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ISRAEL

Human rights abuses of women trafficked from countries of the former Soviet Union into Israel's sex industry

INTRODUCTION

Every year hundreds of women are trafficked from countries of the former Soviet Union (FSU) for the purpose of working in Israel's sex industry. Many of these women are subjected to human rights abuses in Israel, such as violent assaults, enslavement and other restrictions on their liberty at the hands of traffickers, pimps or others involved in Israel's sex industry. The Israeli government has failed to take adequate measures to prevent, investigate, prosecute and punish human rights abuses committed against trafficked women in the context of trafficking. In addition, their plight is compounded by the absence of any asylum adjudication procedure in Israel despite its ratification of the 1951 Convention relating to the Status of Refugees. This in turn makes trafficked women vulnerable to the possibility of being forcibly returned to countries where they risk being subjected to human rights abuses.

In recent years, increased attention has been devoted to the global phenomenon of trafficking in persons. However, there has been a marked tendency on the part of governmental and intergovernmental actors to conceive trafficking in persons as smuggling, thereby mistaking it simply for an infringement of immigration, labour or criminal legislation and focussing on it exclusively in the larger context of transnational organized crime. In turn, this approach has resulted in an oversimplification of the phenomenon which has been detrimental to the development of prevention strategies to combat the human rights abuses to which trafficked persons are subjected in the context of trafficking, whether at the hands of the traffickers themselves or at the hands of state agents.

The trafficking of women and girls for work in the sex industry has been a specific focus of attention.¹ World-wide, a significant proportion of women trafficked within or across national borders for work in the sex industry are subjected to human rights abuses in the context of trafficking. The abuses range from violent assaults, including torture, to enslavement. Although non-state actors, in this case traffickers, pimps or others involved in the sex industry, who all ultimately provide the demand for trafficked women, are the most common perpetrators of such human rights abuses, these abuses take place in an environment which facilitates their perpetration as a result of the authorities' complicity, acquiescence or, at best, inadequate response.

To date, however, there is no universally accepted definition of "trafficking in persons", let alone of "trafficking" of women for work in the sex industry. Much of the data reported through various channels about trafficking of women for work in the sex industry is anecdotal and difficult to

¹The term women shall be taken in this report to include girls as well.

document. The magnitude of trafficking in persons as a global phenomenon is also highly contested.² Nevertheless, with respect to trafficking of women, the following elements are not contested:

- 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;
- women are trafficked world-wide, primarily from South to North, but also increasingly from South to South; trafficking in women has been reported from Latin America to southern Europe and the Middle East, from south-east Asia to the Middle East and central and northern Europe, from South America to North America and Europe, and from eastern Europe to western Europe; there are signs of a “new” wave of women trafficked for work in the sex industry from countries of the FSU to the Middle East;³
- 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 to the traffickers and has, therefore, seen an ever-increasing involvement on the part of international organized crime; and finally,
- since 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 focussed on combatting organised 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.

² According to the Report of the Special Rapporteur on violence against women, submitted to the 56th session of the UN Commission on Human Rights: “The United States State Department recently claimed that 50,000 women are reportedly trafficked into the United States each year. The International Organization for Migration has been cited as estimating that 500,000 women are trafficked into Western Europe alone. The United Nations has estimated that 4 million persons are trafficked each year. Such figures are unreliable, however. Because of the underground nature of trafficking, reliable statistics are difficult, if not impossible, to collect. Further, the lack of a clear definition of trafficking poses a further limitation in the compilation of figures or statistics. Often, both governmental and non-governmental sources treat undocumented immigrants as one category irrespective of whether such immigrants were smuggled or trafficked.” E/CN.4/2000/68, para. 72

³ Sources: Sietske Altink, “Stolen Lives - trading women into sex and slavery”, Scarlet Press, London, 1995 and “Trafficking and Prostitution: The Growing Exploitation of Migrant Women from Central and Eastern Europe”, International Organization for Migration, 1995, at http://www.iom.int/IOM/Publications/books_studies_surveys/MIP_traff_women_eng.htm, Chapter Two.

Pursuant to its mandate, Amnesty International wishes to draw attention first and foremost to the human rights abuses to which trafficked women are subjected in the context of trafficking.

METHODOLOGY

In April and May 1999, a delegation consisting of representatives of Amnesty International's International Secretariat and Amnesty International - Israel conducted a research mission to investigate the situation in Israel of women trafficked from FSU countries. During their visit Amnesty International's delegates received extensive access to government officials and held meetings with various officials in the Israeli Ministry of Justice, the Ministry of the Interior, Neve Tirza Prison and the Israel Police, as well as officials working in the Russian Consulate. The delegates received permission to interview a number of trafficked women detained in Neve Tirza Prison. The delegates also met with individuals working in non-governmental organizations, such as the Israel Women's Network and the Hotline for Foreign Workers in Detention, who work with or on behalf of trafficked women in Israel. In March 2000, Amnesty International wrote to Ehud Barak, the Prime Minister, Yossi Beilin, the Minister of Justice, Nathan Sharansky, the Minister of the Interior, and Shlomo Ben-Ami, the Minister of Public Security, raising its concerns about human rights abuses perpetrated in Israel against women trafficked from FSU countries to work in Israel's sex industry. At the time of writing this report, no response had been received from these officials.

HUMAN RIGHTS ABUSES AFFECTING TRAFFICKED WOMEN IN ISRAEL'S SEX INDUSTRY

Although official statistics are not available, it is widely believed that in the past few years thousands of women, including some girls, from FSU countries have been trafficked to Israel to work in the sex industry. Under Israeli laws, virtually all these women are illegal aliens. They are in Israel without work permits or with false documents, which makes them particularly vulnerable to human rights abuses at the hands of traffickers, pimps and others involved in Israel's sex industry. Amnesty International has received many reports of trafficked women being subjected to various human rights abuses, such as enslavement and other restrictions on their liberty, as well as torture, including rape and other forms of sexual abuse.

Enslavement and deprivation of liberty

Amnesty International has received information indicating that in many instances women trafficked from FSU countries are literally bought and sold for large sums of money, often in auctions where they are purchased by the highest bidder. Some are held in debt bondage where they are forced to work to pay off large sums of money. Some women are kidnapped against their will in FSU countries or are lured to Israel under false pretences, and brought to work in the sex industry. Their "owners" restrict their movements in order to prevent them from leaving. There are many reports of women being imprisoned by their "owners" in locked houses and apartments and prevented from going out unaccompanied. There are also frequent reports of trafficked women's passports and other travel documents being taken away by their "owners" in order to prevent them from leaving the country. In some cases, the misappropriation by "owners" of the women's means of identification is also used to force them into the sex industry.

Violence against trafficked women

Women trafficked to Israel are frequently either threatened with or subjected to violence, including rape and other forms of sexual abuse, particularly if they refuse to have sex with customers or try to escape. There are reports of women being forced to have sex against their will with large numbers of men each day. Traffickers and others working in the sex industry sometimes issue threats against the lives and persons of trafficked women and their families, if they should leave the country and return to their countries of residence, or if they should provide intelligence to law enforcement agencies or testify in criminal prosecutions.

CASES

In the course of its visit to Israel in April and May 1999, an Amnesty International delegation visited Neve Tirza Prison and interviewed several women, including four who were being held in connection with their involvement in the sex industry and were awaiting deportation to FSU countries. As the following cases show, the response of the authorities has frequently compounded the problem by treating trafficked women who are subjected to human rights abuses as criminals and illegal aliens, rather than as victims of these abuses.

All names have been changed to protect the identities of the women involved.

Anna's story

"I don't know the outcome of the trial. I only know that Arthur [the pimp] is at liberty. I talked to him on the phone. When the police arrested us they did not allow us to take our things with us, so they are still there. Arthur knows my address in St Petersburg and my telephone number because he kept my passport. I have a small daughter, eight years old there. He threatened that he would find me in Russia, at home, if I did not do what he wanted me to."

Anna, a 31-year-old physics teacher from St Petersburg in the Russian Federation arrived in Israel on a tourist visa in October 1998. She had been lured to Israel by the promise of a job earning US\$1,000 a month, 20 times her salary in the Russian Federation. The Israeli national who had offered her the job made it clear that she would be involved in the sex industry, but promised her good working conditions. She was completely unprepared for the treatment that awaited her.

Anna was met at the airport and taken to an apartment. Her passport was taken from her and she was locked in the apartment with six other women from FSU countries. She was auctioned twice. On the second occasion she was bought for US\$10,000 and taken to work in Haifa, where she was held together with two other women. The apartment in which she was held had bars on the windows. The women were rarely allowed to leave the apartment and never allowed out alone. Much of the money that they earned was taken from them in "fines", money extorted from them by their pimps.

In March 1999 Anna was arrested for involvement in prostitution after a police raid on the apartment where she was being held. In court the police alleged that Anna had signed statements admitting to involvement in prostitution -- but all the documents were in Hebrew, a language Anna neither reads nor writes. She later discovered that she had been accused of running a brothel.

Anna was held at the Kishon detention centre for almost a month awaiting deportation. During that time she was not allowed to talk to the Russian Consul. The reason for her detention was apparently that the authorities wanted her to testify against the pimp. But the authorities never told Anna this or asked for her consent to act as a witness.

Tatiana's story

Tatiana arrived in Israel from Belarus in April 1998 on a tourist visa. She had been promised a job working 12 hours a day as a cleaner in a hotel in the resort of Eilat. She was told the job would pay her enough to support her mother and her six-year-old son.

Tatiana was met in Eilat by a man pretending to be from the hotel where she was to be employed. He took her to a brothel, where she was forced to work in the sex industry against her will and told that she would have to repay her "sale price" and the travel costs.

Tatiana made various plans to escape. She was finally released from the brothel after a police raid -- a friend of hers had contacted the Belarus Consulate who contacted the police. Tatiana was taken into custody as an illegal immigrant and detained in Neve Tirza Prison awaiting deportation.

Three days after her arrest, Tatiana found an anonymous note on her prison bunk threatening to kill her and punish her family if she spoke out about what had happened to her. Tatiana wanted to testify against her captors in Eilat, but she was terrified that if she did so and was returned to Belarus the traffickers would meet her at the airport or come to her home, since they knew all her passport details and the address of her family.

A petition was made to the Chief of Police explaining that if Tatiana had no protection it would be unreasonably dangerous for her to testify in court. He replied that the Israel Police could not guarantee anyone's safety outside Israel and offered only "minimal protection" for Tatiana. She testified in June 1999 and was deported later that same month. Despite her request that she be flown to Poland or Lithuania and then allowed to cross into Belarus by car, the Israeli authorities deported her directly to Belarus. She was reportedly met by a male relative and taken to an unknown location. Tatiana's fate after that is unknown.

Valentina's story

"I had a nervous break-down. I wanted to escape from this place and asked a client to help me. He turned out to be one of them and I was beaten up by the owners. There was nowhere to run -- there were bars on the windows and bodyguards all the time, day and night."

Valentina, a 27-year-old psychologist and a social worker, arrived in Israel in August 1998 from Moldova. She believed she was going to work as a company representative. Her travel and visa were arranged by the Israeli national who had offered her the job.

Valentina was met at the airport and taken to a hotel. The following day her money, passport and return ticket were taken from her and she was taken to an apartment where she was held for two months.

"The conditions were terrible. One girl was kept to work in the basement for eight months. It was damp there and she got tuberculosis as a result. Most of the girls had different diseases -- venereal and others related to their reproductive organs. I do not wish even to my enemies to go through what we went through."

Valentina eventually succeeded in escaping with another woman by jumping from the first floor of an apartment building. The women returned to the brothel in order to help another friend to escape and were caught up in a police raid on the apartment. Valentina was arrested in March 1999 for not having proper documents or a visa. Although she was pleased that the police had raided the brothel, she was afraid to testify against the man who sold her to the brothel owners because he knew the whereabouts of her family in Ukraine. The Ukrainian Consul visited her only once following her arrest. Valentina did not know how long the Israeli authorities intended to hold her or when she would be allowed to go home.

Nina's story

"I want to go home but it is possible the trial [of X, the man accused of raping her] may not happen for six months. I also want to make sure that X ... goes to prison."

"Deportation orders are not intended for keeping witnesses in detention. Foreigners without permits are only detained so that they leave Israel and do it quickly."

Batya Karmon, head of the Department of Aliens and Visas at the Ministry of the Interior⁴

"She is a criminal. She resided in Israel without a permit. It was obvious that she would not testify if she was not detained."

Moshe Nissan, Haifa Police Spokesperson

Nina, a 19-year-old from Minsk in Belarus, arrived in Israel in late 1998 on a tourist visa. She knew that she would be working in the sex industry, but had been promised good working conditions. After about three months working in a brothel in Haifa, she was abducted at gunpoint, "sold" for US\$1,000, beaten and raped. She escaped and returned to the first brothel in an attempt to earn enough money to pay for her flight back to Belarus.

Nina was arrested by the police in a raid on a massage parlour in Tel Aviv in March 1999. She was imprisoned in Neve Tirza Prison on the basis of a deportation order issued by the Ministry of the Interior. However, even though she had a valid passport and a ticket, she was not deported because the Haifa District Attorney's Office issued an order prohibiting her from leaving Israel to ensure that she testified in a criminal case being brought against the three men who had abducted and raped her. She was finally deported in June 1999 after having been held in Neve Tirza for more than two months.

Nina's plight was brought to the attention of various Israeli officials by the Hotline for Foreign Workers in Detention and reached the pages of the Israeli daily *Yediot Aharonot* in May 1999. Various government officials interviewed by the newspaper denied responsibility for her detention. A prosecutor from the Office of the State Attorney in Haifa commented: "I didn't know that the girl was detained until the Hotline contacted me. I will make every effort to have her finish her testimony in one day so she can be released."

⁴*Yediot Aharonot*, 23 May 1999.

STATE RESPONSIBILITY UNDER INTERNATIONAL HUMAN RIGHTS LAW

Under international human rights law, states are responsible for protecting people against human rights abuses by private persons. Such responsibility is enshrined in all the core human rights treaties. For example, Article 2(1) of the International Covenant on Civil and Political Rights (ICCPR) requires a state party to ensure to all individuals within its territory the rights guaranteed in the Covenant, an obligation which, according to the Human Rights Committee, extends to protecting against acts inflicted by people acting in their private capacity.⁵ In this connection, under international law, states are required to exercise due diligence in preventing, investigating, prosecuting and providing an effective remedy for human rights abuses committed by private individuals. If the state fails to do so, it will be regarded under international law as having responsibility for these abuses, and therefore deemed to have violated its international obligations.

With respect to the deprivation of liberty, violence and enslavement to which women trafficked to Israel have been subjected, several provisions in international human rights instruments are relevant. Article 7 of the ICCPR, which Israel ratified in 1991, states that no one should be subjected to torture or to cruel, inhuman or degrading treatment or punishment. The Human Rights Committee has stated in its General Comment 20, an authoritative interpretation of Article 7 of the Covenant, that "[i]t is the duty of the State party to afford everyone protection through legislative and other measures as may be necessary against the acts prohibited in Article 7, whether inflicted by people acting in their official capacity, outside their official capacity *or in a private capacity*" [emphasis added].⁶ In addition, Article 8 of the Covenant prohibits slavery and Article 9 guarantees the right to liberty and security of person. Article 6 of the Convention on the Elimination of All Forms of Discrimination against Women, also ratified by Israel in 1991, states: "States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution".

ISRAELI GOVERNMENTAL INSTITUTIONS AND TRAFFICKED WOMEN FROM FSU COUNTRIES

The Israeli government has failed to take adequate measures to prevent, investigate, prosecute and punish human rights abuses committed against trafficked women. In general, trafficked women are effectively treated as criminals by the various Israeli agencies with whom they come in contact, rather than as victims of human rights abuses. This is so even though many of them have been subjected to

⁵The Human Rights Committee is a body of independent experts established pursuant to Article 28 of the ICCPR to monitor compliance with and implementation of the provisions of the Covenant by States Parties.

⁶General Comment 20, Article 7 (Forty-fourth session, 1992).

human rights abuses such as enslavement or torture, including rape and other forms of sexual abuse, by traffickers, pimps or others involved in Israel's sex industry. Trafficked women come into contact with many different Israeli governmental agencies, but there appears to be no coherent governmental policy to combat these human rights abuses. In meetings with Amnesty International's delegates, government officials expressed concern about the plight of trafficked women. But, except in the case of the Department of Criminal Legislation in the Ministry of Justice, most agencies had not apparently developed policies to combat these abuses (see section on criminal legislation below).

The Human Rights Committee commented on the treatment of trafficked women in its examination of Israel's initial report on implementation of the ICCPR.⁷ The committee stated that it:

“regrets that women brought to Israel for the purposes of prostitution, many of whom are brought as a result of false pretences or coercion, are not protected as victims of trafficking but are likely to bear the penalties of their illegal presence in Israel by deportation. Such an approach to this problem effectively prevents these women from pursuing a remedy for the violation of their rights under article 8 of the Covenant. The Committee recommends that serious efforts be made to seek out and punish the traffickers, to institute rehabilitation programmes for the victims and to ensure that they are able to pursue legal remedies against the perpetrators”.

Relevant criminal legislation

Under Israeli law, it is not illegal to engage in “prostitution” but the law criminalizes many activities associated with “prostitution”, such as “procurement” (living off the earnings of a prostitute) or maintenance of a place for the purposes of prostitution. Trafficking of women to Israel is not illegal. Section 202(b) of the Penal Code makes it a criminal offence to instigate a woman voluntarily or involuntarily to leave Israel with the intent that she should “practise prostitution abroad”. The Ministry of Justice informed Amnesty International's delegates in 1999 that it had drafted an amendment to the Penal Code to replace section 202(b) with a broader criminal offence making it illegal for a person to

⁷ CCPR/C/79/Add.93 Concluding Observations/Comments, adopted on 28 July 1998, para. 16.

instigate another person to leave the state in which they reside in order to engage in prostitution outside the state in which they resided. At the time of writing, this amendment had not apparently become law.

Many of the human rights abuses perpetrated by traffickers, pimps or others involved in Israel's sex industry, such as assault, rape, abduction and false imprisonment, are criminal offences. Article 10 of the Penal Code deals with offences relating to prostitution and obscenity. For example, section 201 makes it a criminal offence punishable by up to five years' imprisonment for a person to use force, coercion, narcotics, intoxicants, threats or deceit to procure a woman for an act of prostitution or to detain a woman against her will in order to procure her for an act of prostitution. The Ministry of Justice has drafted amendments to the Penal Code imposing higher penalties of seven years' imprisonment when a person is led into prostitution in aggravating circumstances, for example when the offence is committed through the use of force or employing other means of pressure or by threatening the above.

Slavery and the buying and selling of persons are not criminal offences. The Ministry of Justice is reportedly in the process of drafting a provision to criminalize the buying and selling of persons.

In March 2000 the Knesset (Israel's Parliament) passed the Equality of Women Law, section 6(b) of which states that every woman is entitled to protection from violence, sexual harassment, sexual exploitation and trafficking in her person. A commentary attached to the law indicates that protection should be provided by the state.

Laws relating to arrest, detention and deportation

Israeli law currently gives the Minister of the Interior broad powers to deport illegal aliens and to hold them in detention pending deportation. The Minister of the Interior may issue a deportation order against any person who is in Israel without a residence permit. The deportee is entitled to appeal to the Minister of the Interior within three days of issuance of the order and can also challenge the order in the High Court of Justice. Following the issuance of a deportation order, a deportee can be held in detention. Deportees can apply for bail to a committee within the Ministry of the Interior. The Israeli courts do not have jurisdiction to grant bail.

In response to a High Court challenge by ACRI, an Israeli non-governmental organization, the Israeli government announced in September 1999 that it would draft new legislation on deportation of illegal aliens, including provisions regulating arrest and detention and providing for judicial review. Legislation has been drafted but has not yet been submitted to the Knesset.

Arrest and deportation in practice

Many trafficked women end up in detention as a result of raids on brothels and massage parlours by the Israel Police. Normally the trafficked women will be arrested and served with a deportation order issued by the Minister of the Interior on the basis that they do not have a valid visa to be in Israel. Trafficked women, like other deportees, are entitled to appeal to the Minister of the Interior against this deportation order or their detention or to challenge such a decision in the High Court. According to the Association for Civil Rights in Israel, appeals by deportees are rare. There is no legal aid available to deportees, even though they may be without financial resources to challenge these orders. As ACRI states: "This situation also creates the possibility of the indefinite detention of persons against whom a deportation order has been issued without judicial review of the deportation order or the arrest, in the absence of a complaint initiated by the detainee."⁸ A deportee is required to take the initiative in challenging the order even though he or she may be unable to communicate because of language barriers, lack basic information about the procedures involved or lack the financial resources to afford legal representation.

According to the Israeli government, deportees should be detained only as a last resort after the Minister of the Interior has considered "less restrictive alternatives, such as house arrest, posting of bond, regular reporting to the police, and so on."⁹ In fact decisions to detain trafficked women do not appear to be examined by the Minister of the Interior on a case by case basis nor does consideration appear to be given to these alternatives. Detention is the norm. Amnesty International is aware of a number of isolated cases where trafficked women have been released on bail to women's shelters designed for Israeli women subjected to domestic violence, normally when they have been willing to cooperate with the police.

Some women spend very short periods of time in detention. Others may be detained for months. Recently, the period of time which trafficked women spend in detention has considerably lessened, mainly as a result of lobbying by local Israeli non-governmental organizations. Now most trafficked women detained at Neve Tirza Prison are deported within two weeks. But there remain cases where women may be held for several months in detention because the Ministry of Justice has issued an order preventing the woman from leaving the country until she has testified in a criminal case.

⁸ Association for Civil Rights In Israel, "Comments on the Combined Initial and First Periodic Reports Concerning the Implementation of the International Covenant on Civil and Political Rights", July 1998, page 72.

⁹ CCPR/C/81/Add.13 9 April 1998, Combined Initial and First Periodic Report concerning Implementation of the International Covenant on Civil and Political Rights, para. 396.

The period of detention depends on a variety of factors. A woman cannot be deported until she has a valid travel document and a ticket. Many women do not have valid travel documents when they are arrested as these have been confiscated by the traffickers or the pimps; in other cases the travel documents are false. In such cases the women have to wait until their consulates issue them with new travel documents. There may sometimes be delays in issuing new travel documents, especially if a trafficked woman does not initially disclose her real identity. Normally the Ministry of the Interior requires deportees to pay for the travel costs of returning to their country of origin. If they are unable to pay, then the Ministry of the Interior pays the expenses. In the past, there were long delays in deportation because the Ministry of the Interior claimed it lacked financial resources, but the situation has apparently changed recently.

In violation of Article 10(2)(a) of the International Covenant on Civil and Political Rights trafficked women simply awaiting deportation have been detained with convicted criminals in Neve Tirza Prison, Israel's only women's prison. Alternatively, trafficked women have also been detained with remand detainees in the same prison or in police lock-ups pending deportation. Periods of detention in police lock-ups with criminal detainees can last weeks and detention conditions are reportedly very poor. Amnesty International's delegates met prison officials at Neve Tirza Prison during their mission. The officials informed them that about 900 female deportees had been held at the prison during the previous five years. Between 60 and 70 per cent, almost all of them from FSU countries, had been involved in the sex industry, including between 10 and 20 girls aged less than 18. At the time of the visit, 17 women from FSU countries who had been involved in the sex industry were in detention at Neve Tirza.

Recently Neve Tirza Prison began to hold trafficked women in separate cells from criminal prisoners. There is no designated centre in Israel to house women awaiting deportation. A draft law prepared by the Ministry of Justice would require the Israeli government to establish, within two years of the law coming into force, special hostels for detaining illegal aliens.

Many trafficked women held in detention have been subjected to considerable physical and psychological trauma. However, no specially adapted services, for example counselling, designed to meet the specific needs of trafficked women from FSU countries, or indeed elsewhere, are available to these women. Prison officials at Neve Tirza Prison maintained that trafficked women had access to medical services to meet their physical and psychological needs. But the services available in Neve Tirza Prison are designed for sentenced prisoners who are Israeli nationals, and therefore are inappropriate to address the needs of trafficked women, let alone those of the ones among them who have been subjected to human rights abuses.

Law enforcement

Officials in the Israel Police and the Office of the State Attorney acknowledged to Amnesty International that it is difficult to conduct investigations and bring prosecutions against individuals who commit human rights abuses against trafficked women. The organization was in fact unable to obtain from the Israeli authorities statistics relating to the number of criminal investigations opened, or data on prosecutions or convictions in cases involving human rights abuses against trafficked women. However, Amnesty International was able to obtain official statistics for women claiming to be citizens

of the Russian Federation deported from Israel in connection with their work as prostitutes. In 1998 132 women were deported. These figures represent an increase of nearly 100 per cent over the previous year.

Representatives of the Israel Police informed Amnesty International that in 1997, about 550 police files were opened under Article 10 of the Penal Code 1977, which covers prostitution and obscenity offences, and about 650 were opened in 1998. However, it was not clear how many of these files related to trafficked women. The Israel Police also informed Amnesty International that other investigations against traffickers and pimps were opened under other sections of the Penal Code, for crimes such as assault, kidnapping and unlawful possession of passports, but it was unable to provide Amnesty International with any statistics.

Various laws and policies in Israel, in particular the strict enforcement of immigration laws against trafficked women, discourage prosecutions of the people who assault, rape, unlawfully detain and/or otherwise abuse the human rights of these women. Many women are afraid to file complaints with the Israel Police or testify in criminal cases because they fear they will be imprisoned and deported, sometimes incurring severe economic loss. Women are also at risk of being subjected to further human rights abuses at the hands of their traffickers and pimps either in Israel or abroad. In 1998 the Israel Police announced that it would not arrest illegal aliens who filed complaints with the police unless there was another reason to arrest them beyond their mere illegal presence in the country.

Trafficked women are frequently unwilling to testify before the Israeli courts against individuals who have abused their human rights. A prosecutor interviewed by Amnesty International highlighted the gravity of the problem, explaining that in about 90 per cent of cases he had prosecuted involving trafficked women, the women had refused to testify in court even though they had previously provided statements to the Israel Police or to the State Attorney's Office. They are normally declared "hostile witnesses" thus allowing their previous statements to be considered as admissible evidence in court. Various factors discourage trafficked women from testifying. If a woman is ordered to testify, she runs the risk of being held in detention pending deportation, in most cases for a longer period than if she was not testifying. The Office of the State Attorney has the option to use the pre-trial testimony procedure, which would enable a trafficked woman to testify in court before the opening of a trial and to be deported quickly. Officials in the Office of the State Attorney expressed mixed feelings to Amnesty International about this procedure as it is often easier for defence lawyers to challenge pre-trial testimony than testimony given during the trial. Nevertheless, in some cases the State Attorney's Office has used this option.

Trafficked women may also be discouraged from testifying by fears for their own safety and that of their families. Officials in the Office of the State Attorney admitted to Amnesty International that they could not offer protection to trafficked women who feared intimidation in Israel or abroad if they testified in prosecutions. There is no witness protection system in Israel.

Anna, whose story is featured above, described to Amnesty International how she was brought to court to testify against her pimp.

"Now I know why we were kept in Kishon [Detention Centre] for such a long time: the prosecution wanted us to testify at [X]'s trial. But nobody told us this at the time. Nobody asked us whether we wanted to testify against him or not. We did not know that we would be witnesses. We never agreed to it. .. We were taken to the court room in handcuffs. They only told us in the court room: 'Now you are witnesses. You have to tell only the truth. We have immediately enrolled you as witnesses for the police. We don't really have to ask your permission for this'. We did not say anything in court."

"After that we were interrogated in the police department in Haifa. They asked us: 'Why didn't you say anything in court?' We said: 'Because nobody asked our consent to being witnesses.' ... [X] knows my address in St Petersburg and my telephone number because he kept my passport. I have a small daughter, eight years old, there. He threatened me that he would find me in Russia at home, if I did not behave as he wanted me to."

Forcible return

An official in the Ministry of the Interior told Amnesty International that there is no attempt by the ministry prior to deportation to determine whether a trafficked woman will be at risk of human rights abuses upon return to her country of origin. The same applies even when trafficked women have given information to the Israel Police or testified in criminal proceedings.

Such an approach places Israel in violation of the customary principle of *non-refoulement*. This principle, enshrined in the 1951 Convention relating to the Status of Refugees and in other instruments such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions and the UN Declaration on the Protection of all Persons from Enforced Disappearance, prohibits the expulsion of anyone to a state where there are substantial grounds for

believing that he or she would be in danger of being subjected to serious human rights abuses, including torture and extra-legal, arbitrary or summary execution. Generally, there is a duty on the sending state to take into account the human rights situation in the state of return and the risks that the individual concerned might face in this context before deciding to expel anyone.

This implies that there are certain obligations on the part of the government of Israel to allow for these women to have a determination of any rights they may have to international protection as provided for in the 1951 UN Refugee Convention. According to guiding principles of refugee law, those who wish to apply for asylum should be given the necessary facilities for submitting their cases to the authorities concerned and be given the opportunity to contact a representative of the United Nations High Commissioner for Refugees (UNHCR).

Some of those women who are to be deported might be able to sustain a claim as a Convention refugee according to the 1951 UN Refugee Convention definition. Essentially, they might have a claim to a well-founded fear of persecution because of a lack of state protection if there is evidence that they will be subject upon their return to human rights abuses for which the state is either unwilling or unable to protect them. Evidence of violence against trafficked women returned to their country of origin that would include a failure of the police to intervene to protect them or evidence that violence against trafficked women is not addressed as a serious public policy issue could support a finding that these women are refugees deserving of international protection.

In addition to any rights that might be available under the UN Refugee Convention, there is a general obligation on governments not to forcibly return a person to a situation where they may be at risk of torture or cruel, inhuman or degrading treatment according to *non-refoulement* provisions under the Convention against Torture. In effect, a woman who can sustain an argument that she is at risk of serious human rights abuses if returned to her country of origin should have a reasonable expectation of protection either under the UN Refugee Convention, the Convention against Torture, or at a minimum some form of protection under humanitarian programs. In addition, there is the concern that those women who provide testimony in criminal proceedings might by their very participation as witnesses place themselves in greater danger if returned to their country of origin. It would seem reasonable to argue that this may either result in them raising a claim as a refugee *sur place* or being deserving of consideration under humanitarian-based programs to acquire a right to remain in Israel under immigration criteria. In the event that the host state does not allow for immigration or does not have in place asylum adjudication processes then those women at risk should be able to access the resettlement programs of the UNHCR (as one of the three main solutions to international protection of refugees).

AMNESTY INTERNATIONAL'S RECOMMENDATIONS

Under international law the Israeli government is under an obligation to exercise due diligence in preventing, investigating, prosecuting and punishing human rights abuses committed against trafficked women. The Israeli government has taken some steps to combat these human rights abuses, particularly in the field of legislation, but these measures have not been adequate. In the light of its obligation under international law, Amnesty International recommends the following:

- the Israeli government should conduct a review of how governmental agencies, in particular the Ministry of the Interior, the Israel Prisons Service, the Israel Police and the Office of the State Attorney, have responded to human rights abuses perpetrated against trafficked women in Israel;
- based on the outcome of this review, the Israeli authorities should develop an overall inter-agency strategy to ensure that there is a coordinated and effective response by the various agencies involved to the human rights abuses to which trafficked women are subjected.

In particular the Israeli government should:

- enact legislation making slavery and the buying and selling of persons unlawful;
- ensure that its criminal laws and criminal justice system treat trafficked women who have been victims of human rights abuses as such and as potential witnesses, rather than as criminals;
- with a view to enhancing Israel's overall capacity to investigate and prosecute human rights abuses in the context of trafficking, consideration should be given to the establishment of a specialized unit charged specifically with dealing with investigation and prosecution of these abuses;
- bring to justice, in accordance with internationally recognized fair trial standards, those alleged to have committed human rights abuses ranging from enslavement and other restrictions of liberty, to torture, including rape and other sexual assaults, against trafficked women;
- develop awareness-raising and training programs aimed at relevant government officials, in particular officials in the Ministry of the Interior, the Israel Police, the Israel Prisons Service and the Office of the State Attorney. These programs should be premised on an approach that takes into account human rights as well as law enforcement issues and should include information about the human rights abuses suffered by trafficked women, thereby emphasizing that they should be treated as victims of human rights abuses rather than as criminals;
- take steps to ensure the safety of victims of these human rights abuses, including of women who provide information to the police or who testify in criminal prosecutions, in Israel and abroad;
- increase international cooperation, in particular cooperation with the governments of the FSU and transit states to combat human rights abuses committed against trafficked women. The involvement of Embassies and Consulates of FSU countries in Israel should form a particular focus of attention for international cooperation in order to raise awareness about the plight and needs of trafficked women victims of human rights abuses. A forum of Israeli and Embassy and Consulate officials of FSU countries should be convened to identify areas of cooperation between recipient and sending countries;
- detain trafficked women pending deportation only as a last resort;
- ensure that trafficked women are held in detention in conditions which comply with the Body of Principles for the Protection of Persons under any Form of Detention or Imprisonment;
- open as soon as possible a hostel where trafficked women may stay pending deportation;
- ensure that trafficked women have access to appropriate services, including legal aid, counselling and medical services;
- in accordance with guiding principles of refugee law, give to trafficked women who wish to apply for asylum the necessary facilities for submitting their cases to the authorities concerned

and the opportunity to contact a representative of the United Nations High Commissioner for Refugees.