Internal and International Responses to Human Trafficking from Turkey

ABSTRACT

Human trafficking is a modern-day form of slavery which affects millions of people and many States around the world. Turkey is one of the most vulnerable countries from trafficking. In this point, the main aim of this study is to illustrate the general aspects of human trafficking in Turkey. To reach this aim, Turkey's internal and international responses on human trafficking have been monitored. Furthermore, the importance and the effects of social dynamics for the emergence of human trafficking have been demonstrated in relation with national and the international solutions provided by Turkey.

Briefly, this dissertation will be interdisciplinary work for understanding the co-ordination of social and legal solutions about human trafficking in the case of Turkey.

Keywords: *Socio-legal Approach, Slavery, Human Trafficking, Trafficking in Turkey, Combating Trafficking, Prosecution Methods.*

LIST OF ABBREVIATIONS

AP: Accession Partnership

BSEC: Black Sea Economic Cooperation

CE: Council of Europe

CFSP: The EU Common Foreign and Security Policy

CIS: Commonwealth of Independent States

CPL: Criminal Procedure Law

EC: European Commission

EU: European Union

EUROPOL: European Police Office

HRDF: Human Resource Development Foundation

IGO: Inter Governmental Organizations

ILO: The International Labour Organization

INGO: International Nongovernmental Organizations

IOM: International Organization for Migration

IR: International Relations

MNC: Multi National Organization

NAP: National Action Plan for Asylum and Immigration

NATO: North Atlantic Treaty Organization

NGO: Non-Governmental Organization

NPAA: National Programme for the Adoption of the Acquis

OC: Organized Crime

OSCE: Organization for Security and Co-operation in Europe

OSCE-ODIHR: Office for Democratic Institutions and Human Rights

PfP: Partnership for Peace

PKK: Kurdistan Workers' Party

RTUK: The Radio and Television Supreme Council

SEE: South Eastern Europe

SIDA: The Swedish International Development Agency

SPTF: The Stability Pact Task Force on Trafficking in Human Beings

THB: Trafficking in Human Beings

TNP: Turkish National Police

TOC: Transnational Organized Crime

UN.GIFT: The United Nations Global Initiative to Fight Human Trafficking

UN: The United Nations

UNODC: The United Nations Office on Drug and Crime

US: The United States

WEU: Western European Union

WFS: Foundation for Women's Solidarity

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PREFACE

The main aim of this dissertation was to evaluate the responses of Turkey against THB by using regional, international organizations and their requirements within the Turkish legal and administrative structure. To reach this aim, general frame was drawn from slavery to human trafficking. After that, the dissertation turned face from general to special for demonstrating the scopes of human trafficking in Turkey. Then, the study evaluated the internal and international responses to trafficking in human beings from Turkey. Finally, the dissertation drew a general frame about its responses whether they are enough or not.

First and foremost, I owe a dept of thankfulness to Prof. Craig Barker for his invaluable help, guidance and support during the formulation of every stage of this dissertation. I know that it is a great honour to know him and a great chance for me to study with him.

I would like to state my gratitude to my mother Sebiha Yildiz, to my father Habip Yildiz and to my brother Taha Yildiz for their trust and faith in me especially during the period while I was writing my dissertation, just as they have been doing throughout my entire life. Without their existence, endless support and love and never ending tolerance, I wouldn't have a chance to complete this study. Also, I owe special thanks to my friends M. Emin Erendor, Hamit C. Eren, Ali Huseyinoglu and Muhammed Avcil have always encouraged me at Sussex University.

1. Introduction

Many definitions exist specifying those kinds of rights considered to be bestowed with the status of 'human rights,' to which all human beings are entitled. These rights exist at a moral level and, often, are protected by both national and international law.[1] In the modern world, however, many - often very severe – crimes are committed against these rights at both domestic and international levels.

One of the most heinous violations against human rights, in the recent years, is the crime of the trafficking of human beings (THB). Historically, in almost every period of time, this crime has existed, more often than not under its ancestral name: slavery. However, originally, societies did not seek a solution for it because slavery was not seen as a problem but an economic benefit. In stark contrast to the past, however, globally, many countries have now put in place a combating strategy against THB and which is considered to be a part of a government's duty, in the natural course of governance. Yet despite much effort to ascertain and abolish, there appears to be no single defined solution to this problem. As such, countries merely consider preventative measures usually after the crimes have been perpetrated and discovered.

Turkey, which uses government policies to combat THB, is one of the most vulnerable countries in the world for THB, suffering every aspect known of this crime, not only at an international level, but also internally. It appears to possess almost all trigger factors found in an environment where such violations are rampant, such as un fulfilled social demands, legal weaknesses, the geographical location of the countries of origin, a country's demographic structure, level of welfare, macro-economic factors, technology and the amount of

[1] "Human Rights." Available at: http://plato.stanford.edu/entries/rights-human/. (08.08.2011).

participation in globalization.[2] The countries which use Turkey as a route for THB are mainly the States of the Former Soviet Union and Eastern Europe, and Central Asia.

Within this framework, Turkey needs to find solutions in respect of its own social demands and expectations, as well as to establish detailed relationships with other relevant states, through membership of regional and international organizations. The existence of these efforts shows how this social phenomenon has affected the legal structure of many countries. As such, ideas of socio-legal theory find a proper place and approach in respect of this issue. Since, all of these cause, mentioned above, all related with social structures of origin and destination countries.

In this context, the second chapter of the dissertation will illustrate the general scope of Transnational Organized Crimes (TOC). It will look at their formation over time; their policies, and the social structure of relevant states. The factors that induced the start of the formation will be illustrated by using the formations of the meaning of the sovereign states in the theory of International Relations (IR). Within this framework, this dissertation, firstly, explains "Transnational Crimes;" secondly, it looks at the "actors" that have become effective in the international arena. Finally, it will show how, following the 1990s, these main elements come together to form the TOC. Further to this, the changing face of THB will be identified, together with the decisive factors that assisted its evolution from slavery to THB. As such, detailed information will be provided in respect of THB and its scope from ancient times to modern day.

The third chapter, moves from general to specific in understanding THB and highlighting its scope in Turkey. In this respect, the dissertation will attempt to show why Turkey is considered to be both a destination and transit country for trafficked victims and perpetrators. It will do so with the provision of data on the perpetrators.

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[2] Barker,C. (2011). " International and Transnational Offending -2nd Week Seminer." Spring Term. University of Sussex.

The fourth chapter will show how Turkey utlises international cooperation facilities in its fight against THB. This will, firstly, indicate cooperation with regional organizations and, secondly, will display its partnerships with international organizations.

In the fifth chapter, the dissertation will highlight the legal, administrative and social responses of Turkey in the fight against THB, together with a review of its bilateral, regional and international partnerships.

The main aim of the dissertation, however, is to evaluate measures taken by Turkey against THB, after 2002, and, in doing so, hopefully, provide the probable causes and consequences of the trafficking phenomenon, as targeted by regional and international partnerships. In order to do so this the paper will illustrate those aspects that give rise to what is generally considered to be THB, not only the international arena, but also in Turkey.

2. Human Trafficking as a Transnational Organized Crime

The rapid alteration of the concepts of the time and space plays an important role in the dynamic structure of societies. [3] In this dynamic process, the most important characteristic feature of civilized or developing societies is that they are always in the process of social change. However, the process is not always beneficial for the societies and their expectations for solving problems. It works in two ways on social structure where, on the one hand, the formation process helps to find solutions for social problems but, on the other hand, it can cause new problems to occur.[4] Such problems have a devastating impact upon the structure of society. Social problems emerge in a society generally due to the actions of some groups that withdraw their support for - and feel alienated by - the political system in place. A basic reason for insecurity and alienation against a system is loss of faith on its ability to address and solve social problems, in particular those that hinder the future expectations of individuals.[5] In such a situation chaos and disorder loom with an increase in certain crimes, such as crimes to earn money and those taking advantage of the shortcomings of the system. In this context, rules that prosecute domestic crimes are often based on Durkheim's approach that; *'law is an organization of social life in its most stable and precise form. All the essential varieties of social solidarity are reflected in law.'*[6]

Provided it is accepted that individual societies are a micro model of international society, the process of its changing structure can easily be deciphered. By way of illustration it is imperative to point to the 1970s to the definition of 'transnational actor,' as found in IR

[3] Toros H. (2001). 'Virtual Smart Cards.' (in Turkish). Available at: http://web.itu.edu.tr/~toros/yazilar/2003oncesi/dinamiktoplumakillikartlarkasim2001.htm. (19.05.2011).
[4] Dinçkol, A. (2002). 'Organized Crime and Socioeconomic Structure in Turkey.' (in Turkish). *İstanbul Ticaret Üniversitesi Sosyal Bilimler Dergisi*. Vol:1. Page: 99-127.
[5] Kongar E. (1985). '*Social Structure of Turkey from the Emperorship toToday' (in Turkish).* Vol:1. Fifth Edition. Page:180.
[6] Durkheim, E. (1893). *'The Division of Labor in Society.'* Book: 1. Chapter: 1. Page: 24-25.

literature. This perspective, which ignores the pluralistic approach of a state's decision making mechanism for its domestic policy, deeply impresses the realist theory and considers nation states to be the main actors of an international structure.[7] With the birth of this term, it was understood that individual states are one of many actors in IR. Transnational actors, mainly located in less-developed countries, become part of the international arena because they have much benefit to gain from the pooled resources. As a result of those benefits, political corruption begins to increase steadily. Increase in such events cause to led the notion of transnational crimes to enter in criminal terminology.[8]

Besides the definition of 'transnational actors', the definition of 'organized crime' (OC) - which arose in the United States (U.S.) in the mid-1920s - must also be given consideration. This definition has stark similarities to that of transnational crime.[9] Compared to ordinary criminal activity, OC requires a stable well-organized structure to conduct different types of criminal activities.[10] OC networks mostly exploit weak government safeguards against a revival of ethnic and local problems. These networks of transnational crime, have manipulated the sprawling nature of economic markets.[11]

The law is constantly required to add new terminology to catch up with the changing face of crime and the formation of international society. Durkheim showed how the law could catch it with the words: *'Law is a visible indicator of a social formation.'*[12] This is why, today, these two definitions generally fall under the umbrella of *'transnational organized crimes'* by

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[7] Reichel P. (Eds).(2005). Felsen D. & Kalaitzidis A. "*A Historical Overview of Transnational Crime*''.Sage Publication:Thousand Oaks-London-New Delhi. Page:3-4.
[8] Ibid. P:4.
[9] Woodiwiss, M. (1993). "Crime's Global Reach." (eds.): F. Pearce / M. Woodiwiss. *Global Crime Connections, Dynamics and Control*. London: The Macmillan Press, 1993, s.8, 12.
[10] Finckenaur J. O. (2000). Frank Laczko and David Thompson (eds.). in Salt, J. & Jennifer H. Migrant Trafficking and Human Smuggling in Europe : A Review of the Evidence. '*Migrant Trafficking and Human Smuggling in Europe : a Review of Evidence with Case Studies from Hungary, Poland and Ukraine.'*
[11] Wagley, J.(2006).''Transnational Organized Crime: Principle Threats and U.S. Responses''. Available at: http://www.fas.org/sgp/crs/natsec/RL33335.pdf. (15.02.2011).
[12] Banakar, R. (2009) ."Law Through Sociology's Looking Glass: Conflict and Competition in Sociological Studies of Law." in Ann Denis, Devorah Kalekin-Fishman(eds.) "The new ISA handbook in contemporary international sociology: Conflict, Competition, and Cooperation." (London: Sage).

criminal lexicons, because both transnational and organized crimes utilise inadequate systems within the host countries which suffer from a disorganized structure in the social, judicial, economical and political fields, coupled with a lack of effectiveness in international measures, if any. Besides 'core crimes' such as genocide, crimes against humanity, war crimes and crimes of aggression, the crimes that fall within the definition of TOCs have paved a new, wider, and in depth, understanding of all types of crime affecting both states and individuals.[13]

2.1 The Area of Activity of Transnational Organized Crime

At the start of the 1990s, transnational crime seriously came up for consideration due to a significant increase in cross border criminal activities. An attempt at the identification of such crimes was carried out, in 1994, by the United Nations (UN).[14] It identified 18 definite categories of TOCs whose activities were to have a direct or indirect effect, in two or more countries.[15] According to a list compiled by Albanese, the top two crimes were terrorism and money laundering. Other crimes are divided into three parts including:[16] the provision of illicit goods,[17] the provision of illicit services[18] and the infiltration of business.[19] More currently, principal transnational activities have been briefly re-categorized - because of the changing tendencies of crime networks - by Reuter and Petrie as:[20]

1. Smuggling - goods, illicit drugs, protected species.
2. Contraband - (limitations – tariffs and quotas for commodities)
3. Services – THB as immigrants, prostitution, bound servitude, money laundering and fraud.

[13] ''Core Crimes Defined in The Rome Statute of the International Criminal Court''. Available at: http://www.iccnow.org/documents/FS-CICC-CoreCrimesinRS.pdf. (15.02.2011)
[14] Mueller, G. (2001).'Transnational Crime: Definitions and Concepts', in P. Williams and D. Vlassis (eds.), *Combating Transnational Crime*. London: Frank Cass. Page:14.
[15] Albanese, J.(2004).'Organized Crime in Our Times'. Anderson Publishing: Cincinnati. Page:211.
[16] Albanese, J. (2004). op.cit. page:212.
[17] Stealing of arts and cultural items, stealing of intellectual object, illicit trafficking of arms, sea piracy, trade in human body parts, illicit drug trafficking, airplane hijacking and hijacking by land.
[18] Money laundering, trafficking in persons, computer crimes and environmental crime.
[19] Insurance fraud, bankruptcy fraud, corruption and bribery of public officials.
[20] Reuter, P and Petrie, C. (Eds.).(1999).Transnational Organized Crime: Summary of a Workshop. Washington, DC: National Research Council, Committee on Law and Justice. Page:11-12.

Furthermore, despite all efforts to make a new and broad categorization, today, the TOC networks mostly focus on drug and arms trafficking, THB and money laundering, due to the potential gain.[21]

In this context, some international protocols and conventions were signed to aid identification, prevention and prosecution of those who participated in any TOC process, with full respect afforded to the protection of the human rights of their victims. The fundamental instrument in the struggle against TOC is the "Convention on Transnational Organized Crime," which was adopted by General Assembly in November 2000. The Convention was submitted for signature at a high-level political conference brought together for that aim in Palermo on 12 December 2000. It came into force on 29 September 2003.[22]

2.2 Growth Process from Slavery to THB

Organized crime activities can be divided into two main categories. The first category is that of money laundering and arms trafficking – which are new types of crimes, or current branches of TOC. These have mostly increased, after 1970s, with the help of globalization, improvements in technology, coupled with efforts to make illegal money into legal money.[23] The second category contains THB and drug trafficking, the well established types of organized crimes.

Historically, the earliest forms of organized crimes fell under three headings; piracy, opium smuggling and slavery. These crimes, like most, are indicative of the inclinations of a particular society. Of the three, slavery stands out as different from the others because it is a crime of force since it removes personal choice from its victims unlike being a pirate or an opium smuggler by personal will[24]

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[21] Reichel P. (Eds.).(2005). Op.cit. page: 15.
[22] "Citing Explosion of TOC, Secretary-General Hails UN Anti-Crime Convention as Blueprint to Counteract Threat''. Sixty-fourth General Assembly Plenary 96th & 97th Meetings. Available at: http://www.un.org/News/Press/docs/2010/ga10949.doc.htm. (27.05.2011).
[23] Reichel P. (Eds.).(2005). Op.cit. page: 12.
[24] Reichel P. (Eds.).(2005). Op.cit. page:9-12.

It is paramount to an understanding of THB to understand the basic definition of slavery, its causes and the factors requisite to being deemed a slave. Basically, slavery is not solely the trade of people as property without personnel will, but often also includes an element of forced labour.[25] Ricket briefly defined it thus that *'a slave must be compelled to work, through force and fraud, for no pay or subsistence.'*[26]

Slavery was an extremely natural social phenomenon in Mesopotamia, Ancient Egypt, Ancient Nubia, Ancient Greece, the Akkadian Empire, Assyria, Rome, pre-Islamic Iran, Central Asia and Anatolia.[27] The major sources of slaves were: children born to slave-mothers, persons enslaved in wars, persons imported across the frontiers to provide a workforce, guilty persons (some societies make guilty people into a slave) and persons unable to pay his/her debt.[28]Societies generally appraised slaves, who had a different ethnicity, race, and religion, to be an outsider. To illustrate this, Finley - an expert on classic slavery - stated that *"no society could withstand the tension inherent in enslaving its own members."*[29]

Slavery was a common social means to securing manpower, not only historically but also at the start of modern times, where they were known as expedition periods. After the discovery of America in 1492, slavery became a significant solution for use of the lands of the New World and its underground resources.[30] For these 'beneficial works' slave traders turned to Africa - which was the starting point of the transatlantic slave trade - to find manpower necessary to carry out work on its resources.[31] As a consequence, almost 12 million Africans

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[25] Brace, L.(2010) 'The imprisoned absence of your liberty': slavery, recognition and belonging', in S. Thompson and M. Yar (eds.)The Politics of Misrecognition (Ashgate, forthcoming).
[26] Rickert M. C. (2009). 'Wilberforce's Work is Not Done: Ending THB and Modern Day Slavery.' Available at: http://www.forumonpublicpolicy.com/summer09/archivesummer09/rickert.pdf. p: 12. (24.05.2011).
[27] Harris W. V. (1999). "Demography, Geography and the Sources of Roman Slaves." *The Journal of Roman Studies*. Vol:89. P: 62-75.
[28] Ibid. P: 62.
[29] Finley, M.I. (1998). (Ed.) Shaw B.D. 'Ancient Slavery and Modern Ideology'. Markus Wiener Publishers Edition: Princeton.
[30] Er, İ.(1999). 'Social Development and Islam.' (in Turkish) Rağbet Yayınları: İstanbul.
[31] Hellie,R. (1989).'Slavery'. Available at: http://www.britannica.com/blackhistory/article-24157 .(21.05.2011).

arrived in the New World during the last two decades of the 15th century and mid-19th century.[32]

In the Age of Enlightenment, the concept of slavery started to be understood as moral not humanitarian. As a result of that apprehension, it began to be prohibited in some countries, such as Denmark (1792), England (1807), and America (1865). The final solution against slavery world-wide, however, was the Slavery Convention of 1926, by the League of Nations. In 1956, the UN confirmed its provisions on slavery through the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. As a result, slavery became officially banned throughout the world.

In the modern world, all forms of slavery are considered illegal, yet it still exists in some parts of world. Contrary to assumptions, slavery is increasing and maintains its notoriety.[33] In this context, after the 1990s, the international community started to focus on modern day slavery which is far more complicated than its historical forms.[34]

2.3 Human Trafficking as Modern Day Slavery

In November 2000, THB was declared akin to 'modern-day slavery' by the U.S. Victims of Trafficking and Violence Protection Act, passed by the U.S. Congress.[35] This Act highlighted the severity of the THB issue when it pointed out that trafficking had become the third largest illegal industry. [36]

It is worthy to note the difference between migrant smuggling and THB. The most significant difference between them is the term 'willing'. Migrant or human smuggling is *'procuring the illegal entry of a person into a state of which the person is not a national or a*

[32] Segal R. (1995). '*The Black Diaspora: Five Centuries of the Black Experience Outside Africa*.' New York: Farrar, Straus and Giroux. p. 4.
[33] Bales K. (1999). 'Disposable People: New Slavery in the Global Economy.' Berkeley and London: University of California Press.
[34] Ozonen H. (2004). 'Trafficking in Persons as Modern Day Slavery.' Culture Society Praxis (CS&P). Vol:3.No: 1. P:45.
[35] 'Office to Monitor and Combat Trafficking in Persons.' Available at: http://www.state.gov/g/tip/. (24.05.2011).
[36] Ozonen H. (2004). Op.cit. page:45.

permanent resident in return for a financial or other material benefit' with the will of all persons.[37] Briefly, it is a type of business activity among two willing sides involving movement across borders, generally by illegal means.[38] THB, however, is *"the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs."*[39] It begins when traffickers deprive victims of their freedom by the use of threats, force, coercion, deception, and fraud for the purpose of exploitation.[40] In brief, according to the United Nations Office on Drug and Crime (UNODC) report and its definitions the differences are expressions of consent, exploitation, and transnationality. (Appendix 1).[41]

For a clarification of the issue of trafficking two main questions arise: 'Who are the traffickers?' and 'Who are the victims?' Traffickers may be professional or non-professional criminals because of the low-start up cost of creating a trafficking business. As such it may be carried out by individuals, families, or more organized groups of criminals and are facilitated by other indirect beneficiaries, such as advertising, distribution, or retail companies and

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[37] 'Revised draft Protocol against the Smuggling of Migrants by Land, Air and Sea, supplementing the UN Convention against TOC.' Available at: http://www.uncjin.org/Documents/Conventions/dcatoc/11session/4a1r6e.pdf. (26.05.2011).

[38] ' Human Trafficking and Migrant Smuggling.' Available at: http://www.international.gc.ca/crime/human-traf-personne.aspx. (19.05.2011).

[39] 'UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women And Children.' Art:3a. Available at: http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf. (19.05.2011).

[40] Bhabha, J . (2005). 'Trafficking, Smuggling, and Human Rights.' Available at: http://www.migrationinformation.org/feature/display.cfm?ID=294. (19.05.2011).

[41] UNODC. (2006). 'Trafficking in persons: Global patterns.' Available at: http://www.unodc.org/documents/human-trafficking/HT-globalpatterns-en.pdf. (18.05.2011).

consumers. [42] Both women and men act as traffickers in labour and sex trafficking operations.[43] According to Graycar,[44] human traffickers can be divided into two groups based on their service methods. Some may prefer the smuggling of immigrants and other groups rather prefer to traffic individuals. Graycar also provided a concise reference source as follows:

> *"Amateur Traffickers*: who provide occasional, sometimes single services for crossing a border or locating an employer in a host country;
> *Small groups of organized criminals*: who specialise in leading migrants from one country to another using recognised routes;
> *International trafficking network:* who can respond wholesale to the needs of immigrants, including the provision of stolen or altered documents and provision of accommodation and employment contacts. The routes such groups use are often well-tested by other transnational activities, such as drug trafficking."[45]

Although almost anyone can be a victim of THB, traffickers tend to focus on the populations of developing countries, located in Asia, Africa, and South America, to find their victims. In addition, recently it has been shown that the amount of Eastern European victims is significantly rising because of changing international conjuncture.[46] In general, traffickers select victims from among women, children, indigenous people and people of 'low' caste status or migrant workers.[47] It appears that individuals become the target of traffickers as a result of known deficiencies in their respective domestic systems. Consequently, they use innocent and desperate people to earn illegal money.

Virtually every region or country globally could suffer from the impacts of trafficking, on account of its transnational structure. Countries are classified as "source," "transit" or

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[42] 'Human Trafficking.' Available at: http://www.polarisproject.org/human-trafficking/overview. (19.05.2011).
[43] 'Office to Monitor and Combat Trafficking in Persons.' Op.cit. page: 33.
[44] Graycar, A.(2002).'Trafficking in Human Beings',in J.D. Freilich, G.Newman, S. Giorna Shoham and M. Addad, Migration, Culture, Conflict and Crime. Aldershot: Ashgate.Page:30.
[45] Ibid. Page:31.
[46] Reichel P. (Eds.).(2005). Op.cit. page:58.
[47] Women and girls represent 56 per cent of victims, while men and boys account for 44 percent. In: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work 2005. Report I (B). Geneva, 2005. Available at: http://www.oecd.org/dataoecd/48/22/44896380.pdf. (15.05.2011).

"destination" by organizations which work in trafficking.[48] The source country is known as the country of origin of a trafficking victim. These countries generally have political, social and economical stability problems, a lack of reasonable and realistic prospects, armed conflict and oppression, domestic violence and disintegration of the family structure, gender discrimination, a lack of access to education and information problems, in general.

Some countries are used as through way for passing victims through to target countries. These types of countries are known as transit countries. Traffickers select the transit countries based on their geographical location, weak border controls, corruption potential and relationship with crime networks which involve trafficking. Generally, these networks provide access to the destination countries. Destination countries are the final targets for traffickers and the final destination for the victims of trafficking.[49]

Salt and Hogart emphasized that 'trafficking' is a merchant activity[50] and that countries are selected as a destination because of their economical situation. With such trade, traffickers provide a balance between supply and demand. In brief, it appears that rich countries demand women for sexual abuse and men for forced labour, with traffickers meeting their requirements.[51] Destination countries are chosen by traffickers due to their unstable economical, political, and social systems. Legal capacity and the lack of law enforcement is also a very important consideration when determining a particular country to be a destination country. Despite these negative attributes, destination countries usually have the prosperity to exploit victims of trafficking.

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[48] Bertone, A. M. (2000). 'Sexual Trafficking in Women : International Political Economy and the Politics of Sex.' *Gender Issues. Vol:* 18. No:1. Page: 7.
[49] 'Trafficking Routes.' Available at: http://stopvaw.org/Trafficking_Routes.html. (17.05.2011).
[50] Finckenaur J. O. (2000). Op.cit.
[51] ''Citing Explosion of TOC, Secretary-General Hails UN Anti-Crime Convention as Blueprint to Counteract Threat''. Op.cit. Page:29-32.

Another issue which provides a wider aspect to THB is the underlying perspective of the relevant criminal networks. Organizations engaged in THB are divided into two depending on their objectives and tools. Some traffickers see the objectives of THB as purely for earning money whilst others may use it as a tool to traffic other commodities, such as drugs and arms. In this respect, Shelley briefly highlights the crimes that have links with THB, such as smuggling, corruption, fraud and money laundering. Also, as mentioned before, it has a special link with drug trafficking, where both trafficking organizations follow the same routes to reach their target regions. Sometimes, trafficking networks use THB to provide illegal armed forces for terrorist groups.[52]

As seen, the crime of THB is affected by international conjectural changes and internal problems. Many countries and regions are targeted by criminal organizations because of structural moves that have the power to change social structures in any country or region in the international arena. As a consequence, there are many efforts to prevent and prosecute this crime and its perpetrators, from both internal and international law enforcement authorities. These efforts show us that both national and international law is shaped by the result of social formations.

[52] Shelley L.(2011). 'The Business of Human Trafficking/Presentation.' Gender Equality Forum :Reykjavik. Available at: http://www.velferdarraduneyti.is/media/Jafnrettisthing2011/0_Louise_Shelley.pdf. (21.05.2011).

3. Human Trafficking in Turkey

The role of law and the effects of developments at law within the societies are examined by the sociology of law. According to the sociological definition of 'law,' it is a set of mandatory rules which regulates relationships among people. The most significant element for long-lasting rules of law depends on their compatibility with the social structure of society.[53] In this respect, the Marxist view sheds light, where it claims that the increase of law and human rights depended upon human interactions within the social structure.[54] Another view of the relationships within the society comes from Durkheim who stated that the law covered all human societies - at all points in history - and the evolutionary relations between them. [55] Societies reflect their relations with each other, in the context of their historical and cultural backgrounds, while they create a new rule of law.

The social situation is located at the centre of this work because it is necessary to understand, examine and determine the law in the light of its practical implementation.[56] This view is a very important milestone for the formation of standard definition of law in socio-legal theory. The purposes of it are not only to be descriptive, but also to establish a new structure, to provide new view of law and legal system, and to show maintenance or alteration

[53] "The Scopes of Sociology and its Methods." (in Turkish). Available at: http://www.genbilim.com/content/view/6783/86/. (01.06.2011).
[54] Noebel. D. (2006). "Understanding the Times: The Collision of Today's Competing Worldviews." Summit Press. 2nd edition. (Section Seven –Law-/ Chapter 22- Marxism and Leninism.)
[55] Clarke M. (1976). "DURKHEIM'S SOCIOLOGY OF LAW." *British Journal of Law and Society*. Vol. 3, No. 2, pp. 246-255.
[56] K. Llewellyn.(1930). "A Realistic Jurisprudence-The Next Stp," *Columbia Review*. Vol:30. - E. Ehrlich.(1922) "The Sociology of Law," Harvard Law Review. Vol. 36.

of social situation.[57] This type of assessments and researches is generally named 'law in action' to demonstrate the active parts of law.[58]

After highlighting the legal, theoretical, and social perspectives between law and society, now we can more clearly show and draw the frames of THB in Turkey in the context of these three elements.

3.1 Turkey as a Destination and Transit Country for the Victims

Together with a system full of loopholes, geographical location is a further significant factor in determining the involvement of a country or region in the process of THB. In this respect, Turkey was an inevitable target of THB due to its location. In every period of history, the geography of Anatolia - which is a broad peninsula that lies between the Black and Mediterranean Seas - has been one of the great crossroads of civilization. The Romans called it 'Asia Minor,' or 'Lesser Asia,' because it was the land between Asia and Thrace. Modern Turkey reflects the importance of old Anatolia as a peninsula that, uniquely, straddles two continents located both in south Eastern Europe and south western Asia.[59] Turkey has a total of 8333 km coastline, including the Black Sea, the Mediterranean, the Aegean and the Marmara Sea, together with 2774 km land borders of eight countries.[60] On account of this unique geographical characteristic Turkey is both a transit and destination country.

Turkey's importance, as a transit country, can be assessed by reference to UNODC which listed ninety-eight transit countries for THB, in order of use with Albania, Bulgaria, Hungary, Poland, Italy, and Thailand grading "very high." It also ranked fourteen countries

[57] H. W. Jones. (1963)."Law and the Behavioural Sciences: The Case for Partnership." *Journal of the American Judicature Society*. Vol.47. pp. 109-114.
[58] Schiff, D.N. (1976). "Socio-Legal Theory: Social Structure and Law." *The Modern Law Review*. Vol.39. No.3. page: 287-310.
[59] "Turkey." Available at: http://www.nationsencyclopedia.com/economies/Asia-and-the-Pacific/Turkey.html. (04.06.2011).
[60] Turkey has land borders of 269 km with Bulgaria, 203 km with Greece, 276 km with Georgia, 325 km with Armenia, 18 km with Azerbaijan (Nahjivan), 529 km. with Iran, 378 km with Iraq and 877 km with Syria.

"high" as a transit country: Bosnia and Herzegovina, Czech Republic, Kosovo, the Former Yugoslav Republic of Macedonia, Romania, Serbia and Montenegro, Slovakia, Ukraine, Myanmar, Turkey, Belgium, France, Germany, and Greece.[61]

For over thirty years, many traffickers and smugglers have considered Turkey to be a transit country, because of its short distance from the Middle East, Asia, and Africa to western prosperity.[62] Icduygu emphasizes that Turkey become a transit country because it links Western and Northern countries, due to its central location in all main directions.[63] In this respect, geography played a very significant role in the targeting of Turkey as a transit region due to its conductive borders with Europe.[64] Traughber states that the peoples of Central Asia followed the 'North Balkan Route' or 'Istanbul Express' to reach the European Union.[65]

Turkey also ranks very high in the UNODC index as a destination country with nine other countries.[66] The trafficking victims from Asia and the Commonwealth of Independent States (CIS)[67] generally described Turkey to be one of the destination countries. Turkey has been emerging as a destination country in recent years, mostly for the purposes of sexual exploitation and labour,[68] on account of its improved living standards and stable economy.[69]

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[61] UNODC. (2006). "Trafficking in persons: Global patterns." Available at: http://www.unodc.org/documents/human-trafficking/HT-globalpatterns-en.pdf. (04.06.2011).
[62] Içduygu, A. and S. Toktas. (2002). "How do smuggling and trafficking operate via irregular border crossings in the Middle East? Evidence from fieldwork in Turkey." *International Migration* Vol.40. No.6. page: 25–54.
[63] Içduygu, A. (2004). "Demographic mobility and Turkey: Migration experiences and government responses." *Mediterranean Quarterly*. Vol.15. No.4. page: 88–99.
[64] Narli, N. (2002). "Transit Migration and Human Smuggling in Turkey: Preliminary findings from the field work." *Turkish Review of Middle East Studies.* Vol.13. page: 157–85.
[65] Traughber, R. D. (2008). "The New Silk Road of Terrorism and Organized Crime: The Key to Countering the Terror-Crime Nexus." In J. H. Norwitz, *Armed Groups: Studies in National Security, Counterterrorism, and Counterinsurgency*. Pages: 371-387.Defense Dept., Navy, Naval War College.
[66] UNODC. (2006). Op.cit Page: 20. Nine countries: Belgium, Germany, Greece, Israel, Italy, Japan, Netherlands, Thailand, and United States of America.
[67] The CIS units: Azerbaijan, Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan and Ukraine.
[68] Shahinian, G. (2008). "Trafficking in persons in the South Caucasus- Armenia, Azerbaijan and Georgia: New challenges for transitional democracies." In: Cameron, S and Newman E. (eds.). (2008). "Trafficking in Humans: Social, Cultural, and Political Dimensions." The UN University Press: Tokyo, New York, Paris. Page: 264.
[69] "Fight Against Human Trafficking Continues, data reveal." (22nd of January,2008). Available at: http://www.todayszaman.com/newsDetail_getNewsById.action?load=detay&link=132198&bolum=102. (06.06.2011).

3.2 The Scopes of THB in Turkey

Having illustrated relevant aspects to THB in Turkey it is necessary to assess the principal trends, which are sex trafficking (sexual exploitation), forced labour, body parts (organs) trafficking.

3.2.1 Sex trafficking (Sexual Exploitation)

Trafficking describes a relationship of demand and supply. Some countries with huge sex industries give rise to the demand for women. On the other side of the coin, other countries meet their demands. Before the collapse of the Soviet Union, Asia was the main supplier for sexual exploitation in the region. However, since then, former Soviet republics such as Belarus, Latvia, Moldova, Russia, and Ukraine have become the main suppliers for almost all demand.[70] For these countries, in particular, Turkey has become the main destination point where women arrive by boat or plane from the city of Odessa.[71] Briefly, since early 1990s, Turkey has been one of the world's largest markets for Slavic women, with its rapid growth of economy and soft visa requirements.[72] Furthermore, these women mostly of Slav origin are referred to as 'Natasha' in Turkey.[73]

The region of Anatolia has it seems always been a target and remains so today. Historically, there was always a large amount of the trafficking of women, especially between the southern regions of the former Soviet Union and Turkey.[74] In 1869, Mark Twain wrote

[70] Hughes D. M. (2001). "The 'Natasha' Trade: Transnational Sex Trafficking." *National Institute of Justice Journal.* No. 246. (January). Page: 9.
[71] Shelly, L.(2010). "Human Trafficking A Global Perspective." *Cambridge University Press*. Page: 190.
[72] Smith. C.S. (Published: June 28, 2005). "Turkey's sex trade entraps Slavic women." Available at: http://www.nytimes.com/2005/06/27/world/europe/27iht-turkey.html. (01.06.2011).
[73] Huges D.M. (2001). Op.cit. page:10.
[74] Shelly, L.(2010). Op.cit. page:177.

that *'Circassian and Georgian girls are still sold in Constantinople (Istanbul) by their parents, but not publicly.'*[75]

Number of VOTs Assisted by IOM Turkey as of 01.04.2011																	
	2004		2005		2006		2007		2008		2009		2010		2011		
Country of Origin	adult	of which minors incl.	adult	of which minors incl.	adult	of which minors incl.	adult	of which minors incl.	adult	of which minors incl.	adult	of which minors incl.	adult	of which minors incl.	adult	of which minors incl.	TOTAL
Azerbaijan	3	0	2	0	6	3	3		4		4	1	1		3		30
Armenia		0		0	1	0											1
Belarus	1	0	5	0	1	0			2				1				10
Bulgaria		0		0	2	0	6		1								9
Colombia	1	0	0	0		0											1
Georgia	0	0	3	0	2	0	3										8
Indonesia											1						1
Kazakhstan	1	0	6	0	1	0				1							9
Kyrgyzstan	0	0	19	1	23	1	13	1	4		14		2				78
Nigeria											1			1			2
Moldova	33	1	82	2	59	0	42	1	18	1	5		2				224
Mongolia											2						2
Romania	5	1	9	2		0			4								21
Russia	2	0	28	1	37	2	18	2	8		5		4		2		105
Sri Lanka							1										1
Tunisia							1										1
Turkmenistan	1	0	2	0	4	0	12		15		17		5		2		58
Uganda	0	0	1	0		0											1
Ukraine	12	0	65	1	29	4	8		3		2		2				124
Uzbekistan	1	0	11	0	16	0	11		13	2	20	3	8		2		80
Morocco									1				2				3
Toplam	60	2	213	7	181	10	114	4	74	4	71	4	25	1	9	0	779
Grand Total	62		220		191		118		78		75		26		9		779

Table 1: Number of Victims' Assisted by IOM Turkey[76]

After looking at the past and present situation of the main countries of origin that use Turkey as a destination, it is important to highlight another key region of origin for the victims of sex trafficking. This region is Transdniester, which is the region between Ukraine and Moldova and a conflict area that declared itself independent from the Moldovan

[75] Twain, M.(1984). "The Innocents Abroad." New York: Literary Classic. Page:290.
[76] All statistics (31.03.2011) are available at: http://www.countertrafficking.org/2011.html. (01.06.2011).

government.[77] This region is perfect proof of the importance of stability in a domestic system, to afford legal protection to the victims who are citizens of another state.[78]

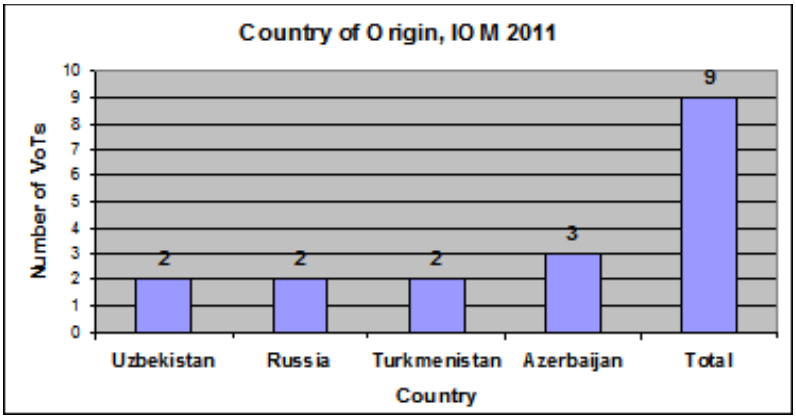

Table 2: Breakdown of Victims assisted by IOM by country of origin[79]

In addition to victims from Europe a large number originate from the 'Turkic Republics,' which are Turkmenistan, Uzbekistan & Kyrgyzstan. The majority of the victims, range from 18 to 30 years old.

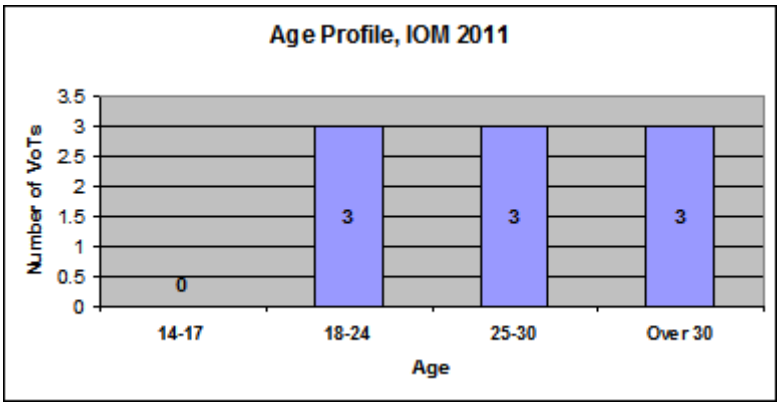

Table 3: Age profile of cases assisted by IOM[80]

Antalya, Istanbul, and Trabzon ports are the main entrances for trafficked victims.[81] In addition, the Georgian border has been used by traffickers transporting victims from

[77] "Sex Slaves." Available at: http://www.pbs.org/wgbh/pages/frontline/slaves/. (01.06.2011).
[78] Galeotti, M.(2004). "The Transdnistrian Connection: Big Problems from a Small Pseudo-state." *Global Crime*. Vol.6. No.3. page:398 — 405; Shelly, L.(2010).Op.cit. Page:43.
[79] All statistics. Op cit.
[80] All statistics. Op cit.

Azerbaijan and Armenia to Turkey.[82] At this point, Turkey should be more assertive with its warning signs. On the one hand, greater awareness should be directed at a traveller from Russia and on the other hand, young Central Asian women, recruited as prostitutes, who can presently pass through the border using only a passport, should be subject to more stringent controls from the Turkish border police.[83] Turkey suffers both internal and international trafficking, albeit the former is at a lesser rate than the latter.[84]

3.2.2 Forced Labour

Forced labour is one of the most severe forms of exploitation but which generates great profits (approximately $32 billion).[85] According to the International Labour Organization (ILO) Forced Labour Statistics, trafficked forced labour forms can be divided into three: first, forced commercial sexual exploitation (43% of total number of forced labour); second, forced economic exploitation (32% of total number of forced labour) and third, undetermined reasons with a mixture of the first and second types (25% of total number of forced labour).[86]

Turkey has statistically met with transnational cases of forced labour, since 2006.[87] It works together with other forms of trafficking, where many forced labour victims from different countries work not only as labourers, but also as prostitutes.

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[81] "Counter Trafficking in Human Beings." Available at: http://www.turkey.iom.int/pa2.htm. (29.05.2011).
[82] Shahinian, G. (2008). Opcit.Page:262.
[83] Shelly, L.(2010). Op.cit.Page:102.
[84] U.S Department of Labour. (27 August 2008). "*2007 Findings on the Worst Forms of Child Labor – Turkey*." Available at: http://www.unhcr.org/refworld/docid/48caa49538.html. (11.06.2011).
[85] According to Art. 2, para.1 of the ILO Convention on Forced Labour no 29, forced labour is known 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."
[86] "Forced Labour Statistics." Available at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_decl_fs_20_en.pdf. (06.06.2011).
[87] All statistics. Op cit

	Forced Labour	Forced Labour & Sexual Exploitation
2006	10	4
2007	15	2
2008	2	4
2009	5	3
2010	3	3
2011	0	0

Table 4: Total Number of Victims to Forced Labour.[88]

Forced (compulsory) labour is constitutionally banned in Turkey yet despite its regulations contained in the Constitution of Republic of Turkey (article 18) and the Turkish Penal Code (article 80) cases of forced labour trafficking still exist (Appendix 2).[89]

3.2.3 Body Parts (Organ) Trafficking

Organ trafficking is arguably one of the most heinous crimes carried out by mankind. In the black market, body parts, especially the cornea, kidney, liver, and tissue, can be sold illegally for high prices. For instance, kidneys are marketed for $20,000 or $30,000 in Europe and in Turkey can be sold for $25,000 or $30,000. However; rare organs can attract customers who will pay up to $150,000 for them.[90]Western European and Israeli customers travel the well known 'transplant tourism' route to Turkey, Estonia, Bulgaria, Georgia, Romania, and Russia to obtain illegal transplants.[91]Of these countries, Turkey plays a very significant role for organ trafficking. Sam Vaknin gave an interview granted to El Pais about organ trafficking and also answered a question on the role of Turkey in the transplant market. He stated:

> *"Turkey is a major junction in the trafficking of illicit organs. Turkish doctors' work closely with Israeli and Jewish doctors the world over. They operate on both donors and recipients. They run illegal clinics all over the world, including in Turkey, where many transplants take place as part of a phenomenon of "transplant tourism" (mostly next to*

[88] Ibid.
[89] The Case Study is available at: http://www.countertrafficking.org/case_studies.html. (06.06.2011).
[90] Watson, C.(2006). "The Organized Crime of Organ Trafficking." Available at: http://etd.uovs.ac.za/ETD-db//theses/available/etd-06142007-072827/unrestricted/WatsonC.pdf. (03.06.2011).
[91] Vermot-Mangold. G. (Rapporteur).(3 June 2003). "Trafficking in organs in Europe." *Council of Europe Parliamentary Assembly, Document 9822*. p.6. Available at: www.assembly.coe.int/Documents/WorkingDocs/Doc03/EDOC9822.htm. (06.06.2011).

> *resorts from Antalya). They recruit donors. The whole business would be unimaginable without the Turks. Recently, Israeli and Turkish networks have started to infiltrate Russia (with the help of the Russian mafia) and the Turkic former republics of the USSR as well as Kazakhstan and through these, China. This is the next 'growth market'."*

Changes in the social structure of countries, in particular and in international society, in general is the main cause of organ trafficking. As mentioned, social formation determines demand and supply. In a formation where the rich become richer and the poor become poorer, organ trafficking is an inevitable consequence where rich people often use the sole asset of poor people to save themselves.

To prevent this most severe violation of human rights, the Turkish National Police (TNP) organized a number of operations to break up the ring of human organ trafficking chains in Turkey. In one of the latest operations, a Turkish doctor, Yusuf Ercin Sonmez, was arrested in Istanbul. There had previously been many offences listed by Interpol against him, such as, crimes against life and health, people smuggling, trafficking and illegal immigration.[92] Eventually, the court took a decision of judicial control against him but released him pending a trial.[93]

3.3 The Main Perpetrators of THB in Turkey

Traffickers in Turkey have similar profiles to others all around the world. According to the 'Polaris Project,' traffickers can be pimps, intimate partners/family members, gangs/criminal networks, brothel and massage parlour owners and managers, growers and

[92] "Kosova Organ Trafficking Case Surgeon Bailed in Turkey." (12 January 2011). Available at: http://www.bbc.co.uk/news/world-europe-12172901. (03.06.2011).
[93] 'Dr. Frankenstein Serbest- Dr. Frankenstein was released by the court pending a trial.' Available at: (02.02.2011)http://www.ihlassondakika.com/haberdetay2.php?id=351824. (03.06.2011).

crew-leaders in agriculture, labour brokers, employers of domestic servants, small business owners and managers, large factory owners and corporations.[94]

In addition to these groups, or persons, Turkey also deals with the activities of the terrorist group called the PKK (Kurdistan Workers' Party). To fully understand why the PKK exploits humans it is important to understand terrorism itself. Terrorism is a type of political action which aims to show discontent in a political strategy or structure. Whilst doing so, it often furthers particular ideologies such as nationalism, religion, revolution, and status quo.[95] Activities can be performed by, not only right-wing but also left-wing nationalistic groups, political parties, religious groups, ruling governments, and revolutionaries.[96]

The PKK was created in 1973. It spent a 5 year period on ideological establishments and statements. Then it was given official recognition, in 1978 with nationalism as its stated cause and, today, it has many criminal links within the European countries.

Terrorist groups need money to support their activities and funding such activities is illegal in most societies, which inevitably means that their only financial resort is to illegal funds from crimes such as extortion, kidnap ransom money, smuggling, THB, drug trafficking, tax evasion, fraud, and other organized crimes.[97] However, THB has become a fast growing economic opportunity to raise funds for terrorism in recent years. It has evolved into an important supplementary piece of black market due to the increase in contacts between trafficking networks and terrorist groups.[98]

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[94] 'The Traffickers.' Available at: http://www.polarisproject.org/human-trafficking/overview/the-traffickers. (26.07.2011).
[95] Crenshaw, M.(8-11 March 2005- The International Summit on Democracy, Terrorism and Security, Madrid). "Political Explanation." in: *Addressing the Causes of Terrorism, The Club de Madrid Series on Democracies and Terrorism*, Vol. I. Available at: http://media.clubmadrid.org/docs/CdM-Series-on-Terrorism-Vol-1.pdf. (11.06.2011).

[96] Ruby, C.(2002). "The Definition of Terrorism." *Analyses of Social Issues and Public Policy.* page: 9-14.
[97] Ehrenfeld, R.(2002). "Funding Terrorism: Sources and Methods." Gupta, R & Peres M,R. (Eds.). *Confronting Terrorism.* Page: 391-398.
[98] Traughber, R. D. (2008).Op.cit.

Taft and Poplack highlighted the potential capacity of PKK by using data from Turkish, Romanian, Georgian, and US law enforcement authorities and analysts. They assumed that *'though extremely unlikely, the potential for PKK to become part of a threat convergence scenario is real, due to extensive and ongoing Kurdish involvement in the illicit trade of contraband in south eastern Turkey, northern Iraq, parts of Syria and Iran, and throughout Europe. Perhaps most troubling are the proven PKK links to weapons, drug, and THB in Europe and across the EU frontier in the Balkans.'*[99]

The PKK also get involved in all these crimes. The State Department's April 2007 Country Reports on Terrorism, together with a recent NATO Terrorist Threat Intelligence Unit Report, stated that the PKK was involved in illegal financial activities, such as smuggling and trafficking, tax evasion, drug trafficking, counterfeit money trafficking, also illegal foreign currency exchanges.[100]Turkey is not the only country that suffers from terrorist activities. EUROPOL reported that *"The PKK/Kongra-Gel is actively involved in drugs and THB, the facilitation of illegal immigration, credit card skimming, money laundering and fraud for the purpose of funding terrorist (support) operations."*[101]

As stated, Turkey became a centre of most THB routes because of its unique geographical location. As such, Turkey is known as transit and destination country. Its location together with traffickers' increasing requests for more money and the ever growing demand for victims of trafficking have all interacted and THB has evolved into a necrosis for the international community, in general and Turkey, in particular.

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[99] Taft P. and Poplack D.A. (2008). 'The Sum of Its Conflicted Parts: Treat Convergence Risks in the Black Sea Region.' Available at: http://www.fundforpeace.org/tc/images/Publications/a%20sum%20of%20its%20conflicted%20parts.pdf. (26.07.2011).

[100] "The State Department's April 2007 Country Reports on Terrorism." Available at: http://www.state.gov/documents/organization/105904.pdf : Onay, A.(2008). "PKK Criminal Networks and Fronts in Europe." Available at: http://www.tc-america.org/media/PKK_Criminal_Network_in_Europe.pdf. (03.06.2011).

[101] "Europol 2011 EU Terrorism Situation and Trend Reports." Available at: http://www.europol.europa.eu/publications/EU_Terrorism_Situation_and_Trend_Report_TE-SAT/TE-SAT2011.pdf. (17.06.2011).

4. International Attempts against Human Trafficking in Turkey

The reasons pertain to social, political and economic changes all around the world, significantly after 1990s. The most considerable result of these changes is the concept of 'sovereign entity and a sovereign territorial unit.' This concept has started to lose its importance with the definition of 'nation state.' Within the meaning of economy, policy, sociology and security, the changes in these concepts have caused drastic transformation with respect to the large scale abilities of states from 'territorial dimension' to 'global dimension'.[102] As a result of these dimensional transformations, the expressions about the state centric assumptions and the international system approaches of realist international theories have begun to collapse. According to them, states are the most important actors and there is no actor above states capable of regulating their interactions.[103] The results of the changes of the realist theory help to emerge the new actors known as inter governmental organizations (IGO), international nongovernmental organizations (INGO), non-governmental organizations (NGO) and multinational corporations (MNC) in the international system.

International organizations are key actors in an international system with power to compound upon states that have the same or similar targets. Depending upon their capacity and organization type, IGOs are most closely reconciled with the term 'international organization,' which are organizations primarily made up of sovereign states.[104] They are divided into two groups: the first group is called 'universal' and which has an open

[102] Donnelly, J.(2000). 'Realism and International Relations.' Cambridge University Press. Page: 7- 9. This book was used for obtaining general information about the linkages between International Relations and Realism.
[103] Keohane, R.O.(1986). 'Neorealism and its Critics.' Columbia University Press. Page: 164-165.
[104] Evans G and Richard N. (1998).'Penguin Dictionary of International Relations.' Penguin. p. 270.

membership mechanism for all countries and the second group is called 'regional' because of its restricted membership, where only certain countries can become members.[105]

In this regard, Turkey is a member of many international organizations, both regional and universal, which will be looked into in further depth, together with the bilateral treaties ratified by it for combating THB.

4.1 Regional Organizations and Bilateral Treaties

Turkey emphasizes the importance of the many regional organizations of which it is a member and bilateral treaties which it signed with source countries, for the purpose of combating THB, due to its transitive location. So for their economic and political benefits, Turkey conducts some partnerships and memberships in respect of THB with the Council of Europe (CE), the Organization for Security and Co-operation in Europe (OSCE), the North Atlantic Treaty Organization (NATO), the Black Sea Economic Cooperation (BSEC), the Stability Pact and the Bucharest Process. It also follows the progress reports of the European Union (EU) on social, political and legal assessments. In addition to all regional organizations, Turkey also concluded bilateral treaties with Belarus, Bulgaria, Georgia, Kyrgyzstan, Moldova and Ukraine. The purpose of all these was to establish an active combat mechanism against THB and provide efficient protection avenues for the victims.

4.1.1 Regional Organizations

There is no definite homogeneity within regional organizations. However, they can be divided into three categories of arrangements, such as classical regional organizations,

[105] Schechter M. (2009). 'Historical Dictionary of International Organizations.' Scarecrow Pub. P:lvii. There is a definition of IGOs in this book: 'The members of intergovernmental organizations (IGOs) are governments or predominantly government representatives.'

collective self-defence organizations and organizations primarily created for more general purposes.[106]

In this regard, Turkey, as a member of organizations mentioned, tries to achieve a voice in the western system. These organisations have been established to enhance cooperation and political and economic integration or dialogue among states or entities within a restrictive geographical or geopolitical boundary.[107]

In the last few decades, another issue has come to light with growing importance. This revolves around challenges to security and a joint combat against TOC in Turkey's own region. In such areas Turkey has had to take part to combat crimes in its own region and its methods and approach in combating within regional organizations shall be illustrated further.

4.1.1.1 Council of Europe (CE)

The CE Convention on the Action against THB came into force in 1st February, 2008. It is a detailed treaty which aspires to prevent trafficking, protect the rights of victims and prosecute traffickers.[108] It applies to all forms of trafficking, whether national or transnational, whether or not related to organised-crime. The Convention also provides for the setting up of an independent monitoring mechanism, guaranteeing parties' compliance with its provisions. In this context, the Group of Experts on Combating Human Trafficking was established as the monitoring mechanism, in 1st of February, 2009.[109]It applies whoever the victim: women, men or children and whatever the type of exploitation, such as sexual exploitation, forced labour or services.

This Convention is one of the latest steps taken by Turkey, who signed the Convention on 19th of March, 2009, to combat this crime. To ensure compliance with the Convention,

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[106] Roper, J.(1995). 'The Involvement of the EU and WEU in Peacekeeping Missions outside Europe.' Paper for Instituto de Estudos Estrategicos e Internacionais, Thirteenth International Lisbon Conference: The EU and the UN, 22-24th November 1995. Royal Institute of International Affairs, Chatman House, London. Page: 3-10.
[107] 'The UN and the European Regional Security Organizations.' Available at: http://www.valt.helsinki.fi/agathon/2711.htm#8271. (27.07.2011).
[108] 'CE Convention on Action against Trafficking in Human Beings.' Available at: http://conventions.coe.int/treaty/en/treaties/html/197.htm.(27.07.2011).
[109] Alan B.P.(30 November 2009). Op.cit. page: 22-23.

Turkey has established a Working Group from its ministries. In June 2009, it came together to examine the articles under its ambit. Before ratification, its meeting helped to prepare a framework about necessary amendments to existing laws. In order to fully realise the inadequacy of the Turkish Penal Code on THB and similar related crimes, the provisions of the Convention need to be examined because it is this Convention that has helped Turkey to form an efficient legal mechanism against it.[110]

4.1.1.2 Organization for Security and Co-operation in Europe (OSCE)

The Ministerial Council of OSCE ratified an Action Plan, which is the principal document against THB. It contains wide-ranging advice for participating States on the best methods necessary to perform the miscellaneous anti-trafficking commitments, such as specifying certain roles for OSCE bodies to help participating States in this endeavor.[111]

In this framework, to watch the approaches of Turkey for victims, OECD- ODIHR (Office for Democratic Institutions and Human Rights) published a report about victims' rights in Turkey. In this report, OECD examined Turkey's efforts, made for the victims in the fight against THB, between January 2005 and October 2007.[112] Related institutions in Turkey were informed and, in May 2008, this report was completed by OECD-ODIHR.[113]

In cooperation with OECD-ODIHR, in 29th of May, 2009, the Ministry of Foreign Policy arranged a workshop for reviewing the National Guidance Mechanism on the protection of the rights of victims in Turkey to evaluate its recommendations and to assess the progress in one year after the report.[114]

Within the framework of the report, the workshop had achieved its purpose on specification of the victims, information sharing about assistance of victims and the protection

[110] 'The Handbook of Human Trafficking in Turkish Law.' (2009). Available at: www.abgm.adalet.gov.tr/pdf/insanticareti.pdf. (19.04.2011).
[111] 'Compensation and Trafficking Victims: The Work of Civil Society Human Dimension Implementation Meeting, Warsaw.' (2008) Available at: http://www.osce.org/odihr/34934. (28.07.2011).
[112] 'Ongoing Efforts of Turkey in Fighting against Trafficking in Human Beings.' (2007). Available at: http://www.osce.org/odihr/27871. (28.07.2011).
[113] Alan B.P.(30 November 2009). Op.cit. page: 28,29,30.
[114] 'Annual Report 2010.' Available at: http://www.osce.org/odihr/77665?download=true. Page:64.(29.07.2011).

of their rights, evaluation of progress and suggestions on possible solutions in respect of THB in the future.[115]

4.1.1.3 North Atlantic Treaty Organization (NATO)

NATO started a zero-tolerance policy, authenticated by the Istanbul Summit in June 2004, on THB .[116] Its members and other troop-contributing nations, participating in NATO-led operations, adopted this policy to reinforce efforts to prevent and combat such activity.[117] On 7th of August, 2004, NATO ratified the Practice Plan on the division of roles and their purposes within the framework of its policies.[118]

In addition to this policy, three further modules have been developed by the NATO School. Its students are informed on the issues of THB through a General Module, a Module for Military Commanders and a Law Enforcement Module. All of them are accessible on a web version for advanced distributed learning purposes to NATO and Partnership for Peace (PfP) training institutions.[119] The Turkish PfP Training Centre in Ankara generated a one-week course on Combating Smuggling and THB. It delivered its experiences by dispatching mobile training teams to Albania, Azerbaijan, Georgia, Kazakhstan, Romania, the Former Yugoslav Republic of Macedonia, Tajikistan, Turkmenistan and Ukraine, during 2005.[120]

4.1.1.4 The Black Sea Economic Cooperation (BSEC)

The Black Sea region is a major transit route and target destination for the trafficking of women and children for commercial sexual exploitation and forced labour. According to the UNODC database on global THB patterns, THB affects all BSEC Member States.[121]

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[115] Alan B.P.(30 November 2009). Op.cit.
[116] 'NATO Policy On Combating Trafficking In Human Beings.' Available at: http://www.nato.int/issues/trafficking/index.html. (28.07.2011).
[117] Alan B.P.(30 November 2009). Op.cit. page:31.
[118] 'NATO Policy On Combating Trafficking In Human Beings.'Op.cit.
[119] Allred, C.K.J. (2006). 'Combating Human Trafficking.' Available at: http://www.nato.int/docu/review/2006/issue2/english/analysis.html.(27.08.2011).
[120] 'Trafficking in Persons Report 2008.' (04 June 2008).'Country Narratives- Turkey.' Available at: http://www.state.gov/g/tip/rls/tiprpt/2008/105389.htm. (29.07.2011).
[121] Alan B.P.(30 November 2009). Op.cit.

On the issue of cooperation for combating organized crime, BSEC has commitments amongst its members. Organisations, such as BSEC, IOM, UNODC and many other relevant bodies in the region, are cooperating with each other in the fight against THB, one of the most prevalent forms of organized crime in the Black Sea area.[122]

With the support of Turkey, UNODC held a conference on THB in the Black Sea Region. As a result of this conference, BSEC and UNODC initiated a regional project named *"On Strengthening of the Criminal Justice Response to Human Trafficking in the Black Sea Region."*[123] In this regard, they devised a Regional Action Plan[124] to promote the interchange of knowledge and best practices, as well as to enhance cooperation among Member States in combating THB. In concurrence with its policy development and capacity building aspects, the Action Plan provides a significant assessment on the three main elements vital in the fight against THB, namely, prevention, protection and prosecution.[125]

4.1.1.5 The Stability Pact

The Stability Pact Task Force on Trafficking in Human Beings (SPTF), created on 18 September 2000 and working under the protection of the Organisation for Security and Cooperation in Europe (OSCE),[126] is a method of coordination, for the provision of support, to make cooperation more forceful among the countries of South Eastern Europe (SEE) in the simplification and expediting of existing attempts to combat THB in the region. The SPTF is devoted to promoting collaboration and integration of anti-trafficking efforts in SEE to advance a long-term influence and maintainability in the fight against THB.[127] Within this

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[122] 'Written Contribution by Ambassador Leonidas CHRYSAN THOPOULOS, Secretary General of the BSEC.' Available at: http://www.osce.org/cio/40530. (29.07.2011).
[123] Available at: http://www.ungift.org/docs/ungift/pdf/announcement.pdf. (29.07.2011)
[124] 'Model Guide: On Strengthening of the Criminal Justice Response to Human Trafficking in the Black Sea region.' Available at: http://www.unodc.org/documents/human-trafficking/Model_Guide.pdf. (23.07.2011).
[125] 'Report of the Meeting of the BSEC Working Group on Cooperation in Combating Crime, in particular in its Organized Forms, with the Participation of the Liaison Officers on Combating Crime.' Available at: http://www.bsec-organization.org/aoc/coooeration/Reports/Reportweb.pdf. (29.07.2011).
[126] 'Trafficking in Human Beings: Stability Pact Task Force step up its Efforts.' Available at: http://www.osce.org/odihr/53490.(30.07.2011).
[127] 'Fact Sheet.' (2003). Available at: http://www.ilo.org/public/english/region/asro/tokyo/pdf/sptf.pdf. (30.07.2011.)

context, Government Ministers and representatives committed their countries to implementing persuasive plans of prevention, victim assistance and protection, legislative reform, law enforcement, and prosecution of traffickers.[128]

Within the perspective of the Regional Cooperation Council, the new name of the Stability Pact, Turkey signed its declaration of commitment on 11 December 2002 on the position of trafficked victims within its legal framework.[129]

4.1.1.6 The Bucharest Process

The Bucharest Process is a cooperation and dialog forum used by Governments for establishing an effective and sustainable mechanism on migration, providing permanent and coherent solutions against illegal migration and preventing THB, with the support of 51 Governments and 10 international organizations.

In 2003, during the presidency of Hungary, Turkey started to perform its work as a co-president, until January 2006. After that, Turkey performed its role in the process as President.[130]

4.1.1.7 European Union (EU)

The EU has a very comprehensive system of knowledge with details on every aspect of THB, such as those required for its prevention, the prosecution of perpetrators and protection of the victims. According to the EU;

> *"THB, for whatever reason – sexual exploitation or work – is a violation of fundamental human rights Because it affects vulnerable groups such as women and children in particular, the European Union has focused its action on objectives aiming to protect these groups and to prevent and combat this phenomenon, especially by strengthening cooperation and coordination between the police and judicial authorities of the Member States. Likewise, the EU is introducing a framework of common provisions in order to tackle*

[128] 'Task Force on Trafficking in Human Beings Statement on Commitments.' Available at: http://legislationline.org/documents/action/popup/id/4239. (30.07. 2011).
[129] Alan B.P.(30 November 2009). Op.cit. page:27.
[130] 'Turkey on Trafficking in Human Beings.' Op.cit.

> *certain issues, such as criminalisation and penalties or aggravating circumstances in the case of THBs. The action of the EU, which in this way is also designed to protect the victims of trafficking, is based on instruments defining its objectives and priorities, but it is also integrated in a broader context of protection against violence, sexual tourism and child pornography.''*[131]

In respect of this detailed approach the EU has put in much effort to combat THB, especially in respect of its member states and candidate countries in the process of accession.[132]

With respect to accession efforts, the EU declared Turkey to be an official candidate for membership. A process of pre-accession, containing an interregnum period of adoption and harmonization of Turkish policies and legislations with the EU Acquis was started by this declaration.[133] Turkey, by entering this process, accepted a systematic transformation in its legislative and administrative structures. As a result of the pre-accession period, Turkey adopted some legal documents, such as the Accession Partnership (AP), National Programme for the Adoption of the Acquis (NPAA), and the National Action Plan for Asylum and Immigration (NAP).[134]

Turkey's bid to join the European Union turned a corner with the opening of long-awaited accession negotiations, on October 3, 2005, by the EU Common Foreign and Security Policy (CFSP). [135] There are thirty-three chapters providing for the adoption and harmonization of Turkish policies, legislations and the EU Acquis.

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[131] 'Fight against Trafficking in Human Beings.' Available at: http://europa.eu/legislation_summaries/justice_freedom_security/fight_against_trafficking_in_human_beings/index_en.htm. (01.08.2011).
[132] All EU Legislations are available at: http://ec.europa.eu/anti-trafficking/section.action?sectionId=a9518ba3-6b5f-4968-be7b-771aa65dd311&sectionType=NORMAL. (01.08.2011).
[133] Pre-accession period covered from 1999-2005.
[134] Kale B. (2006). "Trafficking of Human Beings within the Context of Turkey's Accession Process to the EU." in N. Narli (ed.) *Trafficking in Persons in South East Europe – A Threat to Human Security.* Vienna:National Defence Academy Publications. Page:127-138.
[135] Chaibi D & Akçapar B. 'Turkey's EU Accession: The Long Road from Ankara to Brussels.' *Yale Journal of International Affairs*. (Winter/Spring 2006).

The issue of THB is raised in the 24th chapter, which is concerned with justice, freedom and security. Combating this crime is conducted under the 2008 Turkey's NPAA. According to this programme, Turkey took on board responsibilities relating to THB, such as implementing the strategy on combating THB, supporting its own efforts to fight THB, access for all victims of THB to justice, preventative measures against THB in Turkey and in countries of origin by raising awareness of these issues through 157 emergency aid lines, the establishment of a unit to support the National Task Force on THB, increasing the judicial and administrative capacity of law enforcement personnel in the fight against THB and establishing a data collection system with a view to supporting a coordinated reaction to THB between Turkey and the main countries of origin.[136]

In this respect, the European Commission (EC) stated in reports on Turkey's progress that *"improvements on the issues mentioned above have continued on combating THB."* Additionally, it emphasized the importance of Turkey at the Council of Europe Convention on action against THB.[137] In the progress report of 2009, it again noted this progress. However, it also emphasized the disapproval of the Council of the Europe Convention on Action against THB and the deficiencies, such as a lack of the task force's structure and powers, a lack of a coherent statistical system for monitoring and the need for major legislative developments.[138] The latest report also indicated Turkey's progress but highlighted the importance of its ratification of the Council of the Europe Convention on Action against THB. Briefly these reports showed that further efforts were needed to enhance in the direction of the Acquis.[139]

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[136] '2008 Turkey's National Programme for the Adoption of the Acquis.' (in Turkish) Available at: http://ikmep.yok.gov.tr/files/b3ec29d9319026441e152dbd20810c9b.pdf. (01.08.2011).
[137] 'Turkey 2008 Progress Report.' Page:74. Available at: http://ec.europa.eu/enlargement/pdf/press_corner/key-documents/reports_nov_2008/turkey_progress_report_en.pdf. (29.07.2011).
[138] 'Turkey 2009 Progress Report.' Page: 76-77. Available at: http://ec.europa.eu/enlargement/pdf/key_documents/2009/tr_rapport_2009_en.pdf. (29.07.2011).
[139] 'Turkey 2010 Progress Report.' Page: 84-85. Available at: http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/tr_rapport_2010_en.pdf. (29.07.2011).

As regards adoption and harmonization, it would therefore be advisable for Turkey to spend more energy and resources on the fight against THB. Though it struggles to prevent this problem, it should persist in efforts to combat THB in this transformation process.

In addition to all these regional efforts, the General Directorate of Security of the Turkish Ministry of Interior held a meeting with the Embassies of several countries to talk over practical cooperation opportunities and create solutions for existing problems, in 2006.[140]As a regional effort, a Turkish NGO, the Human Resource Development Foundation (HRDF), in June 2005, became a member of the ARIADNE Network which works against THB in South Eastern and Eastern Europe.[141]

4.1.2 Bilateral Agreements, Protocols and Treaties

In addition, Turkey has signed 64 bilateral Security Cooperation Agreements which include provisions for cooperation against illegal migration and THB with 52 countries, for combating organised crime and terrorism.[142] Turkey has proposed Cooperation Protocols to manage more effectively the THB combat, issues with Georgia, Bulgaria, Romania, Moldova, the Russian Federation, Azerbaijan, Belarus, Uzbekistan and the Ukraine.[143]

Regarding cooperation in combating THB and illegal migration, the Ministry of Interior of the Republic of Turkey signed a Memorandum of Understanding with the Ministry of Internal Affairs of the Republic of Belarus, on 28th of July, 2004. There is a further agreement, ratified on 20th of October, 2004, for cooperation between the Republic of Turkey and the Republic of Slovenia in combating organized crime, illicit drug trafficking, international terrorism and other serious crimes. According to Article 6/c of the Agreement,

[140] Dundar, T.(2007).Op.cit. Page: 235.
[141] Available at: http://www.ariadnet.net/. (04.03.2011).
[142] Dundar, T.(2007).Op.cit. Page: 230-231.
[143] 'The Combating Methods against Human Trafficking in Turkey.' Op.cit.

state parties should be fully informed on THB.[144] Further, a protocol was signed on the Implementation of the Ninth Article of the Agreement on Combating Terrorism between the Republic of Turkey and Georgia, with another being signed by them and the Republic of Azerbaijan, on organised crime and other major crimes. Both protocols were signed on 10th of March, 2005. Another bilateral agreement was signed on 7th June, 2005, known as the Additional Protocol on the Implementation of Article 1 of the Cooperation Agreement against Crime between the Government of the Republic of Turkey and the Government of the Ukraine.

The Republic of Moldova and the Republic of Turkey have signed a protocol about bilateral cooperation in combating THB, on 8th of February, 2006. In addition to these protocols and agreements, there was a protocol signed between the Republic of Turkey and the Kyrgyz Republic for providing bilateral cooperation in combating THB, on 5th of September, 2006.[145] The latest treaty, signed in 2009 and ratified in 4th of August, 2011, is between the Republic of Turkey and the Republic of Kazakhstan. According to the Kazakh parliament, both countries *"will cooperate bilaterally, regionally and internationally to combat the proliferation of weapons of mass destruction, terrorism, TOC, and drug and THB."*[146]

The purposes of these agreements, protocols and treaties are a means for information exchange on traffickers and victims; sharing investigation procedures, assessing entitlement

[144] 'The Law is about the Combating against Organized Crime, Drug Trafficking, International Terrorism and Other Serious Crimes.' (in Turkish). Law No: 5246. In Turkish Available at: http://www.tbmm.gov.tr/kanunlar/k5246.html. (29.07.2011).

[145] Dundar, T.(2007).Op.cit. Page:230-231.

[146] 'Kazakh President Approves Partnership Treaty with Turkey.' (04.08.2011). Available at: http://engnews.gazeta.kz/art.asp?aid=346082. (04.08.2011).

of victims to support services and facilitation, raise awareness and share information on the legislative framework relevant to THB and related areas.[147]

4.2 International Organizations

Turkey is also a member of many international organizations and performs its activities on a variety of issues under their auspices with regard to THB, in addition to its roles as a member of regional organizations and bilateral agreements. In this respect, Turkey forms its activities and internal system to accord with the provisions of the UN and IOM.

4.2.1 The United Nations (UN)

The UN was founded by fifty-one States, on 24 October 1945, as an international organization with the purpose of bringing all nations of the world together to maintain international peace and security, promote human rights and fundamental freedoms and work for development, by employing the principles of justice and human dignity.[148]

Turkey is one of its founder States and for the purposes of the UN, has held many important roles during its membership, such as more recently where, in the election held on 17 October 2008, it won a seat as a non-permanent member of the UN Security Council. It performed its role between January 1, 2009 and December 31, 2010.[149]

During its long stint with the UN, Turkey signed and ratified many conventions and protocols on the scope of THB, such as the Protocol Amending the Slavery Convention signed at Geneva, the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, Abolition of Forced Labour Convention,

[147] Dundar, T.(2007).Op.cit. Page:231.
[148] 'The UN.' Available at: http://www.montessori-mun.org/the-united-nations.html.(02.08.2011).
[149] Kirecci,A.(2009). 'Turkey in the UN Security Council.' Available at: http://www.todayszaman.com/newsDetail_getNewsById.action?load=detay&link=164686.(02.08.2011).

Convention on the Rights of the Child, Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.

In addition, there is a convention with its three protocols that shape the legislation and policies of Turkey. This is the UN Convention against Transnational Organized Crime, adopted by the General Assembly resolution 55/25 of 15 November 2000.[150] It is supplemented by the following documents: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against TOC, the Protocol against the Smuggling of Migrants by Land, Sea and Air, and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition.[151]

The importance of the Convention is that it is the first globally binding document with an agreed definition of THB. According to the UN Global Initiative to Fight Human Trafficking (UN.GIFT), this definition was built *'to facilitate convergence in national approaches with regard to the establishment of domestic criminal offences that would support efficient international cooperation in investigating and prosecuting trafficking in persons cases. Also it has another intention which is to protect and assist the victims of trafficking in persons with full respect for their human rights.'*[152]

In order to establish active and efficient harmonization with the UN's structure and policies against THB, Turkey is in a tight relationship with UNODC and UN.GIFT. It has its

[150]It opened for signature by Member States at a High-level Political Conference convened for that purpose in Palermo, Italy, on 12-15 December 2000 and entered into force on 29 September 2003.
[151] 'The UN Convention against TOC and its Protocols.' Available at: http://www.unodc.org/unodc/en/treaties/CTOC/index.html. (25.04.2011).
[152] 'Human Trafficking: An Overview.' Available at:http://www.ungift.org/docs/ungift/pdf/knowledge/ebook.pdf. Page:34-35. (25.04.2011).

own UNODC project office to assess and analyse data on its legal and social structures. In this regard, UN.GIFT has some assessments on its web site about Turkish Legislation.[153]

4.2.2 International Organization for Migration (IOM)

Turkey has been a member state of IOM since 2004. Within the scope of IOM, Turkey has performed more than 15 projects on THB in Turkey since 2005. All focused on the prevention, prosecution, and protection of THB and were conducted in close cooperation with governmental institutions, legal organs and NGOs.

For instance, in close cooperation with IOM, the Government of Turkey has been carrying out a project named "Assistance to Victims of Trafficking in Turkey," funded by the US Government and "Supporting Turkey's efforts to Combat Human Trafficking and Promote Access to Justice for all Trafficked Persons," funded by the European Commission, for prevention strategies. In addition to these two projects, IOM Turkey itself has instigated two national and two international campaigns.[154]

With the support of the Radio and Television Supreme Council (RTUK), national and local TV and radio channels have displayed the commercial broadcasts. Also, they have been aired on the TV channels of the countries of origin. More so, IOM designed five busses to raise public awareness for the "157 Helpline" started to operate, in May 2005, funded by the US Government.

The Norwegian Government and the Swedish International Development Agency (SIDA) funded another project of IOM Turkey called *"Combating Trafficking in Turkey: Local Action and Direct Assistance"*. The purpose of the project was to support the Turkish

[153] "Western and Central Europe." Available at: http://www.ungift.org/ungift/en/about/western_central_europe.htmlhttp://www.ungift.org/ungift/en/about/western_central_europe.html; "UN.GIFT." Available at: http://www.ungift.org/docs/ungift/pdf/about/UNGIFT_progress_report09.pdf. (04.08.2011).
[154] "Turkey." Available at: http://www.iom.int/jahia/Jahia/activities/europe/eastern-europe/turkey. (04.05.2011).

Government's national and regional efforts and to permit IOM Turkey to provide assistance to victims.[155]

The IOM concentrates on raising awareness of THB among the legal community by using a project entitled *"Counter THB through Legal Assistance to Trafficked Persons and Enhanced Judicial Cooperation-Turkey BSEC Region"*.[156] Attorneys have been trained on the revised Turkish Penal Code and the Code of Penal Procedures to provide legal assistance to victims by IOM Turkey.

[155] "Financial Report for the Year Ended 31 December 2006." Page: 48. Available at: http://www.iom.int/jahia/webdav/shared/shared/mainsite/about_iom/en/council/94/MC_2223.pdf. (08.08.2011).
[156] The Project funded by the Sida and the Netherlands Ministry of Foreign Affairs.

5. Legal, Administrative, and Social Responses

Traffickers have particularly chosen Eastern Europe and Central Asia to meet demands for sexual exploitation because of Turkey's location and the social, structural, economical and legal weaknesses of those regions. In addition, Turkey became known as the centre of organ trafficking in the region, in the light of the clinics providing organ transplant services, without the control mechanism of the Ministry of Health. In the region, Turkey further suffers from the terrorist actions of PKK, which utilises THB to get financial sources for its actions.

The most important reason for the increase of the THB is supply and demand. Once these two facts are seen to be essential elements in shaping the social structures of societies one can see the power of the social structure to shape the law in the case of Turkey. This chapter follows the method of UN.GIFT declared in the Palermo Protocol;[157]

1-) To prevent and combat trafficking in persons,
2-) To protect and assist the victims of trafficking,
3-) To promote cooperation among State Parties in order to meet those objectives.

In this respect, the legal (prosecution), administrative (protection and assistance) responses against THB, from Turkey, will be illustrated in this chapter. In addition, the types of protection and prevention methods emerging from Turkey for trafficked victims will also be assessed.

[157] 'Human Trafficking- Questions &Answers.' Available at: http://www.unglobalcompact.org/docs/issues_doc/labour/Forced_labour/HUMAN_TRAFFICKING_-_BACKGROUND_BRIEFING_NOTE_-_final.pdf. Page: 2.(27.05.2011).

5.1 Legal Responses (Prevention and Prosecution)

Since there was no definitive definition or practice on THB before 2002, it was prosecuted by using the rules ad hoc from other treaties ratified by Turkey.[158] However, these prosecutions and punishments did not act as a deterrent, being merely fines and imprisonment that could be changed to a fine.[159]

Turkey has tried to establish an effective and deterrent judicial strategy against the THB, after 2002, to meet the requirements of the provisions of "UN Convention against TOC." Since ratification, the last paragraph of the article 90 of the Constitution of the Turkish Republic provides that *"International agreements duly put into effect bear the force of law. No appeal to the Constitutional Court shall be made with regard to these agreements, on the grounds that they are unconstitutional. In the case of a conflict between international agreements in the area of fundamental rights and freedoms duly put into effect and the domestic laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail"* Turkey has used its provisions like domestic law.[160]

In spite of these efforts, Turkey was late in joining the fight against THB in implementing legal provisions. The collapse of the Soviet Union was probably the biggest trigger of social transformation for world society. The trend of THB has dramatically increased, because of weaker boundary controls. To be more precise, Turkey has lost almost 12 years before it could actively combat efforts against it by using specific legal tools.

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[158] Slavery Convention (1926); Protocol amending the Slavery Convention signed at Geneva (1953); Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956); Forced Labour Convention (1930); Abolition of Forced Labour Convention (1957). They are all ratified by Turkey.

[159] 'Illegal Migration and Migrant Trafficking.' (In Turkish). Available at: http://www.emniyet.gov.tr/hizmet.yabancilar.goc.asp.(11.05.2011).

[160] 'The Constitution of the Turkish Republic.' Available at: http://www.anayasa.gov.tr/images/loaded/pdf_dosyalari/THE_CONSTITUTION_OF_THE_REPUBLIC_OF_TURKEY.pdf. (15.06.2011).

5.1.1 National Strategy of Turkey in Combating Trafficking in Human Beings

Turkey should follow the policies of EU against THB, as part of its efforts to be a member of EU. In addition, in respect of the UN Palermo Convention, there are specific ways to active international cooperation.

To constitute "Action Plans" and road maps to support the policies of the EU and UN, the milestone of the Turkish legal structure is the idea of the harmonisation of legislation, prevention, raising awareness, decisive combating by the police force, adopting international best models and active international cooperation by way of the National Strategy of Turkey.[161]

5.1.2 Turkish Penal Code

Article 201/b of the Penal Code, edited in 2002 (Law no: 4771), was the first legal rule that contained the definition of THB. It also included heavy penalties - from five to ten years of imprisonment - for traffickers.

The new Penal Code of Turkey[162] also contains the definition of THB, in article 80, and undertakes imprisonment of eight to twelve years and a legal fine of up to ten thousand days in prison and states security measures for legal units meddling in THB.

Article 80, as amended in December 2006 (by law no. 5560) reads:

> *1) Any person who procures, kidnaps, harbours or transports a person from one place to another or brings a person into the country or takes a person out of the country, by the use of threat, pressure, force or violence, employing deceit, abusing influence or obtaining consent of a person by exploiting control over another or the hopelessness of such other, for the purpose of forced labour, servitude, prostitution, slavery or obtaining human organs shall be sentenced to a penalty of imprisonment for a term of eight to twelve years and to a judicial fine of up to ten thousand days.*

[161] 'The Comparison of EU Acquis and Turkish Legislation on Migration.' Available at: http://www.turkey.iom.int/documents/bosluk_analizi_ingilizce.pdf?entryId=10260. Page: 94. (18.05.2011).
[162] It entered into force on 01.06.2005 **(**Law no: 5237).

> *2) Where acts are committed for the purposes, and where such acts constitutes an offence, referred to in paragraph one the consent of the victim is invalid.*
> *3) Where a person under eighteen years of age is procured, kidnapped, harboured or transported from one place to another for the purposes described in paragraph one, the offender shall be sentenced to a penalty described in section one, even if none of the means mentioned in paragraph one have been resorted to.*
> *4) Security measures shall be imposed upon legal entities in respect of the aforementioned offences.*

The Turkish Penal Code also prohibits and penalises other related crimes such as trafficking in organs or tissue,[163] sexual exploitation of children,[164] violating the freedom to labour and employment[165] and prostitution.[166]

5.1.2.1 Preambles for Article 80[167]

Article 80 was put into the new Penal Code to meet the requirements of the provisions of "UN Convention against Transnational Organized Crime" and "its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children" ratified by Turkey.

The first paragraph of it includes the situations and conditions required for the formation of offense of THB. These are *"the use of threat, pressure, force or violence, employing deceit, abusing influence or obtaining consent of a person by exploiting control over another or the hopelessness of such other."*

The second paragraph of it articulates that *"if there are actions to obtain the aims listed in the first paragraph, the victims' consent must be ignored by court."* For instance, if the consent of someone obtained as a result of the above mentioned acts for the purpose of selling his/her organs, this consent will be ignored for establishing the offense.

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[163] Article 91 of Turkish Penal Code.
[164] Article 103 of Turkish Criminal Code.
[165] Article 117 of Turkish Criminal Code.
[166] Article 227 of Turkish Criminal Code.
[167]' Preambles for the Articles of Turkish Penal Code.' (in Turkish). Available at: www.ceza-bb.adalet.gov.tr/mevzuat/maddegerekce.doc. (15.04.2011).

The third paragraph emphasizes that if the offender is under eighteen years old, he shall be sentenced to the penalty described provided that victims under eighteen subjects to aim and act stated in the first paragraph, the meaning of this kind of situation is that crime occurred. In other words, Turkey provides an extra protection for victims under eighteen.

The last paragraph refers to legal entities that are involved in the trafficking of human beings and security measures against them.

5.1.2.2 Articles in the Criminal Procedure Law related to THB[168]

In the context of combating THB, together with the investigation and prosecution procedures to be adopted, the new Criminal Procedure Law (CPL) [169] contains some provisions related to protection. In this respect, these measures are to be adopted by law enforcement officers in their investigation of crimes involving THB.[170]

Article 133 of the CPL provides penalties for a situation where there is a strong suspicion that THB is being carried out through the structure of a company where a judge or court can assign responsibility to a custodian to fulfil the company's business during the investigation and prosecution process.

According to the CPL, prosecutors have to take particular procedural measures to protect the rights of victims who participate as witnesses in criminal proceedings, such as interviewing the victim-witness in a secret place, keeping his/her identity confidential, interrogating him/her behind a mirror in order to avoid confrontation with the accused or by means of video equipment. The latter technique may also be used for getting witness

[168] 'The Comparison of EU Acquis and Turkish Legislation on Migration.' Op.cit. Page: 91.
[169] Law no: 5271 (04.12.2004). Available at: http://www.ceza-bb.adalet.gov.tr/mevzuat/5271.htm. (15.04.2011).
[170] Measures such as seizure of immovable properties, rights and receivables provided under Article 128, supervision of communication via means of telecommunication provided pursuant to Article 135, undercover investigation and surveillance through the use of technical devices provided under Article 139. Furthermore, Articles 250-252 of the CPL provide special investigation and prosecution procedures for the combating of trafficking in human beings when committed through the use of force and threats within the framework of an organisation established to make illegal economic profits.

statements from victims abroad, including trafficked persons who have returned to their home country, on the basis of Bilateral Protocols.

A draft law on witness protection, which also applies to trafficked victim-witnesses, is expected to enter into force in 2006. It covers only those offences with a penalty of more than ten years, which includes THB, according to Article 80 of the Criminal Code.[171]

The CPL also arranges some rights for the victims.[172] Law enforcement pays special attention to the safety of victims in the provision of necessary protection and support, thereby preventing their exposure and avoiding direct contact with traffickers or affiliated individuals. Despite this it would be advisable for the Turkish Government to take specific measures for victims under eighteen years of age considering the principle of the highest benefit of children.

During the stage of investigation and prosecution, trafficked persons have rights regulated by the articles of article 234 of CPL. These rights include, inter alia, the right to ask for the collection of evidence, such as a copy of the document from the public prosecutor, on the condition that it does not affect the privacy or objective of the investigation and the appointment of an attorney by the Bar Association, if the victim does not have one. They also have rights to get investigation documents confiscated and protected objects examined, via the attorney and to object to a non-prosecution decision by the public prosecutor in accordance with written procedure.

In addition to rights during investigation, they have rights to be informed of the court hearing, to take part in a public case, to ask for a copy of the indictment and documents, via the attorney, to ask for witnesses, to ask for appointment of an attorney and, if there is none,

[171] Dundar, T.(2007). 'Turkey.' (ed: Human Right Defence Centre).'Combating Human Trafficking: Problems and Prospects.' Ant. N. Sakkoulos Publishers: Athens. Page: 239. Available at: http://www.ariadnet.net/pdfs/Contents_Problems%20Prospects.pdf. (15.04.2011).

[172] '2007 Report on Combating Human Trafficking Turkey.' Available at: http://www.mfa.gov.tr/turkey-on-trafficking-in-human-beings.en.mfa. Page: 18-19. (11.05.2011). In this part of my dissertation, I use all part of these Reports' pages between 18-19. Because this part is really effective and really summarizing about the whole protection methods for victim: These legal provisions are covered by the related articles of CPL.

to request legal remedy against the case decision on condition that the victim has intervened in the law suit.

In addition to article 234 of the CPL, the victims can benefit from the rights regulated in the other articles of the CPL. For example, a translator can be appointed by the judge or public prosecutor during the investigation and by the court during prosecution if the victim cannot speak Turkish to express themselves. Translation costs for the non-Turkish speaker and the expenses of handicapped victim are covered by the State Treasury. The testimony of the trafficked person is taken separately from other witnesses. Audio and visual recording can be done. However, if the witness

- is a minor, or
- is an individual who cannot be brought to trial but whose statement must be taken, then such recording is mandatory. However, these records can only be used in the criminal proceedings.
- If the victim is heard as a witness, necessary measures are taken to keep the identity of the victim discreet on the basis that the disclosure of their identity may cause a serious threat to the victim or his/her family and friends. During the process, a specialist on psychology, psychiatry, medicine or education is to be present whilst hearing minor victims or victims who have negative psychological conditions due to their experiences. (Appendix 3).[173]

5.1.3 Other Related Laws and Regulations about THB

Besides the Turkish Penal Code, some further legal regulations and laws emerge on THB, required for a fully comprehensive system. The common characteristic feature of these laws and regulations is that these rules are more related directly to the social life of people.

[173] 'The Handbook of Human Trafficking in Turkish Law.' (2009). Op.cit.

The Ministry of Labour and Social Security has the power to appoint all types of working permits, in order to provide legal protection for outsiders against abuse in the labour market and to enlarge legal and administrative safeguards with regard to the law on working permits for foreigners. To provide these, the Ministry of Labour and Social Security has fixed a prototype contract, not only in Turkish but also in the native language of applicants.

According to the amendment of the Citizenship Law,[174] the required time for acquiring Turkish citizenship is three years. In the probation period, as long as the applicant has a compatible job and is married, sharing the same house as their spouse, they will be able to acquire Turkish citizenship.

The Road Transport Regulation[175] indicates that if applicants are sentenced for certain crimes, including THB, they will lose their transportation permits for three years. Furthermore, The Ministry of Health has implemented necessary legislative and administrative regulations to provide free of charge medical treatment at state-owned hospitals for victims of THB.

The Ministry of Interior has entitled provincial administrative authorities to issue humanitarian visas and temporary residence permits to victims permitting them to stay in Turkey for free rehabilitation and treatment. The duration of the recovery period is up to six months and can be extended.[176]

5.2 Administrative Preventions and Regulations

Legal measures can be categorised into two: first, those created to prevent the occurrence of the offence and second, those that provide deterrence by way of punishment. On the former, Becarria stated that *"the aim of punishment can only be to prevent the criminal committing new crimes against his countrymen and to keep others from doing likewise."*[177]

[174] Law no: 5901. Article 14,15,16 of the *Citizenship Law.*
[175] It became effective as of 25.02.2004.
[176] 'The Combating Methods against the Human Trafficking in Turkey.' (in Turkish). Available at: http://www.egm.gov.tr/hizmet.yabancilar.insanticareti.asp. (16.06.2011).
[177] Bean, P. (1981). '*Punishment: A Philosophical and Criminological Inquiry.'* Oxford, England: Martin Robertson. Page: 30.

Whereas, concerning the latter, Andreas briefly explained that "*the law-abiding citizen does not need the threat of the law to remain law-abiding. On the other hand, the criminal group may well fear the law but still break it and the potential criminal might have broken the law if it had not been for the threat of punishment. It follows that the threat of punishment seems relevant only to the potential criminal. In some cases, however, there is evidence that punishment has a deterrent effect on individuals."* [178] Deterrence is probably the most significantly desired result of legal punishment to achieve a decrease in crime rates.[179]

There are two faces to THB. On the one hand, there are offenders punished by legal measures, such as fines, imprisonment and on the other hand, there are the victims affected negatively by THB. Legal provisions are not solely adequate to combat THB so in addition, administrative regulations provide effective protection for the victims, help them to adapt to social life and raise public awareness.

The legal approach of the administrative regulations having been seen, the administrative regulations on the protection and rehabilitation of the victims from Turkey will be assessed in the next part.

5.2.1 National Task Force on Combating Trafficking in Human Beings

The Ministry of Interior established a new department to assess the increase in the number of the illegal immigrants, in 1997.[180] In addition to this department, the Unit for Combating Illegal Immigration was established, in 2001, by the Ministry of Foreign Affairs. Both these bodies provide an active combat strategy against THB in Turkey. The Ministry of Foreign Affairs has appointed under its supervision a National Coordinator to provide efficient contact between international cooperation and national coordination for combating

[178] Andenaes, J. (1972). "Does Punishment Deter Crime?" Pp. 342–357 in *Philosophical Perspectives on Punishment*, (edited by Gertrude Ezorsky). Albany: State University of New York Press. Page: 343.
[179] Banks, C.(2009). 'The Purpose of Criminal Punishment.' Criminal Justice Ethics: Theory and Practice. Sage Publications. Page:103-126.
[180] Illegal Migration Office in the Bureau for Foreigners, Borders and Asylum.

THB. In this regard, for the first time in October 2002, Turkey established and convened the National Task Force composed of experts from the various ministries and NGOs. The main purposes of it are to understand the contents of this multi-disciplinary and cross-sector crime and to find effective prevention and combatant ways and further to monitor and review implementation of anti-trafficking measures in Turkey.[181] The National Task Force congregates four times a year. However, under the special circumstances, provided particular issues need specific attention, such as shelter modalities, health issues, the National Task Force is congregated to discuss and find the efficient solutions at that time. With this feature, it works as an ad-hoc working group.[182]

The National Task Force prepared the National Action Plan for Combating THB drawing up the framework for the ministries on their duties whilst highlighting protection methods for victims.[183] It also prepares reports called the Report on Combating Human Trafficking-Turkey, in 2006 and 2007 with IOM.

5.2.2 National Action Plan for Combating Trafficking in Human Beings

As stated, the National Task Force prepared 'The National Action Plan for Combating THB,' in 2003. After being approved by the Government, it was implemented and completed by 2005. In brief, the framework of this action plan included the following activities:[184]establishment of shelters; preparation of special informative placards on THBs - in order to raise awareness; establishment of an emergency hotline,- providing 24/7 free of charge services; ensuring the safe return of victims of trafficking; amendment of Article 5 of the Citizenship Law (No. 403) - according to which a probation period of three years will be required before acquiring Turkish citizenship; humanitarian visa application for Victims of

[181] Alan B.P.(30 November 2009). 'National Strategy and International Cooperation for Combating the Human Trafficking.' (in Turkish). (Presentation: 9th and 10th PowerPoint). Available at: www.si.se/.../Human%20Trafficking/.... (12.04.2011).
[182] Dundar, T.(2007). Op.cit. Page: 234.
[183] It entered into force 06 March 2003.
[184] Dundar, T.(2007). Op.cit. Page: 231-232.

Trafficking; participation of law enforcement bodies in anti-trafficking training projects; a special law on witness protection - which also includes trafficked victim-witnesses; the Ministry of Labour and Social Security is assigned as the sole competent authority to issue work permits for foreigners in Turkey (Law on Work Permits for Foreigners); NGOs are encouraged to engage in the fight against THBs; the recording of detailed statistics by the General Directorate of Statistics and Criminal Record of the Ministry of Justice; the treatment and rehabilitation of victims of trafficking to be ensured; support to be provided to victims of trafficking, under the Law on Fund of Encouragement of Social Aid and Solidarity.

5.2.3 Shelters

Shelters play a significant role in victim protection. They provide psychological, medical and legal assistance to the victims. In addition, they provide accommodation during the victim's recovery process. When victims leave Turkey, they hopefully find it easier to adapt to a normal social life, after the trauma, with the provision of shelters.

There are two shelters providing assistance to victims of trafficking in Istanbul, established 2004 and Ankara, established 2005.[185] When the TNP refers someone as a trafficked person, the victim is settled into one of the shelters. Both of them have confidential addresses, only known to a very limited number of people, for the security of the victims.

The Human Resource Development Foundation (HRDF) established the first shelter, located in Istanbul, for the victims in 2004. This shelter has a 10 bed capacity.[186] The Foundation for Women's Solidarity (WFS) established the shelter in Ankara with the support of the IOM, in 2005.[187]

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[185] 'Turkey on Trafficking in Human Beings.' Available at: http://www.mfa.gov.tr/turkey-on-trafficking-in-human-beings.en.mfa. (11.05.2011).

[186] The *Human Resource Development Foundation*, established in 1988, is a Turkish NGO active in the area of population and development with special emphasis on promoting reproductive health/rights, and empowerment of populations under risk.

[187] The *Foundation for Women's Solidarity* (WFS) is Turkish NGO rooted in the feminist activist movement.

These shelters are responsible for assisting recovery of the victims. As such, they provide psychological counselling services and facilitate access to free medical services. Additionally, they provide social assistance to support the victims' rehabilitation into society. The IOM, in collaboration with the HRDF in Istanbul and the WSF in Ankara, ensures the repatriation of the victims. Besides this, shelters also provide legal assistance to the victims through the efforts of the NGOs.[188] In this regard, the Bar Association helps victims with legal counselling services from voluntary advocates.[189]

5.2.4 A Toll Free/tip-off Emergency Helpline (157)

In its collaboration with IOM, Turkey has established a free helpline service for potential and actual victims of THB, within the concept of "Project for Helping the Victims of Human Trafficking in Turkey."[190]

This helpline came into use in 2005. All mobile devices and landline phones can reach it from all parts of Turkey, 24 hours a day, 7 days a week. The operators can answer the calls in the Russian, Romanian, English and Turkish languages. In April 2007, it became accessible to international calls (+90312 157 11 22).[191] Calls related to trafficking are reported to the TNP or to the Gendarmerie. Additionally, there are two other help lines: the police helpline (155) and the gendarmerie helpline (156) in Turkey.[192]

The IOM has published 500,000 brochures in the Russian, Romanian, English and Turkish languages. They have been distributed in the Atatürk and Sabiha Gökçen Airports, the Karaköy Seaport in Istanbul, Antalya Airport and in Trabzon Seaport, by Turkish officers during passport screening. Billboards have also been put up to promote public awareness

[188] Dundar, T.(2007).Op cit.Page: 237.
[189] 'The Combating Methods against Human Trafficking in Turkey.' Op.cit.
[190] Ibid.
[191] 'Turkey on Trafficking in Human Beings.' Op.cit.
[192] Dundar, T. (2007). Op.cit. Page: 238.

about the helpline. Meanwhile, the distribution process of brochures continues to raise public awareness and passenger attention.

NUMBER OF VoTs RESCUED THROUGH 157 HELPLINE								
	2005	2006	2007	2008	2009	2010	2011	TOTAL
Moldova	15	27	18	4				64
Romania	8							8
Ukraine	17	11	1	1				30
Turkey	3				1			4
Uganda	1							1
Russia	6	11	4	3				24
Belarus	1							1
Kyrgyzstan	1	1	3		2			7
Georgia		2	2					4
Azerbaijan		2			2			4
Uzbekistan		1			7			8
Kazakhstan		1						1
Turkmenistan				8	1			9
TOTAL	52	56	28	16	13	0		165

Table 5: From 2005 to 31 March 2011[193]

Thanks to the helpline, 165 victims were rescued by law enforcement. Contrary to this success, there were some troubles about unconscious people. Between 2005 and 2011, the helpline took 10197 calls, and almost half of them directly or indirectly related to the THB.

[193] All statistics. Op.cit.

OVERALL BREAKDOWN OF THE 157 HELPLINE DATA BASE REGISTERED CALLS, 2005-2011								
Call Category	2005 **	2006	2007	2008	2009	2010	2011	OVERALL
Request For Rescues	419	927	529	318	428	397	116	3134
Irregular Migrant	56	218	423	316	201	178	43	1435
Marriage	***0	12	64	160	140	196	49	621
Regular Migrant	0	73	291	165	95	89	36	749
Assistance to Law Enforcement	0	31	59	56	92	100	33	371
Information Sharing	0	12	48	41	88	75	30	294
Calls Containing Various Topics	505	395	437	241	672	600	100	2950
Referral Support	262	322	0	0	0	0	0	584
Psychological Support	26	33	0	0	0	0	0	59
TOTAL	1268	2023	1851	1297	1716	1635	407	10197

Table 6: Data base registered calls, between 2005 and 2011.[194]

As seen, therefore, the Turkish government took an important step to improve its anti trafficking prevention efforts, in 2010, by providing $150,000 for the operation of its national IOM-run anti trafficking ("157") hotline.[195]

5.2.5 Other Related Regulations for Prevention and Protection

Another important measure taken has been the holding of campaigns to provide public awareness about trafficked victims. Raising awareness is one of the most effective combating methods against THB. Social problems and system weaknesses remain the main reasons for trafficking, thus social reaction can be the solution for it. These campaigns use billboards, brochures, spot TV programs and conferences. They help establish a collective memory for generating a memory by using the visual, auditory and schematic coding method.[196] In this way, these campaigns have a significant role in directing the attention of society. For raising public awareness, Turkey, especially, uses visual media and written media tools.

[194] Ibid.
[195] 'Trafficking in Persons Report 2011.' (27 June 2011).'Country Narratives- Turkey.' Available at: http://www.state.gov/documents/organization/164458.pdf. Page: 361-363.
[196] Connerton, P.(1999). 'How Societies Remember?' Translate in Turkish: Alaaddin Senel. İstanbul: Ayrıntı. Page:46.

The Government prepared and distributed 100.000 Turkish, 25.000 English and 25.000 Russian "Fighting against Trafficking in Human Beings" brochures to police stations throughout Turkey and to cities with high rate of THB cases, in 2005. In addition, on 2 February 2006, the first visual campaign for public awareness with the title of "Have you seen my mother?" was started with the contribution of the IOM and coordination of the Turkish Government. Informative spot TV programs and commercials were carried out to raise public attention for this campaign.[197]

Apart from this campaign, Turkey published the "2007 Turkey Counter trafficking Report." Within its framework, it started the second National Awareness-Raising Campaign called "React to Human Trafficking, Don't Be Indifferent!" This project was funded by the European Commission and implemented, in cooperation by the International Organization for Migration (IOM) Turkey Office and the Department of External Relations and the European Union and the Ministry of Interior also had a significant role, within the framework of Turkey's counter trafficking efforts.

[197] 'Turkey on Trafficking in Human Beings.' Op.cit.

6. Conclusion

The main aim of this dissertation was to evaluate the responses of Turkey against THB by using regional, international organizations and their requirements within the Turkish legal and administrative structure. The methods and cooperation aspects of regional and international organizations followed by Turkey have been illustrated at length indicating Turkey's commitment to horrendous breaches of human rights within THB. The fact that it made dramatic changes to its legal and administrative provisions, thereby bringing Turkish policies in line with others in respect of THB, assists in it becoming part of a homogenised international system in the fight against THB and, hopefully, an example for others to follow.

As seen, Turkey only started to follow international developments on THB after 2002 with the Palermo Protocol and its Supplementary Conventions on prevention, prosecution, and protection. In addition to ratification of the Conventions, Turkey took all their provisions to become part of its own government policy, from the end of 2004. Besides these developments, Turkey attempted to find regional solutions against this crime by using regional partnerships and bilateral treaties and actualizing all of these steps in, not only domestic policy but also in international actions. Arguably, most importantly, Turkey accepts a victim-orientated way for dealing with the issue.[198]

The question remains, however, as to whether all of these efforts are efficient and sufficient against THB, or not? Despite the many positive measures taken, the study argues that many deficiencies in the legal and administrative provisions on trafficking in Turkey still remain. To make changes, Turkey should re-examine its legal provisions, administrative regulations on prevention, prosecution of the THB. In this regard, basic innovation should be taken from Article 80 of the Penal Code. Its application is not always possible owing to the

[198] Ayhan, A (the Deputy Director General for Expect Turks, Migration, Asylum and Property Issues at Turkish Ministry of Foreign Affairs). (7-9 November 2006). Bali Workshop on Combating Trafficking. Available at: http://www.baliprocess.net/files/ConferenceDocumentation/2006/Turkey_Presentation.pdf. (11.08.2011).

limited definition supplied in the article. However, this is covered by the application of Article 227 of the Penal Code when applied to such cases. (Appendix 4)[199]

Besides Article 80, Turkey should establish an efficient visa system, especially for Central Asia and Eastern Europe because these two regions hold the main source countries of the victims in Turkey.

Some recommendations for comprehensive and effective combat are that Turkey should put in place its anti-trafficking legislation to prohibit internal trafficking and vigorously prosecute and convict trafficking offenders. It should carry out an audit to determine why such a large number of prosecuted trafficking cases result in acquittals. It should commit sustained funding for the three specialized NGO shelters in the country and consider establishing a victim assistance fund from fines levied against convicted traffickers for this purpose. Furthermore; Turkey should allow potential victims some time to recover from their trafficking experiences and to make informed decisions about their options for protection and possible cooperation with law enforcement.

Turkey would be also well advised to expand its best practice of allowing NGOs access to detention centres and increase efforts to proactively identify potential victims of forced prostitution and forced labour. It should continue to improve its witness protection measures to provide victims with more incentives to cooperate with law enforcement and develop specialized assistance for children who are subjected to trafficking, as well as men who are subjected to forced labour. In addition, Turkey should take into consideration the rotation or promotion factor, which training needs to be continuous and linguistic communication gaps in the police system should be closed by further development. [200]

[199] Prostitution/Article 227 of Turkish Penal Code.

[200] All of these recommendations are collected and analyzed from : '2007 Report on Combating Human Trafficking Turkey.'op.cit; 'Trafficking in Persons Report 2011.'op.cit.; Dundar, T. (2007). Op.cit.; 'The Comparison of European Union Acquis and Turkish Legislation on Migration.' Op.cit.

After 2004, Turkey, has taken great political, legal, administrative, and social efforts to fight THB. According the THB 2011 annual report, "*Turkey did not fully comply with the minimum standards for the elimination of trafficking last year, although it is making significant efforts to do so."* In contrast to the report, Guldal Aksit, the former President of the Parliamentary Commission on Equal Opportunities for Men and Women, said Ankara would probably to be moved to Tier 1 in the 2011 report because Turkey's efforts in the recent years have been "fantastic".[201]

To remove this dilemma, and to make the fight against THB more efficient, Turkey should make further efforts, as recommended earlier, to become a leading combatant in this never ending and brutal fight.

[201] Raufoglu,A.(18.07.2011). "Human trafficking, sexual exploitation still a problem in Turkey." Available at: http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/articles/2011/07/18/reportage-01. (20.08.2011).

Appendixes

Appendix 1:

Differences between Human Trafficking and Smuggling of Migrants	
Consent	The smuggling of migrants, while often undertaken in dangerous or degrading conditions, involves migrants who have consented to the smuggling. Trafficking victims, on the other hand, have either never consented or, if they initially consented, that consent has been rendered meaningless by the coercive, deceptive or abusive actions of the traffickers.
Exploitation	Smuggling ends with the migrants' arrival at their destination, whereas trafficking in persons involves the ongoing exploitation of the victims in some manner to generate illicit profits for the traffickers. From a practical standpoint, victims of human trafficking also tend to be affected more severely, become more traumatized by their experiences and are also in greater need of protection from re victimization and other forms of further abuse than are smuggled migrants.
Transnationality	Finally, smuggling is always transnational, whereas trafficking in persons may not be. Human trafficking can occur regardless of whether victims are taken to another country or only moved from one place to another within the same country.

Appendix 2:

Seven Ukrainian girls aged between 15 and 21 were trafficked to Turkey. Their trafficker took their passports and all documents away from them. After that moment, girls told their stories like that;

> *'The next day our manager brought us to one of the night clubs in Istanbul. However, the club manager did not accept to employ us, as the majority of our group consisted of minors. The second day, our manager drove us to Izmir to another night club. We were immediately accepted and our job was to entertain clients and invite them for drinks. We had to wear light lingerie and allow them to touch us if they wished to. We were forced to work long hours and consume drinks together with clients. We were tired, intoxicated and disgusted by the job but had no choice. Although our passports were given back to us, there was no way to refuse it as we were explicitly explained that we were in illegal situation in Turkey because our visas had expired. We were placed at a hotel close to the club. We were supervised round the clock and were not allowed to leave the hotel by ourselves but only accompanied. We were weak, had headaches and felt tired due to the high quantity of alcohol we had to consume during the nights. We were working 7-days a week.'*

After they spent almost 2 months in Izmir, during an operation, Izmir Foreign Department rescued them and identified them as victims of human trafficking. A Turkish Non-Governmental Organization (NGO) took them to the Ankara shelter. It also provided medical and psychological assistances to recover them. In coordination with Ukrainian authorities and Turkish authorities, International Organization for Migration (IOM) performed their return.

Appendix 3:

A Case Study from Supreme Court of Appeals:

The Ukrainian victim saw an advertisement that informed someone looked for waitress, and cook and contact the phone number that had been written on it. A woman called Oksana answered the phone. After that contact, Oksana hired her for $500 as a cook. Oksana dealt with the all official procedures. The victim signed a written contract about her loan, because of the expenditures of documents and procedures. Oksana gave her as a cook for Musa. He brought her to Nevsehir. But Musa and the other defendant called Yasin took her passport and put her under lock. They sold her for different men in their rented home. The victim escaped one day to Kayseri and was arrested because she did not have any documents.

The Case in the Court:

The court penalized both defendants 7 years in prison without another enhancer and any reducing legal and discretion data about punishment.

The Victim:

According to the victim's testimony, she said that she had been deceived by the defendants. Also she added that they had taken her passport and had forced for staying under lock in their rented house and had sold her to get money for other men. Finally she told her story of the escape that she had escaped to Kayseri while she gone for a man and then police arrested her because she had not had her passport. After those events, the victim went abroad,

so the officers could not take a new testimony, but she recognized the defendants during the investigation.

Send: According to the article 436/1 of Turkish Penal Code, the case started to re-trial in the Penal Court of First Instance.

Date of Crime: 2004

Date of Decision: 17.1.2007

The Penal Court of First Instance decided the lack of jurisdiction and action that was the issue of court started to prosecute under the article 201/b of Turkish Penal Code.

In the defence of Musa Savsak; he said that 'they sold her in the consent of the victim to get money for men and there were no using force for carrying out these actions.' He told the court, 'he carried her for men and she went to Kayseri without his notice and arrested.'

Witness Arif;

In his testimony, he said that 'he took the victim with paying 40,000 TL for sex from defendant and brought her back to the meeting point and gave her back to Musa.'

Supreme Court's Decision:

Accusation Number: 2007/4540

Decision Number: 2007/4618

Process Number: 8/2007-68783

Supreme Court rejected the unnecessary appeals;

Because of the advertisement about cook on newspaper, the victim got contact with Oksana and came to Istanbul. After that, Musa paid Oksana $ 1700 for the victim and bring her Nevsehir with his friend called Yasin by using threat, pressure, force or violence for the purpose of prostitution. After the court investigated deeply, it took decision on crime that was not related on the article 201/b of Turkish Penal Code and its elements. It also considered on the article 80 of Turkish Penal Code that was not entered in to force at that time. The Supreme

Court changed the previous decision, because the elements of human trafficking listed in the article 201/b did not be existed and the article 80 was entered into force after this case. According to the article 436/1paragraph and its second sentence of Turkish Penal Code (Law no: 765), the new decision about the case from the Supreme Court was 'prostitution by using deceit.' Because of the objections of defendants, the Supreme Court quashed the previous decision at 11.06.2007 by a unanimous vote.

Appendix 4:

Prostitution/Article 227 of Turkish Penal Code - One who, instigates child to prostitution, facilitates it, procures or shelters or mediates for the prostitution of a child will be sentenced to prison terms of four years to ten years and fined up to five thousands days equivalent Turkish liras. Preparation acts are punished as the committed crime.

- One who instigates someone to prostitution, facilitates its way, or mediates for it, or guarantees the place where prostitution is practiced will be imprisoned from two to four years and fined up to three thousand days equivalent Turkish liras. Benefit, partly or entirely, from the profits of a person who acts as a prostitute is regarded as instigation to prostitution.

- One who allows a person to get into the country and to get out from the country for the act of prostitution is punished in accordance with the above provisions.

- The above-mentioned punishments will be increased by half to twice the sentence for persons who procure or instigate someone to prostitution by using force or coercion or by abusing his/her misrepresentation or mistake.

- These punishments will be increased by half when the crimes are committed by the spouse, ascendants, ascendants in-law, brother (sister), adopting parent, guardian, educator, teacher, caretaker, by others who are under a duty of care and protection or committed by the abuse of power of public duty or service.

- These punishments will be increased by half in case the crime is committed within the framework of a crime organization.

- Private security precaution provisions will be applied to legal entities with respect to these crimes.

- One who acts as a prostitute will be treated or provided with therapy.

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