative described the case:

*She was told, “Go home and get two more girls, and when you come back you will be paid a lot of money.” She approached a woman who had no job. The woman’s mother thought she was going to be a waitress so she told a third woman’s mother to “send her daughter to Yugoslavia to be a waitress.” That woman then took another friend. When they got there they found out that they would be prostituted. On the third night they jumped out of a window on the third floor and escaped. The first woman had paid the other two women’s expenses to get them there with money she had borrowed from the brothel owner. She owed him more than \$2,000. So she began calling the women back in Ukraine to try to get them to return to Yugoslavia.*<sup>85</sup>

Although many of these examples involve women being trafficked for sex purposes, there are other types of cases as well. Such cases involve trafficking of women for domestic and factory work, and trafficking of men for agricultural labor.

### **C. Mechanisms of Trafficking**

Trafficking occurs through a variety of mechanisms, including firms that propose legal or illegal work, friends, tourist firms, the au pair system, the Internet and marriage brokers. Trafficking is a highly profitable business in these countries. One foreign observer noted, “For trafficking in women, the traffickers get an initial ‘bounty’ and a percentage of what the women make abroad.”<sup>86</sup>

A member of the U.S. Embassy’s recently formed Task Force on Trafficking in Moldova defined “a typical” trafficking situation:

*A friend or associate introduces a young woman to the “employment recruiter” and he sets up a “contract.” Most young women believe they are being hired as models, waitresses, secretaries, strippers, some even think they will be working in prostitution, but they have no idea what they are really getting into. A group is rounded up into a van and driven*

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<sup>84</sup> Interview, May 15, 2000 (Moldova).

<sup>85</sup> Interview, May 15 2000 (Ukraine).

<sup>86</sup> Interview, May 17, 2000 (Moldova).

*across the border. Often during the ride, one woman will question what is going on or object to the conditions and she will be beaten as an example to the others. By the time the women reach their final destination, they are afraid. For dependency and survival, they do what they are told. They do not question or say anything when they are crossing the border. Although some may be voluntarily leaving to participate in prostitution, when they arrive at their destination, their papers are taken away and they are forced into sexual slavery or bondage. The women are used until the traffickers are tired of them and then they are sold or pushed into lower level "institutions."*<sup>87</sup>

This speaker added, "now the price of a woman is around \$3,000. Because the value of the currency is fluctuating so much, women are often bartered for stolen cars, three or four women for one car."<sup>88</sup>

Some trafficking victims are forced into prostitution through kidnapping. The following case comes from Ukraine:

*A young woman from a town in [eastern Ukraine] left the house for a walk one day and disappeared. Her parents initiated a search but found no trace of her. A year later she called from Moscow and asked them to get her. In the beginning, after she returned, she could not speak about her experiences. Eventually she was able to tell her parents that she had been in Turkey. She had been drugged and taken to a brothel where she was forced to work as a prostitute. [A regular client felt sorry for her and transported her to Moscow in a suitcase.] When she arrived in Moscow she was so traumatized she couldn't remember her name, where she was from, her phone number, or anything. One day she had a memory flash and remembered her parents' phone number. They brought her to the center for advice, where to go for a psychological and medical support, so we referred her for services. It has been very hard for the girl to talk to anyone. The other girl never came back because she didn't want to go where people knew her.*<sup>89</sup>

A representative of a human rights organization in Dnipropetrovsk explained that in their practice there are two basic scenarios that lead to women being sold abroad. First, there are those who are invited to dance or sing in clubs in countries such as Greece or Turkey. These women are attracted by advertisements for such work. They may or may not know that prostitution is involved. He described the following case:

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<sup>87</sup> Interview, May 12, 2000 (Moldova).

<sup>88</sup> Interview, May 12, 2000 (Moldova).

<sup>89</sup> Interview, May 15-16, 2000 (Ukraine).

*[The students] were approached by a man who offered to take them to Greece during their summer vacation. He told them they would make US \$1,000 each. Six of them went with him. When they got to Greece, their passports were taken and they were forced into prostitution. One woman was raped and died. Another sent a note to this organization and we were able to get all of the remaining girls back. But it was very difficult because none of them had any documents.<sup>90</sup>*

The second type of case this group encounters includes women who go abroad as “suitcase” traders, intending to buy things to resell in Ukraine:

*A girl went to the United Arab Emirates to trade. She could sew, and someone talked her into staying to work, promising good money. For a year and a half she was enslaved. She has a child here. She sent a note to the child and three months ago, we were able to have her sent home.<sup>91</sup>*

Some law enforcement officials described their frustration with situations in which women leave home knowing they will engage in prostitution abroad. A police officer explained, “In the past, women were deceived and told they would be waitresses or salespeople. In the last few years, it seems they are told outright that they will be working in a brothel. The only lie now is how much money they will be paid.”<sup>92</sup> To illustrate his point, he relayed the details of a recent case:

*A mother called saying that her daughter was to be taken to Turkey that day. I ordered the plane detained and went to the airport. On the plane there was a pimp with six women going to Turkey. They all knew they were going to work at a brothel and they wanted to go and make money because they had none. They knew they would be sold for \$2,000 and that they would have to work to reimburse this money. And they knew that meant taking 30 to 40 clients for free. But still they agreed because they believed that after those clients they would earn money. I had to let them all go because there were no grounds to stop them. It is horrible, but it’s real. There was nothing I could do but say “good-bye.”<sup>93</sup>*

An officer from another region who does similar work said that “a Ukrainian woman in Turkey costs US \$1,500-\$2,000. Last year, one woman [my region] went to Turkey to work as a prostitute and learned how to traffic women. She met the necessary people, came back and found two or three girls like her and brought them to Turkey. She

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<sup>90</sup> Interview, May 17, 2000 (Ukraine)

<sup>91</sup> *Id.*

<sup>92</sup> Interview, May 17, 2000 (Ukraine).

<sup>93</sup> *Id.*

sells them to her own pimp. So, she'll get US \$5,000-\$6,000 which for Ukrainian girls is a fantastic amount for a trip that is not very difficult. They tend to like this and do it frequently from one place to another."<sup>94</sup>

The issue of whether a trafficked woman is traveling for "business" raises other issues, such as the role of corrupt and illegal businesses that participate in recruiting and transporting victims. For example, one human rights worker in Lviv reported that every week a charter bus leaves Ukraine for Italy with 60 women who believe they are going to specific jobs. Instead of the jobs they were promised, "the young women are forced into the sex industry, others, older or less attractive, wind up doing things like washing dishes."<sup>95</sup> The head of another NGO said, "Women considering taking a job abroad can look up the company's license, registration and tax record. We try to persuade women to insist on getting this document. Many women believe only spoken words and never know if the company they are going to work for is legitimate."<sup>96</sup> He added that 70% of trafficking is run by organized structures operating with false identities. There are certain travel agencies focused on people without money who want to get out of Ukraine and stay there. She added, "I am sure that the travel agents are in on the trafficking."<sup>97</sup>

In Moldova, people reported that there are many tourist or travel agencies that are fronts for traffickers. They promise to work out travel arrangements and documents for women to work abroad. Some women get their passage paid and others must pay themselves to go abroad. Of 70 tourist agencies, one interviewee estimated, only 20 are actually open to the general public for business.<sup>98</sup>

Many others reported that traffickers have little difficulty getting passports and visas for their victims in a much shorter period of time than is generally required. Many people interviewed reported corruption among border guards who facilitate the trafficking. One NGO representative stated, "The border guards keep track of those leaving and coming back to Ukraine. These buses are full of 15 year-old girls with passports saying they are 18 years old."<sup>99</sup>

Women are often the "frontline" traffickers who recruit new victims. Quite frequently these traffickers are former victims of trafficking themselves and can be difficult to distinguish from current victims. For example:

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<sup>94</sup> Interview, May 18, 2000 (Ukraine).

<sup>95</sup> Interview, May 19, 2000 (Ukraine).

<sup>96</sup> Interview, May 19, 2000 (Ukraine).

<sup>97</sup> *Id.*

<sup>98</sup> Interview, May 12, 2000 (Moldova).

<sup>99</sup> Interview, February 15, 2000 (Ukraine).



*Four young women in Kyiv were at a dance club where they were approached by another young woman. She told them about work opportunities in a restaurant in Macedonia. When they arrived in Macedonia, the woman took them to a sex club where they were forced into prostitution. When they tried to refuse, they were severely beaten. One of the women was eventually able to contact a family member at home. Her mother called [an NGO]. The NGO contacted others in Kyiv to try to locate the women. They were able to get the Macedonian police to rescue the women. When the police found them, they were with the trafficker. At first the police didn't know that the fifth woman was a trafficker because she was just as young as the others.*<sup>100</sup>

A judge in Moldova estimated that about half of the people involved in trafficking are women. He said he believed that many of these women, however, are used as fronts. "The real organizers" he said "are in the shadows."<sup>101</sup>

A police officer in Ukraine described a case involving another woman:

*One woman has been arrested for issuing false passports. She did it well; they looked authentic. Customs officers could not tell they were forged. The pictures were accurate but the names and basic information were forged. She has been indicted on several charges. . . . She is just the tip of the iceberg. We know that she works with a whole network of people. We will try to get her to cooperate with us, but don't think she has new information. She had a pimp in Turkey and was sending women to him with false passports. . . . As far as we know she sent no less than 20-25 women to Turkey over the last one and a half years. But we suspect that the number is much higher.*<sup>102</sup>

## **IV. NGO RESPONSE**

### **A. Prevention**

Several NGOs in Ukraine and Moldova are working to prevent trafficking in women. In Ukraine, the IOM has conducted in-depth research on the "push" and "pull" factors that encourage women to seek employment abroad.<sup>103</sup> The purpose of the research was to provide the basis for a public education campaign to prevent the illegal trafficking of women in the commercial sex industry.<sup>104</sup> Another experienced NGO

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<sup>100</sup> Interview, May 19, 2000 (Ukraine).

<sup>101</sup> Interview, May 16, 2000 (Moldova).

<sup>102</sup> Interview, May 15, 2000 (Ukraine).

<sup>103</sup> IOM research report, *supra* note 28.

<sup>104</sup> *Id.*

working on this issue is La Strada. La Strada focuses its efforts in four areas. The first area is raising public awareness by encouraging the media to publish and broadcast news stories about the problem of trafficking.

Second, La Strada trains law enforcement officials and lobbies them to change the response to trafficked women. In the last three years, cooperation with law enforcement officials has greatly improved. La Strada holds seminars for law enforcement, police academies and border guards with a special focus on the 17 different educational institutions that provide training for law enforcement officers. La Strada also works to prevent trafficking by working with teachers in schools to provide accurate information about trafficking issues to students. The organization also publishes leaflets and reference materials and disseminates them widely to the public, to embassies and other places where they may reach victims.

Finally, La Strada provides direct social assistance to victims, including hotline services and emergency assistance to returned victims. La Strada received over 3,000 telephone calls on its hotline during the period from November 1997 through January 2000. The hotline volunteers provide callers with information about what to do if something goes wrong when a woman leaves the country. They remind callers that their passports belong to them and urge them not to give their passports to anyone. Although much of La Strada's work on the hotline is preventative, La Strada also regularly intervenes to help women who have been trafficked and are trying to return home. It offers emergency support to women who have already returned. La Strada also helps women communicate with law enforcement if the women are willing to press charges.

Several other NGOs in both Ukraine and Moldova have created programs that focus on trafficking issues. For example, the Women for Women Centers in Lviv, Donetsk and Dnipropetrovsk all have hotlines that have been receiving trafficking-related calls for a year or more. The Donbas Women's Center in Luhansk also runs a hotline. These NGOs receive calls from women who are trying to return to Ukraine and their families. These NGOs also stress prevention programs.

There is evidence that prevention efforts have a positive impact on women who are exposed to them. For example, a woman who does prevention work for an NGO in Lviv reported that:

*A young woman who lived near the Polish border went to Poland for a vacation. Her friend had gathered ten young women and two men. When the young woman saw this situation, she realized it wasn't a vacation but went anyway. She had been through a trafficking training. One of the men asked her if she was a virgin. She understood then that they were going to be sex workers, so she pretended she was ill. They stopped the car and the young woman ran away. She made it to her grandmother's house and from there took a train back to Lviv.<sup>105</sup>*

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<sup>105</sup> Interview, February 15, 2000 (Ukraine).

Several NGOs in Moldova have begun efforts to educate the public about trafficking in women. One NGO, Civic Initiative, is currently developing a video to provide the public with specific information about the situation in Moldova. Other public education efforts have focused on school-aged girls.

## **B. Rescue Efforts**

Many individuals and families turn to NGOs for help when they or a family member has been trafficked abroad. La Strada has established constructive relationships with government officials both inside and outside of Ukraine:

*[After taking final exams, seven students] went to the former Yugoslavia to get jobs, but ended up in forced prostitution in Montenegro. From there, they called their families and told them what had happened to them. Their parents contacted La Strada. La Strada tried to organize efforts to rescue them, but had difficulties getting the necessary support in Kyiv. La Strada contacted a US Congressman to help. The Congressman sent a fax to government officials in Montenegro. The sex bar in which the girls were working was raided. One of the girls had already been sold to someone in Spain, but the other six were there. In addition, several other Ukrainian women were found there. All were eventually returned to Ukraine.<sup>106</sup>*

A representative from another NGO in Ukraine describe his organization's efforts to find trafficked women and bring them home. In 1999 they brought back four women.<sup>107</sup> He reported that women from western Ukraine are also frequently trafficked to Poland, the Czech Republic, and Hungary. He related the following case as an example of how he carries out his rescue work:

*In March 1999, I got word that a young woman was locked in a hotel in a Slovak city. Another rescuer and I went as "business men" to the place where she was held. We were offered Hungarian sex workers but we refused them, asking for Ukrainians. The young women were brought to us. When I was alone with one of them, I explained that I was there to rescue them. The young woman thought it was lie and rejected my offer. I paid \$50 so that she could give her employers the money. The next night I acted drunk while drinking water from a vodka bottle. When I was able to get to the woman again, I took her out of a window. We fled to the border but then were unsure how to cross because she did not have proper documents. On the Ukrainian side, the border patrol demanded that she*

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<sup>106</sup> Interview, May 2000 (Ukraine).

<sup>107</sup> Interview, February 15-16, 2000 (Ukraine).

*write a description of what had happened. She only wrote that she had lost her passport, nothing about the trafficking.*<sup>108</sup>

La Strada's office in Poland reports that up to 50% of its hotline calls are from male clients who are trying to help enslaved women escape.<sup>109</sup> As the following case from Lviv, Ukraine, illustrates, however, clients who try to help women escape from forced prostitution may put themselves in danger:

*A woman went to Greece independently and willingly to find a job. After three years, she called her family in Ukraine to tell them that she was on her way home. On her way back, she was stopped in Bulgaria. Two men on the train kidnapped her, forcing her to leave the train and leave all of her personal belongings behind. They trafficked her to Macedonia. After two weeks she tried to escape with a client who wanted to help her. They were stopped along the way. The client was severely beaten and left for dead. She was taken back to Macedonia and kept at a sex bar for eight months.*<sup>110</sup>

La Strada in Ukraine is able to help some women return by enlisting the assistance of high-ranking government officials. Typically, they contact the Ukrainian Ambassador in the receiving country, the Ukrainian Ministry of Foreign Affairs, members of the Ukrainian Parliament and the ambassador from the receiving country in Ukraine. They give each a written description of what happened. They often have to write many times. Even then, it can take months for a case to proceed.

The police in Luhansk, Ukraine, report that they have returned 104 girls to Luhansk since 1998.<sup>111</sup> As of May 2000, the police in Moldova reported that they had brought 20 girls home.<sup>112</sup> Individual police officers in both Ukraine and Moldova described their efforts to work with NGOs to help rescue and reintegrate victims of trafficking. These officers described both the tremendous need for services and the lack of sufficient resources to meet this need.

### **C. Reintegration**

There is little information available on returned victims, in part because so few women have been returned, and in part, because those women who do return often refuse to talk about their experiences. Available evidence indicates several different routes

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<sup>108</sup> Interview, February 15-16, 2000 (Ukraine).

<sup>109</sup> Interview, February 8, 2000 (Poland).

<sup>110</sup> Interview, May 30, 2000 (Ukraine).

<sup>111</sup> Interview, May 17, 2000 (Ukraine).

<sup>112</sup> Interview, May 12, 2000 (Moldova).

returned victims of trafficking are likely to take. Some victims try to return to the lives they knew before they were trafficked, a task that is extremely difficult to achieve successfully. If women return to their husbands, for example, they appear to be at an increased risk for domestic violence and divorce.

Others, although they may not have worked as prostitutes before they were trafficked, feel they have no alternative but to work as prostitutes when they return. For these women, it appears that their perception of the stigma of prostitution is so intense that, initially forced or not, once they have been prostituted they see little chance of an alternative lifestyle. Women who worked as prostitutes before they left the country are likely to continue to work as prostitutes when they return home. Finally, it appears that a significant number of women who have been trafficked eventually become pimps or traffickers themselves.

A psychologist in Moldova has tried to work with several women who have faced domestic violence upon returning home after being trafficked.<sup>113</sup> She said that she only discovers the trafficking after the women come in with other problems. In general, however, she feels that she can do little to help them. For example, of two trafficking victims with whom she had been working for months, one was in the process of divorcing her husband and the other was preparing to go abroad to work again. She said “when a person has been trafficked abroad and returned, they will often try to go back in spite of the suffering.”<sup>114</sup> In her experience, victims usually went abroad again because they had not been able to find work in Moldova.<sup>115</sup>

When a victim has been returned, she faces a number of new and often very difficult problems. In one case seen by the psychologist, a woman was unable to tell her parents, whom she considered decent, religious people, and her husband about what she had been doing. Problems developed in her marriage because her husband thought she was not acting like a “normal” wife. Also, he had expected her to have money after returning from working in Greece, but because of her enslavement there, she had none. Ultimately, the emotional problems resulting from her trafficking experience led to the breakup of their marriage. The psychologist also noted that:

*Some women are not young when they are forced into prostitution. They do not think they can go back home because they have made so many promises to their families about making money. The women are too ashamed to come home without the money, so they choose to stay abroad.*<sup>116</sup>

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<sup>113</sup> Others who worked intimately with victims, including the IOM, reported similar cases.

<sup>114</sup> Interview, May 17, 2000 (Moldova).

<sup>115</sup> *Id.*

<sup>116</sup> Interview, May 17, 2000 (Moldova).

Victims of trafficking often do not seek help when they return home. In the words of one NGO worker, “many returned victims disappear.”

Programs to address issues of reintegration, however, are not yet well developed. The Women for Women Centers in Ukraine are among the first to address the issue of reintegration, although they have seen only a few cases. Their integrated approach seems to be effective for those returned victims whom they are able to reach. Center staff recognized that reintegration is a difficult task and reported that the attitude of society toward returned victims is often “skeptical and cold. A woman has a right to restore her security, but society’s reaction to her is strange.”<sup>117</sup> Similarly, the head of a children’s NGO in Moldova pointed out that “problems [with reintegration] include: a labor market that is not able to accept new people; lack of information on what kind or level of training is needed for people to get into the workforce; and lack of knowledge about what kinds of jobs would be most suitable for returned victims.”<sup>118</sup>

While most NGO activity on trafficking appears to be done safely and ethically, Minnesota Advocates was told of some activities that compromised the safety and well-being of returned women. For example, representatives from one NGO talked extensively of their “use” of returned victims as speakers for trainings. They described their extensive efforts to convince the returned victims to participate in the trainings with little understanding of the dangers these women might face. In fact, the women who had initially reluctantly agreed to participate in the training eventually refused to cooperate and cut off all contact with the NGO. Other cases were reported of women who did not want to speak openly about their experiences being pressured, if not coerced, into participating in media events that were not confidential.

## **V. Government Response to Trafficking**

The governments of both Ukraine and Moldova are employing several strategies to address the issue of trafficking in people. This work includes government policies and decrees, efforts to amend legislation, and law enforcement efforts by a few committed individuals to bring traffickers to justice.

The Ukrainian government has addressed trafficking through the creation of the National Coordination Council for Prevention and Trafficking in people under the Ombudswoman of the Ukrainian Parliament (*Verkhovna Rada*). In addition, the Cabinet of Ministers approved a comprehensive Program for the Prevention of Trafficking in Women and Children to be supervised by the State Committee of Ukraine for Family and Youth.<sup>119</sup> Although the program includes many positive objectives, such as reviewing Ukrainian legislation for compatibility with international standards, insufficient resources

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<sup>117</sup> Interview, May 16, 2000 (Ukraine).

<sup>118</sup> Interview, May 15, 2000 (Moldova).

<sup>119</sup> Decree of the Cabinet of Ministers of Ukraine, No. 1768, September 25, 1999.

have yet to be dedicated to these efforts to allow for any significant impact on the problem of trafficking in women.

On May 16, 2000, the Moldovan Parliament passed a resolution that was signed by the Prime Minister to create a working group on trafficking charged with the coordination of activities on trafficking prevention. The group must report quarterly on prevention measures that include inspecting both legitimate companies and those that are fronts for organized crime.<sup>120</sup> Although the initiative was too new to analyze, previous efforts at coordinating a community response to domestic violence in Moldova<sup>121</sup> suggest that this approach may be a good start to improving the situation for women.

### **A. Police Response**

In general, the police in both Moldova and Ukraine are doing little to control trafficking. This inactivity appears to be the result of many factors including, most significantly, the lack of resources dedicated by the government to the prevention and prosecution of trafficking. In addition, police efforts are hampered by the lack of clear mechanisms for enforcement in existing law, and in some circumstances, corruption of law enforcement officers by traffickers.

In addition, victims are reluctant to turn to the police for help, because they fear that the police will not help them and in some cases might harass them or physically harm them. The victims are also afraid of putting themselves at risk of additional harm if the police do not respect their confidentiality. Victims are also often reluctant to go to the police, because they fear being condemned by their families and communities.

Although there is little doubt that the experience of going to the police can be nearly as traumatizing as was the initial crime, several members of the police in both Ukraine and Moldova are trying to address the trafficking problem effectively. The number of these law enforcement officials is small, but their efforts are impressive.

For example, the police have created a crime task force for “trafficking in people and societal morals” in Kyiv, Donetsk and Luhansk, Ukraine.<sup>122</sup> The people interviewed about police response in Ukraine referred to this task force as the “moral police.” The head of the department in Donetsk pointed out:

*We have only eight people in our department and we cover the entire region (population 4 million). Of the eight, I am the only one that is full*

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<sup>120</sup> Interview, May 20, 2000 (Moldova).

<sup>121</sup> See *Domestic Violence in Moldova*, Minnesota Advocates for Human Rights (December 2000). In Moldova, a multidisciplinary team of professionals has been working since 1997 on improving the community response to domestic violence. The efforts include police training, public education and victim services initiatives.

<sup>122</sup> The police are planning to create additional units in all Ukrainian oblasts.

*time.*<sup>123</sup> *The rest work in this department in their free time. We work out of just two rooms. We have no office equipment. The government money we have been allocated is only enough to cover our salaries. So now we have to find money for equipment like radios, cameras, cars, etc. We have no official vehicles so we have to use our own. All of our efforts are based purely on our enthusiasm.*<sup>124</sup>

He added that because the police have no official vehicles they often have to ride the bus to the scene of a crime, paying for their bus ticket out of their own pocket. If they bring a suspect in, they also have to buy him a bus ticket.<sup>125</sup> Other police officers described similar circumstances. One district officer in Lviv, in response to the question “If you have an urgent crime in process that you need to respond to, how do you get there?” said “I run.”<sup>126</sup> Police in Dnipropetrovsk report that they sometimes have to requisition private citizens’ cars to bring in suspects.<sup>127</sup> One senior officer frankly stated:

*Police in this country have to find money to support themselves. It’s ridiculous. It is very difficult to find this money on a legitimate basis and avoid committing crimes ourselves. We have a law on corruption you know. So we are trying to raise funds, trying to get money from personal contacts.*<sup>128</sup>

The Moldovan police force also has a unit commonly referred to as the “moral police.” Officers working with the moral police in Moldova echoed the concerns of their colleagues in Ukraine. One officer said, “I don’t want to complain but the police in Moldova have obsolete equipment, often no cars, no gas and no communication lines.”<sup>129</sup> One police supervisor spoke on the condition of complete anonymity. He said, “The desperate economy creates an impossible situation. There is nothing I can do about my men taking bribes, they have not been paid for months. Their children have to eat.”<sup>130</sup>

The police in Ukraine also fear the impact of massive layoffs. According to several high-ranking officers, in 1999, 30,000 police were dismissed with another 40,000

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<sup>123</sup> The moral police unit in Luhansk oblast (population 2.6 million) has a staff of six.

<sup>124</sup> Interview, May 15, 2000 (Ukraine).

<sup>125</sup> *Id.*

<sup>126</sup> Interview, May 18, 2000 (Ukraine).

<sup>127</sup> Interview, May 19, 2000 (Ukraine).

<sup>128</sup> Interview, May 15, 2000 (Ukraine).

<sup>129</sup> Interview, May 16, 2000 (Moldova).

<sup>130</sup> The researchers agreed not to identify the date of this interview.



to be laid off by the first of July 2000.<sup>131</sup> Those police who keep their jobs often go unpaid for several months.<sup>132</sup> Police salaries are so low that an officer's entire salary may only be sufficient to meet a family's basic needs.

In addition, trafficking cases are particularly difficult to prosecute because police in Moldova and Ukraine have not managed to elicit sufficient cooperation from their counterparts in some receiving countries. One officer with significant experience investigating and prosecuting these cases said:

*As a rule, women from [my region] go to Istanbul. We have interrogated 12 women who worked in Turkey and came back. We know the hotel rooms the women were kept in, the police, the phone numbers of the pimps, etc. But we do not have any direct ties with the Turkish police. This is where the problem lies.*<sup>133</sup>

Another officer reported that he had "applied to Turkish police more than 10 times and they refused [to act] in every case. It looks like the Turkish police are indirectly interested in the influx of Ukrainian women. Because brothels are private hotels, owners of hotels have friends in the police."<sup>134</sup>

Where Interpol is active and/or the foreign police are more cooperative, however, Ukrainian and Moldovan police report greater success. For instance, once a woman has been located abroad, one officer in Ukraine said his department uses "Interpol and police of the country where she is. . . . They will go to the place and act quickly to free the victims. This is how we were able to return 104 girls to [my region] since 1998."<sup>135</sup>

Similarly, the Moldovan police have provided information to Interpol to assist with the return of Moldovan women.<sup>136</sup> A police officer in Moldova reported, "We have had some success, however, Interpol does not always work quickly enough. We send them lots of information, and might get a response in a month or two. We need a better system for tracking people at the borders."<sup>137</sup>

Another officer in Moldova said, "The police from a small town in Moldova reported that they were successful in finding three women last year. In one case that was

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<sup>131</sup> Interviews, May 15, 2000; May 26, 2000 (Ukraine).

<sup>132</sup> *Id.*

<sup>133</sup> Interview, May 15, 2000 (Ukraine).

<sup>134</sup> Interview, May 17, 2000 (Ukraine).

<sup>135</sup> Interview, May 17, 2000 (Ukraine).

<sup>136</sup> Interview, May 16, 2000 (Moldova).

<sup>137</sup> *Id.*

brought to the police, a woman recruited her niece to work in Greece. The woman promised her niece a good job. The young woman called from Greece and said she was being abused and asked for help. In these cases, the police will involve Interpol through the prosecutor's office in Chisinau."<sup>138</sup>

Another observer commented, however, that:

*Without witness protection, victims are unlikely to start identifying traffickers in any numbers. Those people who witness trafficking are not protected by the law if they testify. Indirectly, legislation protects the abuser and not the victim. The victim is not encouraged to cooperate with the police. The main problem is that much depends on the decision of the officials.*<sup>139</sup>

Only in Ukraine, and then just once, did the researchers hear of women who were witnesses to trafficking and who were under the protection of law enforcement. Without more protection, however, returned victims will remain terrified to testify and much more likely to be re-victimized or to become traffickers themselves.

Some police are trying to be creative both in how they conduct their investigations and what laws they try to apply to trafficking cases. A Moldovan police officer said "It is very difficult to gather evidence. We cannot track the women down because they are trafficked through so many different routes."<sup>140</sup> Another activist officer in Ukraine is trying to convince prosecutors to start cases by instituting his own system of collecting corroborating evidence from foreign countries. He is relying on NGOs and cooperative police in receiving countries to help him to do so. He said "I am creative because I don't want to look powerless."<sup>141</sup>

Indeed, often the police go to great lengths to try to improve law enforcement's effectiveness. For example, the moral police in Luhansk have taken the initiative "to conduct a big information campaign so parents know where to go" if their daughters get trafficked. Similarly, the moral police in Moldova, despite the fact that they too are limited in funds and resources, "publish [their] activities in the newspaper and try to make information available in the mass media so that society is aware of [their] activity."<sup>142</sup> In both countries, those officers dedicated to improving the situation for

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<sup>138</sup> Interview, May 19, 2000 (Moldova).

<sup>139</sup> Interview, May 13, 2000 (Moldova).

<sup>140</sup> Interview, May 19, 2000 (Moldova).

<sup>141</sup> Interview, May 17, 2000 (Ukraine).

<sup>142</sup> Interview, May 16, 2000 (Moldova).

women also work closely with local NGOs to identify and resolve problems with law enforcement policies.<sup>143</sup>

## **B. National Laws**

### **1. Ukrainian Law**

The Ukrainian legal system is a civil law system. Court decisions do not have the force of law as in a common law system, although court decisions may be persuasive. The courts generally rely on the plain language of the statute and official commentaries that accompany the statutes to interpret the laws. The commentaries to the various codes in Ukraine are arguably as influential as the codes themselves.<sup>144</sup> The commentaries are issued by the Supreme Court Plenum in consultation with committees of experts, often from various ministries.

#### **a. Article 124-1**

Ukraine is one of the few countries that has adopted a criminal law against trafficking. Article 124-1 of the Criminal Code, entitled *Trafficking in Human Beings*, provides:

*Open or secret seizure of a person, related to a legal or illegal crossing of the border of Ukraine with or without the consent of the person, or without seizure, for the subsequent sale or other paid transfer with the purpose of sexual exploitation, use in pornography, involvement in criminal activity, luring into debt bondage, adoption for commercial purposes, use in armed conflicts, or exploitation of his/her work – is punishable by imprisonment for a period of between three and eight years with, or without, confiscation of property.*

*The same actions performed against a minor, by several persons, repeatedly, by a group of persons with preliminary agreement, with the use of official status, or by a person, under which the victim was in financial or other dependence – is punishable by imprisonment for a period of between five and ten years with or without confiscation of property. Actions foreseen in parts 1 and 2 of the Article, performed by an organized group, or connected with the illegal export of children abroad, or the transport of them into Ukraine, or with the aim to remove organs or tissues for transplantation or the violent removal of organs from a victim, or if they cause complications – is punishable by*

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<sup>143</sup> Interview, May 17, 2000 (Ukraine).

<sup>144</sup> As one lawyer explained, “although the commentary has no binding effect, it is used by almost everyone.”

*imprisonment for a period of between eight and fifteen years with confiscation of property.*<sup>145</sup>

Although Ukraine has taken a significant step by enacting Article 124-1, this particular provision is so mired in controversy that it has been used only rarely since its passage in 1998.<sup>146</sup> Practitioners in Ukraine complain that the language is too vague and the procedures either too cumbersome or too unclear for them to use effectively this statute. For example, lawyers dedicated to helping victims of trafficking say that the law “only [targets] people directly involved but there are many middlemen. Usually people leave on tourist visas, so it is very difficult to prove who was involved. Law enforcement expected something more powerful. It’s very difficult to start a case under this section.”<sup>147</sup>

Many law enforcement officials complained that Article 124-1 was enacted without input from courts and investigators and is therefore difficult to implement. One senior militia officer active in trying to bring trafficking cases said, “Article 124-1 is more like a declaration than a law.”<sup>148</sup> In addition, he noted that there is no commentary to 124-1 to guide practitioners as they try to implement an enforcement procedure under the statute.<sup>149</sup> Faced with this lack of direction, he has taken the highly unusual step of creating his own guidelines for implementing Article 124-1 in his department. He added, “it’s taking a long time to bring these cases to court partially because the police don’t want to have the cases resubmitted for further investigation, as that would be an indication of a job done poorly. Sometimes when cases are resubmitted officers can be reprimanded. Only 3% of cases that go to court are sent back for further investigation.”<sup>150</sup>

A police officer stated, “Article 124-1 describes three crimes within one article. With so much in one section, it is difficult to make it work.”<sup>151</sup> Others lamented the use of new terms such as “debt bondage,” “sexual exploitation” and “exploitation of work.” Another common complaint is that the investigative process is too cumbersome under

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<sup>145</sup> The Code has been supplemented with Article 124-1 pursuant to Law 210/98, March 24, 1998. (Translation from *Gender Analysis of Ukrainian Society* at 235-36, *see supra* note 11.)

<sup>146</sup> Notably, with the efforts of a few committed law enforcement officials, the number of cases brought under Article 124-1 is slowly increasing. Each new case successfully prosecuted helps pave the way for broader and more routine application of the law in subsequent cases, so that over time, Article 124-1 may become a more effective tool for bringing traffickers to justice.

<sup>147</sup> Interviews, May 15-16, 2000 (Ukraine).

<sup>148</sup> Interview, June 7, 2000 (Ukraine).

<sup>149</sup> *Id.*

<sup>150</sup> Interview, June 7, 2000 (Ukraine).

<sup>151</sup> Interview, June 7, 2000 (Ukraine).

124-1 and that “there is no money to do investigations.”<sup>152</sup> But perhaps the biggest practical hurdle to overcome in terms of using Article 124-1 to bring traffickers to justice was voiced by a lawyer who said:

*Judges are afraid of being overruled, prosecutors are afraid that the case will be sent back. So things are only likely to change when we get explanations (commentary). Also, everyone is anticipating the adoption of the new criminal code. . . . But it would be easier to get an explanation than to wait for a whole new code.*<sup>153</sup>

The lawyer added that, in addition to the lack of explanatory commentary, Article 124-1 also lacks “crime-fighting tactics.”<sup>154</sup> He explained, “Law enforcement officers are taught very specific procedures for each crime, so new procedures should be included with the code. These would not appear as commentary, but would be used in the curriculum for future lawyers and law enforcement officers.”<sup>155</sup> Indeed, one law enforcement officer implied that in some ways his job had become more difficult since the enactment of Article 124-1:

*Prior to 1998 and adoption of 124-1 we summoned people in the business of trafficking and warned them in a strict way to stop. [A large] percent stopped as a result. Since 1998 the situation has both improved and worsened. Within the first year of 124-1 being adopted, we were able to use it as a threat, but to apply it has proved to be almost impossible. It is not well developed in a legal sense.*<sup>156</sup>

He further explained that because Article 124-1 has so many defects that prosecutors cannot use it and that this section should be “specific and detailed and every step exactly spelled out.”<sup>157</sup>

One senior law enforcement officer who has tried to bring cases under Article 124-1 said, “Here, prosecutors won’t take a case if they think there will be any problem in the court. They require a level of proof that is impossible to get.”<sup>158</sup> He gave the following example:

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<sup>152</sup> Interview, June 7, 2000 (Ukraine).

<sup>153</sup> Interview, May 20, 2000 (Ukraine).

<sup>154</sup> Interview, May 20, 2000 (Ukraine).

<sup>155</sup> *Id.*

<sup>156</sup> Interview, May 16, 2000 (Ukraine).

<sup>157</sup> *Id.*

<sup>158</sup> Interview, May 17, 2000 (Ukraine).

*First, there were 15 cases that came to me independently. Then I put a notice in the paper and 25 more victims came forward with the same story. Their stories were identical to the first 15. So I've accumulated 40 victims of this business structure. All 40 corroborate each other. Now people keep coming back and giving the same description of the trafficking. There are probably more than 300 victims of this trafficker. But still this is not enough to bring the case. It's hard to imagine but it's an evidentiary problem. The final decision is with the prosecutor's office. Sometimes it can be frustrating. There is a saying here: "there is never enough evidence." My task is to get as much evidence as possible even when it's obvious.*<sup>159</sup>

A prosecutor said that another problem with trying to get acceptable evidence from foreign countries is that:

*Communication within and between the bureaucracies takes so long we wind up losing evidence, people stay under arrest for a long time. . . . This region is [near the Russian border] but to communicate with Russian law enforcement from here we have to send communications to the General Prosecutor's office in Kyiv, then they have to send it to the General Prosecutor in Moscow, then Moscow sends it on to the Russian province [that borders with this area of Ukraine]. Then we need an international warrant to go to the local police officer [in Russia] to go together to interrogate the suspect. It's very intensive and time consuming.*<sup>160</sup>

He explained that there is little opportunity for anyone investigating these cases to travel undercover because it is too expensive and the bureaucracy is too cumbersome. Although Interpol can be helpful, he said it regularly takes at least two months to initiate a case with it.<sup>161</sup>

One member of the Ukrainian police explained, "Prosecutors don't have a unit to go to the place where the victim was trafficked and identify the crime and get the necessary documentation. So it falls on [special units of the militia] to document the crime and then submit that to the prosecutor."<sup>162</sup> Even with this help from the police, prosecutors in Ukraine nevertheless appear reluctant to bring cases under Article 124-1. For example, a prosecutor in eastern Ukraine who is responsible for initiating criminal cases in his region said:

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<sup>159</sup> *Id.*

<sup>160</sup> Interview, May 17, 2000 (Ukraine).

<sup>161</sup> *Id.*

<sup>162</sup> Interview, May 17, 2000 (Ukraine).

*Since [the introduction of Criminal Code Article 124-1 in] 1998 we have started and finished one case. The stumbling block is how to check the situation of women in other countries. We must have information from the receiving country in order for a case to go forward. We have no cooperation from the Turkish police or Interpol, so we cannot start criminal cases using 124-1. Also 124-1 is weak, the language is vague. For example we don't know what 'debt bondage' means and we need to prove possession, over the border, with further selling . . . .*<sup>163</sup>

The officer who has accumulated more than 40 victims of one trafficker said that “very often when a new provision is added to the criminal code, prosecutors wait for a [case to be decided]. Here, with regard to trafficking, there is a provision but everyone is bypassing it. Until cases are tried, the statute will always be new. And as long as it is new, few will use it.”<sup>164</sup> He added, “Everyone waits for someone else to move.”<sup>165</sup>

Another law enforcement official who has tried to bring a number of cases said:

*Prosecutors show little enthusiasm for the cases I have sent [under Article 124-1]. They demand information from the foreign country. They say that ‘we can't go there and even if we could what person would admit to this?’ I think this is a pretext. I have raised the issue a lot but am afraid the outcome might not be good for me because I am making noise.*<sup>166</sup>

A member of the police who had complaints about Article 124-1 recommended several changes.<sup>167</sup> First, he said it would be more effective if criminal cases were required to be started by the police, not the prosecutor's office. Second, he suggested that special police units with trained staff be created to handle trafficking cases. Third, the police should establish better relations with foreign police officials. Finally, he echoed the concerns of many others involved with the criminal justice system that commentary is needed to describe exactly what should be done in a certain case.

#### **b. Proposed Changes to Ukrainian Criminal Code Article 124-1**

Given all of the difficulties with Article 124-1, there is a great deal of interest in revising it. Several different proposed statutes are under consideration. In general, the

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<sup>163</sup> Interview, May 17, 2000 (Ukraine).

<sup>164</sup> Interview, May 17, 2000 (Ukraine).

<sup>165</sup> *Id.*

<sup>166</sup> Interview, May 17, 2000 (Ukraine).

<sup>167</sup> Interview, May 17, 2000 (Ukraine).

proposed changes attempt to simplify the language of the statute to avoid the definitional problems inherent in the language of Article 124-1. Senior officials of the Ministry of Internal Affairs are working on a new draft of the law as is a team of legal scholars at the Institute for the Study of Crime in Kharkiv. It is not clear, however, whether either the parliamentarians or the legal scholars are fully informed about the many complicated issues involved in addressing the problem of trafficking.<sup>168</sup>

For example, at least one draft continues to use terms such as “sexual exploitation,” “exploitation of work” and “debt bondage,” terms that law enforcement officials say are unclear.<sup>169</sup> In addition, there is no indication that the next article will be accompanied by any more detailed commentary than the last.<sup>170</sup> Changes must be made to the criminal procedure code to simplify the process for gathering evidence from other countries. Although those changes are also due to be revised, scholars say it is likely to be at least two more years before the new criminal procedure code will be adopted.<sup>171</sup> One law enforcement official suggested that, in the meantime, various sections of the existing procedure code be amended to reflect the direction the new code is likely to take.<sup>172</sup>

### c. Other Statutes

While the law enforcement community in general waits for clarification of Article 124-1, a few police officers in Ukraine continue to try to prosecute traffickers with the legal tools at their disposal. Those tools include Article 124-1, as well as other provisions such as Article 144<sup>173</sup> on Racketeering and Organized crime, Article 210<sup>174</sup> on

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<sup>168</sup> Interview, June 1, 2000 (Ukraine).

<sup>169</sup> The text of proposed Article 150, which is designed to replace Article 124, reads in part:

“Sale or paid transfer of an individual, or conducting any illegal bargain for transfer of an individual to some other person (persons), associated with illegal or legal delivery of this individual through the state border of Ukraine or without such delivery, at consent of this individual or without his/her consent, for further sale or other paid transfer to some other person (persons) for purposes of sexual exploitation, use in the pornography business, entanglement into criminal activities, debt bondage, adoption for commercial purposes, use in armed conflicts, exploitation of labor of the individual, are liable for confinement term from three to eight years with confiscation of property or without confiscation . . . .”

<sup>170</sup> Interview, June 1, 2000 (Ukraine).

<sup>171</sup> *Id.*

<sup>172</sup> *Id.*

<sup>173</sup> Article 144. *Extortion (Racketeering)*. The request to transfer personal property or the right thereon or to perform any patrimonial acts under the threat of violence against the victim or his loved ones, of disclosure of information disgracing the victim or his loved ones or of damaging or destroying their property (extortion), is to be punished by imprisonment for a period of up to five years with confiscation of property or without it or by correctional work for a period of up to two years with confiscation of property or without it.



Pimping, and Article 208<sup>175</sup> covering involvement of minors in prostitution and fraud. Each of these provisions has significant limitations in its applicability to the complex phenomenon of trafficking. For example, one expert said that:

*The fraud provision might be applicable, but only under circumstances where the person who committed the fraud received material gain. When women go abroad they are paid in advance for their tickets and documents, so it's almost impossible to show how the person who bought those tickets for them gained materially. Therefore it's almost impossible to use the fraud statute. When the actual crime takes place outside of Ukraine we have no jurisdiction over it.*<sup>176</sup>

Members of Ukraine's moral police said, "instead of 124-1 [they] use articles 210 and 208 to get convictions." Article 208 addresses the involvement of underage girls in prostitution.<sup>177</sup> Both, however, are limited in their application because of patterns in trafficking.<sup>178</sup>

Finally, a few law enforcement officials in Ukraine are using Article 75<sup>179</sup> of the criminal code, *Illegal Crossing of the State Border*, to get at traffickers who use forged

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Extortion committed repeatedly, or pursuant to a prior agreement by a group of people, or under the threat of murder or of gross bodily harm, or associated with violence not dangerous for life and health or with damage to, or destruction of property, is to be punished by imprisonment for a period of four to ten years with confiscation of property.

Extortion committed by an organized group, or by an especially dangerous recidivist, or associated with violence dangerous for life and health, or resulting in large damage or other serious consequences, is to be punished by imprisonment for a period of seven to fifteen years with confiscation of property.

<sup>174</sup> Article 210. *Maintenance of brothels and pimping.* Maintenance of brothels or pimping, is to be punished by imprisonment for a period of up to five years.

<sup>175</sup> Article 208. *Involving minors in criminal activity.* Involving minors in criminal activity, drinking, begging, practicing prostitution, gambling, as well as using minors for purposes of parasitic life, is to be punished by imprisonment for a period of up to five years.

<sup>176</sup> Interview, May 15 2000 (Ukraine).

<sup>177</sup> *Id.*

<sup>178</sup> *Id.*

<sup>179</sup> Article 75. *Unlawful crossing of state borders.* Crossing the Ukraine state border in any way not through the admission posts, or through admission posts, but without relevant documents or without the permission of respective authorities, is to be punished by imprisonment for a period of up to three years, or by correctional work for a period of up to two years, or by fine in the amount of 5.5-fold to 11-fold the established minimal wage.

The same acts, committed repeatedly, are to be punished by imprisonment for a period of two to five years.

passports to send women to other countries. This provision, however, is inapplicable in cases where the traffickers take the women out of Ukraine using legal documents. Then, as one law enforcement officer said, “we can only sit by and watch.”<sup>180</sup> The same officer said that Article 75 was not very useful because “if a woman uses a forged passport then, regardless of the circumstances, *she* has committed a crime.” The organizer, on the other hand, is always in the shadows and is not the target of the statute because he did not illegally cross the border himself.”<sup>181</sup> He added, “When we follow the chain they all point to someone else and say that they had no idea that anything was improper, and that their own role and knowledge is very limited. Very often we do have operative information that shows that the first person was the organizer but it’s not sufficient for a legal proceeding . . . .”<sup>182</sup>

The following case illustrates another tactic being tried by one senior police officer who works actively with NGOs and others to identify, investigate and charge traffickers:

*An NGO in [a district in eastern Ukraine] got several calls through a hotline from women whose husbands went to the Czech Republic to work and never came back. One woman told them that her husband went to the Czech Republic to get a job and earn money. All of the men were supposed to pay \$300. They were taken to the Czech Republic and instead of getting a job and receiving a salary, they were sold to a hops plantation to work for practically no pay. They were also beaten by guards and kept in barns. The information was passed on to a cooperating NGO and me. As a result, the responsible criminal group was identified. The [three] people who recruited them in Luhansk, those who took them to the Czech Republic and those who sold them have been arrested. Interpol was contacted. This is a good example of the cooperative work between NGOs and law enforcement. The three were charged under several articles: fraud, false business activities, and forgery of documents. These were used because under these articles, the case may be started by the militia. If it had been filed under 124-1 [which requires the prosecutor to act] these people would still be trafficking people. Presently, we are attempting to work with the Czech police to try to get sufficient evidence to bring charges under Article 124-1.*<sup>183</sup>

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This article does not apply to foreign citizens or stateless persons who come to Ukraine without relevant documents or permission, in order to claim asylum pursuant to the Constitution of Ukraine, as well as to seek refugee status.

<sup>180</sup> Interview, May 17, 2000 (Ukraine).

<sup>181</sup> Interview, May 17, 2000 (Ukraine).

<sup>182</sup> *Id.*

<sup>183</sup> Interview, June 7, 2000 (Ukraine).

## 2. Moldovan Law

Like Ukraine, the Moldovan legal system is a civil law system.<sup>184</sup> Problems in both the substantive and the procedural law in Moldova make prosecuting trafficking cases particularly difficult. Moldova has no trafficking law, only a pandering law that has limited application in these cases. Moldovan Criminal Code Article 105-2 prohibits *Pandering [Pimping]*:

*Coercing prostitution or advising someone to practice it, facilitation of practicing prostitution, obtaining a profit from prostitution by a person as well as the recruiting of a person for prostitution or trafficking in human beings and their selling for this purpose are punished with imprisonment from three to seven years. If the measures mentioned above have been done in front of a minor or they caused concrete damages then the punishment is imprisonment from five to ten years.*

Prostitution was made a criminal offense in Moldova in 1998 under Article 105-1 of the Moldovan Criminal Code, *The Practice of Prostitution*:

*The practice of sexual relations with different persons for the purpose of profit, within one year of imposition of administrative sanctions, is punishable by imprisonment from six months to one year.*

A parliamentarian explained that Article 105 is the only provision on trafficking in Moldova.<sup>185</sup> According to a member of the moral police in Moldova, 15 criminal cases have been initiated under this pimping statute, but all 15 cases ended in amnesties,<sup>186</sup> and therefore, no one served any prison time.<sup>187</sup>

A prosecutor in Moldova explained that the trafficking problems in her country could be characterized this way:

*The unofficial statistics are that 500,000 Moldovans are outside of the country looking for work. Law enforcement and the Ministry of Internal Affairs have no idea what to do about the problem. They have no resources*

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<sup>184</sup> See *supra* Section IV B (1) for a discussion of Ukraine's legal system.

<sup>185</sup> Interview, February 21, 2000 (Moldova). This parliamentarian did not view any of the criminal laws such as fraud, theft or kidnapping to be effective in combating trafficking in women.

<sup>186</sup> Amnesties apply to categories of criminals, not crimes. People generally favored by amnesties include women, women with children, elderly people, women over 55, men over 60, first-time offenders and handicapped people. They cover people who have been convicted as well as those whose cases are in the process of being investigated. If they are amnestied during the process, their case is dismissed.

<sup>187</sup> Interview, May 16, 2000 (Moldova)

*and no access to foreign experience in dealing with organized crime. Very few of the organized traffickers have been identified. Most prosecutors are not paying attention to the issue. I am working on the issue on my own time.*<sup>188</sup>

A judge in Moldova said that he knew of two cases of trafficking in his district:

*One has been decided and the other is in process. It is difficult to try these types of cases because human rights standards prohibit penetrating someone's personal life. The prosecutors who handled these cases handled them at a very low professional level. In both cases, the pimps were women. They were both wives of low-level police officers. These women were trafficking women to Turkey, Cyprus and Greece. The women were performing sexual services and cooking for the pimps. The women were punished with a \$200 fine. They could have been fined up to \$5,000 but the judges understood that these women were fronts for the real traffickers. Also, the judge took into account that the women had children.*<sup>189</sup>

One Moldovan judge reported, "Pimps know international law better than the investigators. Because of this fact, it is difficult to know the real situation."<sup>190</sup>

### **C. Licensing Firms**

A government committee in Ukraine is responsible for inspecting registered companies once a year to make sure that they are in compliance with the law. In February 1999, the Licensing Chamber of Ukraine, the State Employment Center of Ukraine and the Ministry of Labor and Social Policy issued an order authorizing the suspension of licenses for businesses that arrange for work abroad when the committee inspecting those businesses finds violations of Ukrainian law.<sup>191</sup> Inspection of registered firms, however, has not been effective in addressing trafficking. One reason is that, often, trafficking is conducted through tourist agencies rather than employment agencies. As the head of this committee in Lviv explained:

*We had no cases of trafficking because all the registered firms have no such problems. The mafia or "tourist firms" are the ones trafficking women out of Ukraine. Through the registered companies, people have only gone to Poland,*

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<sup>188</sup> Interview, May 19, 2000 (Moldova).

<sup>189</sup> Interview, May 16, 2000 (Moldova).

<sup>190</sup> *Id.*

<sup>191</sup> Order # 9/15 of February 22, 1999, *On approving instructions for conditions and terms of running entrepreneurial activity (licensing terms) connected with mediation in employment abroad, and control over observance of licensing terms.*

*Russia and the Czech Republic and there have been no cases of trafficking [by these registered firms]. Conditions for people finding work abroad are very strict.*<sup>192</sup>

The head of the committee continued, “we suspect some tourist agencies are trafficking people [but all we are empowered to do] is to encourage those tourist firms to give up their license.”<sup>193</sup> In a separate interview, a staff member from an international human rights organization identified this failure of the government to investigate unlicensed firms as a barrier to protecting women from illegal trafficking.<sup>194</sup>

In Moldova, travel agencies are licensed by the Ministry of Economy.<sup>195</sup> A prosecutor discussed the problem of licensing travel agencies:

*Not everyone realizes the involvement of organized crime. It cannot be ignored. We should not wait until it is too late to do anything. There are 100 to 200 travel agencies. They are very efficient and very powerful. [The Ministry of Economy must look more carefully at these businesses.] It is not realistic that in a country as poor as Moldova that legitimate travel could sustain such a large number of travel agencies. The Ministry of the Interior should also be involved in inspecting these travel agencies, and the Ministry of Labor should also be concerned about the issue. The Prosecutor’s office must also be concerned about the issue although it is not exactly our area.*<sup>196</sup>

She said, however, that she did not know how concerned her colleagues were about the issue, and she met with the Minnesota Advocates team on her own time.

## **VI. MOLDOVAN AND UKRAINIAN OBLIGATIONS UNDER INTERNATIONAL LAW**

As members of the United Nations, Moldova and Ukraine are obligated to protect human rights as set forth in the Universal Declaration of Human Rights (“Universal Declaration”) and other international instruments.<sup>197</sup> Both Moldova and Ukraine have

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<sup>192</sup> Interview, February 16, 2000 (Ukraine).

<sup>193</sup> *Id.*

<sup>194</sup> Interview, February 16, 2000 (Ukraine).

<sup>195</sup> Cite (February Moldova Interview).

<sup>196</sup> *Id.*

<sup>197</sup> G.A. Res. 217 A(III) Dec. 10, 1948, U.N. Doc. A/810 (1948).

ratified the International Covenant on Civil and Political Rights<sup>198</sup> (“Civil and Political Rights Covenant”) and the Convention on the Elimination of All Forms of Discrimination Against Women (“Women’s Convention”)<sup>199</sup> and are bound by the provisions of the Declaration on the Elimination of Violence against Women. Ukraine has also ratified the Convention on the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (“Trafficking Convention”).<sup>200</sup> Moldova and Ukraine are also members of the Council of Europe and have ratified the Convention for the Protection of Human Rights and Fundamental Freedoms<sup>201</sup> (“European Convention”). These treaties, as well as declarations on human rights, define the human rights obligations of Moldova and Ukraine as members of the international community.<sup>202</sup>

**A. Women in Moldova and Ukraine are being denied the right to security of person and the right to be free from torture, cruel, inhuman and degrading treatment.**

The Universal Declaration guarantees the right to “life, liberty and security of person.”<sup>203</sup> The Civil and Political Rights Covenant proclaims the “inherent right to life.”<sup>204</sup> Similarly, the European Convention guarantees the right to life<sup>205</sup> and security of person.<sup>206</sup>

The Universal Declaration also guarantees the right to be free from “torture” and from “cruel, inhuman or degrading treatment or punishment.”<sup>207</sup> The Civil and Political Rights Covenant prohibits torture, cruel, inhuman and degrading treatment.<sup>208</sup> Article 3

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<sup>198</sup> G.A. Res. 2200 A(XXI), December 16, 1966, 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc A/6316 (1966), 999 U.N.T.S. 171, *entered into force* March 23, 1976. Ratified by Moldova on January 26, 1993 and by Ukraine on November 12, 1973.

<sup>199</sup> G.A. Res. 34/180, U.N. GAOR Supp. (No.46), U.N. Doc. A/Res/34/180, *entered into force* September 3, 1981. Ratified by Moldova on July 1, 1994 and by Ukraine on March 12, 1981.

<sup>200</sup> United Nations Treaty Series, vol. 266, p. 3, *entered into force* 30 April 1957. Ratified by Ukraine December 3, 1958.

<sup>201</sup> United Nations, Treaty Series vol. 213, no. 222, *entered into force* September 3, 1953. Ratified by Moldova on September 12, 1997 and by Ukraine on September 11, 1997. Both Moldova and Ukraine ratified the European Convention with reservations concerning matters of domestic law, mainly criminal procedure and military regulations.

<sup>202</sup> *See infra* Appendix for a chart of international treaty ratifications for both Moldova and Ukraine.

<sup>203</sup> Article 3.

<sup>204</sup> Article 6.

<sup>205</sup> Article 2.

<sup>206</sup> Article 5.

<sup>207</sup> Article 5.

<sup>208</sup> Article 7.

of the European Convention guarantees a right to be free from torture; Article 5 grants the rights to liberty and security of person. The Convention Against Torture and Other Cruel and Inhuman or Degrading Treatment or Punishment<sup>209</sup> (“Torture Convention”) defines torture as:

*[A]ny act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.<sup>210</sup>*

The Moldovan and Ukrainian governments are responsible for ensuring that the human rights of the people living in their countries are protected. Although the governments have taken steps to address trafficking in women, many individuals are still suffering from human rights abuses associated with the problem. As discussed in detail above, women who are trafficked from Moldova and Ukraine are frequently denied life, liberty and security of person. They are raped, beaten and tortured by traffickers to control their behavior. They suffer severe physical pain, mental anguish and in the most severe cases, death. Women who are coerced to work in appalling conditions and are imprisoned by their traffickers are denied their right to freely pursue their economic, social and cultural development. Neither country is in compliance with international human rights standards.

Moreover, some police and other government officials are involved in the trafficking process. They assist traffickers in obtaining proper travel documents. They fail to enforce criminal, immigration and other laws against traffickers and they do not monitor suspicious business practices. When Moldovan or Ukrainian state actors, such as police and government officials, participate in or acquiesce in these activities or fail to take measures that ensure that they do not occur, they violate international human rights law.

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<sup>209</sup> G.A. res. 39/46, annex, 39 U.N.GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987. Ratified by Moldova on November 28, 1995 and by Ukraine on February 24, 1987.

<sup>210</sup> *Id.* at Article 1.

## **B. Women in Moldova and Ukraine are being denied the right to be free from forced labor and slavery.**

Slavery and slavery-like practices violate several international human rights instruments. The Universal Declaration outlaws all forms of slavery. Article 4 provides, “No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.” Article 8 of the Civil and Political Rights Covenant also prohibits slavery in all its forms, including “forced or compulsory labor.” Article 4 of the Civil and Political Rights Covenant states explicitly that the right to be free from slavery is absolute. As in the United Nations instruments, the European Convention states “No one shall be held in slavery or servitude. No one shall be required to perform forced or compulsory labor.”<sup>211</sup> The Convention allows no derogation from the prohibition against slavery.<sup>212</sup>

The Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery<sup>213</sup> prohibits slavery and all similar practices, including debt bondage. Debt bondage occurs in cases of trafficking, as described in detail above, when a woman is forced into prostitution or other work under the pretext of paying the debt for the service of bringing her to another country. Debt bondage is defined in the convention as “the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.”<sup>214</sup>

The Convention Concerning Forced or Compulsory Labor forbids forced or compulsory labor which it defines as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”<sup>215</sup> This International Labor Organization convention specifies that member states undertake “to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.”<sup>216</sup> Forced labor can be punished as a penal offence and “it shall be an obligation of any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.”<sup>217</sup>

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<sup>211</sup> Article 4.

<sup>212</sup> Article 15.

<sup>213</sup> United Nations Treaty Series, vol. 266, p. 3, *entered into force* 30 April 1957. Ratified by Ukraine December 3, 1958.

<sup>214</sup> *Id.*, Article 1(a).

<sup>215</sup> International Labor Organization Convention (No. 29) Concerning Forced or Compulsory Labor, Article 2(1). Ratified by Ukraine on August 10, 1956 and by Moldova on March 23, 2000.

<sup>216</sup> Article 1.

<sup>217</sup> Article 25.



Many women trafficked from Moldova and Ukraine find themselves in sexual slavery. They are held against their will, in desperate living conditions, often with little food and no possibility of escape. As mentioned above, women are also drugged and taken abroad where they are forced into prostitution. Even in cases when Moldovan and Ukrainian women consent to travel abroad for work purposes, they are often controlled by traffickers who take their earnings, supposedly as payment for debts incurred in arranging the travel. In other cases, women are trafficked and then sold into prostitution, in which case they may be told that they cannot be free until they have “repaid” the debt to the trafficker who bought them. Because the governments of Moldova and Ukraine do not prevent women from being forced to work in these conditions and are not punishing the people responsible for sending the women to these slave-like conditions, they are not meeting their obligations under international law.

### **C. Women in Ukraine and Moldova are not protected against trafficking.**

The Trafficking Convention prohibits trafficking regardless of sex or issues of consent. Article 1 declares that member states “agree to punish any person who, to gratify the passions of another, procures, entices or leads away, for the purposes of prostitution, another person even with the consent of that person . . . .” Pursuant to Article 2 of the Trafficking Convention, states also agree to punish persons who are involved in the management or financing of brothels. Article 17 requires member states undertake measures “to check the traffic in persons of either sex for the purpose of prostitution,” including adopting regulations to protect immigrants and emigrants, publicizing the dangers of trafficking and supervising places of exit and entry into the country, such as railway stations and airports. Finally, Article 19 includes a state’s obligation to “make suitable provisions for [the] temporary care and maintenance” of victims of trafficking and to “repatriate persons . . . who desire to be repatriated . . . .”

The Women’s Convention contains similar responsibilities for member states. Article 6 of the Women’s Convention affirms that member states will take “all appropriate measures, including legislation, to suppress all forms of traffic in woman and exploitation of prostitution of women.”

Evidence from professionals in the law enforcement systems of Moldova and Ukraine indicates that some women are coerced into traveling abroad or they are being coerced into the commercial sex industry. In other cases, women who are trafficked from Moldova and Ukraine are deceived about the conditions in which they will work in other countries. Women may be beaten and, in some instances, imprisoned in locked rooms. In extreme cases, women are kidnapped or drugged and trafficked against their will to other countries. When women are able to return to Moldova and Ukraine from being trafficked abroad, they often do so without proper documentation or identification. In some cases, these women are turned away from their own countries at the borders. The governments of Moldova and Ukraine are not protecting women from being trafficked, either with or without their consent, for the purposes of prostitution. Neither Moldova nor Ukraine has taken adequate measures to prevent trafficking, to punish traffickers or to

protect and assist victims of trafficking as outlined in the Trafficking Convention and the Women's Convention.

**D. Women in Moldova and Ukraine are being denied the right to favorable work conditions.**

The Universal Declaration outlines the right to fair working conditions, including “the right to work, to free choice in employment, to just and favorable conditions of work and . . . to equal pay for equal work. Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity . . .”<sup>218</sup> Article 24 guarantees the “right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.”

The International Covenant on Economic, Social and Cultural Rights elaborates these rights.<sup>219</sup> Article 6 declares that member states recognize “the right to work which includes the right of everyone to gain his living by work which he freely chooses or accepts. . . .” Article 6 also outlines the steps a state party must undertake in order to ensure the right to work, including “technical and vocational guidance and training programs, policies and techniques to achieve steady economic, social and cultural development and full productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.” Article 7 recognizes that just and favorable work conditions include “fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work . . . safe and healthy working conditions . . . rest, leisure and reasonable limitations of working hours and periodic holidays with pay . . . .”

Regardless of whether women consent to certain forms of work, women who are trafficked from Moldova and Ukraine to other countries experience deplorable working conditions. As mentioned above, women answer various job advertisements, for positions such as domestic help or entertainment, but are deceived about the real conditions in which they will be forced to work. Most of the women who knowingly travel abroad to work in the sex industry believe that they will be given the full compensation which they were promised they would receive. Finally, women who are trafficked do not have control of their working conditions, and are forced to serve clients without regard to their personal safety or well-being. Although the Moldovan and Ukrainian governments are aware that thousands of women are traveling abroad to work under these circumstances, the governments of Moldova and Ukraine have not effectively responded to these human rights abuses.

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<sup>218</sup> Article 23.

<sup>219</sup> G.A. res.2200A (XXI), 21 U.N.GAOR Supp. (No. 16) at 29, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, *entered into force* January 3, 1976. Ratified by Moldova on June 26, 1993 and by Ukraine on November 12, 1973.

## **E. Women in Moldova and Ukraine are being denied an effective remedy for acts violating their fundamental human rights.**

Article 8 of the Universal Declaration and Article 2 of the Civil and Political Rights Covenant require that member states provide an effective remedy for violations of fundamental human rights. The European Convention states, “(e)veryone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

The governments of Moldova and Ukraine do not aggressively prosecute individuals involved in trafficking nor do they provide appropriate civil remedies to the women who are experiencing violations of their fundamental human rights. Often police officers and other government officials are involved in the trafficking process and do not take action against traffickers. Even when police or prosecutors do take action, those persons who are prosecuted often not serve prison sentences because of governmental amnesties.

## **VII. Conclusion**

Trafficking of women and girls into the commercial sex industry is a widespread phenomenon that is increasing at an alarming rate. The failure of the Moldovan and Ukrainian governments to protect these woman and girls from violations of their human rights and to aggressively prosecute those involved in trafficking violates international human rights standards. Minnesota Advocates for Human Rights urges these governments to accept and implement the recommendations in this report and to begin immediately to take steps to ensure their full compliance with international human rights standards.

## APPENDIX

### Ratification of Selected International Instruments Related to Trafficking

#### I. United Nations' Instruments

	<b>Moldova</b>	<b>Ukraine</b>
International Covenant on Civil and Political Rights	January 26, 1993	November 12, 1973
Convention on the Elimination of All Forms of Discrimination Against Women	July 1, 1994	March 12, 1981
Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	November 28, 1995	February 24, 1987
International Covenant on Economic, Social and Cultural Rights	June 26, 1993	November 12, 1973
Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949)	--	November 15, 1954
Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions	--	December 3, 1958

#### II. Other International Instruments

	<b>Moldova</b>	<b>Ukraine</b>
Council of Europe:		
Convention for the Protection of Human Rights and Fundamental Freedoms	September 12, 1997	May 7, 1999
International Labor Organization:		
Convention (No. 29) Concerning Forced or Compulsory Labor	March 23, 2000	August 10, 1956

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