Anti-Trafficking Policy Formulation in Georgia

Policy Network Analysis

Teona Kupunia

Why does trafficking in human beings take place? I still have no answer to this question from a moral and human point of view; however the severity of this phenomenon and its global character, as well as the suffering it brought to so many souls provoked me to write my dissertation in this field.

I dedicate this work to all victims of human trafficking!
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Abstract

“Trafficking” is not a thing. It is not an event. You cannot point a finger at it or take a photograph of it. “Trafficking” is a convenient, simple and useful label attached not to a single phenomenon but to a complex series of states and events that individually may or may not be harmful or wrong.”¹

Increasing attention has been given to the issue of trafficking in human beings worldwide because it is a gross violation of human dignity and human rights. Hundreds of thousands of women and children are now commodities sold on an international market to be exploited in prostitution, pornography and forced labour. No country is immune because trafficking is a problem that goes beyond national borders.

This thesis focuses on the example of one country, namely Georgia, and its position in the fight against trafficking in human beings. The thesis employs a qualitative research strategy and a case study research design.

As a developing country, Georgia greatly depends on assistance from various stakeholders from the international community and local civil society. Thus, the thesis examines a network of cooperation for the formulation of anti-trafficking policy with the help of foreign governments, international organizations and local non-governmental organizations.

The conclusions drawn from the conducted research can be summarized as follows: anti-trafficking policy is a specific policy area where issue experts having knowledge about various aspects of this phenomenon count as much as establishments possessing political, economic and organizational power. Thus, anti-trafficking policy formulation and development in Georgia can serve as an example of an issue network.

¹ International Labour Office, “Trafficking in Human Beings, New Approaches to Combating the Problem”, 2003, 1st edition
Abbreviations

ABA/CEELI – American Bar Association / Central European & Eurasian Law Initiative
CIS – Commonwealth of Independent States
EC - European Commission
EECA - Eastern Europe & Central Asia
EU - European Union
GEL – Georgian Lari
IDP – Internally Displaced Person
GYLA - Georgian Young Lawyers Association
IGO - Inter-governmental Organization
IO - International Organization
IOM - International Organization for Migration
NGO - Non-governmental Organization
NPA - National Plan of Action
ODIHR – Office for Democratic Institutions and Human Rights
OSCE - Organization for Security and Cooperation in Europe
OSI – Open Society Institute
PHDS - People’s Harmonious Development Society
SOD - Special Operations Department
SPOG – Senior Policy Operation Group
TIP - Trafficking in Persons
TVPA – Trafficking Victims Protection Act
TVPRA – Trafficking Victims Protection Reauthorization Act
UAE - United Arab Emirates
UN - United Nation

US - United States of America

USAID - United States Agency for International Development

VoT – Victim of Trafficking
“Trafficking and related practices such as debt bondage, forced prostitution and forced labor are violations of the most basic of human rights. The right to life; the right to dignity and security, the right to just and favorable conditions of work; the right to health and right to equality. These are the rights, which we all possess – irrespective of our sex, or nationality, our social status, or occupation or other differences. (...) It is a basic human rights issue because it involves such a massive and harmful form of discrimination.”

Mary Robinson ²

² UN High Commissioner for Human Rights, 1999
Chapter I: Introduction

1.1. Trafficking in Persons – Problem Definition
Trafficking in human beings takes place in most parts of the world.\(^3\) Every year hundreds of thousands of men, women and children around the globe are enslaved by organized crime in the enterprise known as “human trafficking”. Especially trafficking of women for the purpose of sexual exploitation has become a major security problem worldwide.\(^4\)

Trafficking in human beings is a complex, changing phenomenon practiced inside countries, across state boarders, and even between continents. Its linkage with organized crime has caused significant concern among policymakers and the public. Human trafficking is now the third-biggest activity of organized crime in Europe after arms and drugs trafficking.\(^5\) As it is a criminal activity, the real extent of the phenomenon is difficult to measure.\(^6\) According to the data provided by the US Department of State, of the estimated 600,000 to 800,000 men, women, and children trafficked across international borders each year, approximately 80 percent are women and girls and up to 50 percent are minors.\(^7\) It should be mentioned that based on the data provided by the US Department of State, a large percentage of transnational victims are trafficked into commercial sexual exploitation.\(^8\)

1.2. Aim of the Study and the Research Questions:
The thesis aims to analyze the network of cooperation among various actors such as international organizations (IOs), local non-governmental organizations (NGOs), local government authorities and foreign governments in the formulation and further implementation of an anti-trafficking policy in Georgia and tries to answer the following research questions, what are the different influences that these actors have within the network? And what kind of relationships exists between actors?

The anti-trafficking policy formulation and development was not an easy process, especially for a transitional country like Georgia. It was an enduring route involving a number of actors such as government authorities, law enforcement agencies, foreign governments (for example, US),

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\(^3\) Poverty and Trafficking in Human Beings – A strategy for combating trafficking in human beings through Swedish international development cooperation, 2003, Ministry of Foreign Affairs, Edita Västra Aros.


\(^6\) Ibid


\(^8\) Idem
Anti-Trafficking Policy Formulation in Georgia
Prepared by Teona Kupunia

Intergovernmental organizations (IGOs), IOs, local NGOs (both human rights protecting and women’s organizations), etc. Each of these actors played a crucial role in preparing, drafting and implementing the anti-trafficking policy in the country.

The motivation that led me to investigate this policy area is connected with the severity of the issue of trafficking in human beings on the global scale, as well as increased attention given to this problem due to the non-existence of migration and demographic policies on the national level that are contributing to trafficking in human beings from Georgia in certain ways.\(^9\)

This study gives an overview and assessment of the country situation in regards to trafficking in human beings with a focus on the status of implementation of the National Plan of Action (NPA), and legislative reform in Georgia.

### 1.3. Definition of Human Trafficking

Trafficking is a complex and multi-layered problem where political, economic, social and cultural factors and the interplay between them all play a part. Global trafficking in human beings can be viewed as a response to the demand for people for various forms of exploitation, a product of poverty – relative as well as absolute, and as a consequence of the subordinate position of women and children in society and the lack of respect for and protection of human rights.\(^10\)

We can say that one of the problems with the international fight against trafficking in persons is that there is no single agreed-upon definition of this phenomenon.\(^11\) In 1949, the UN General Assembly approved a new convention, “Convention for the Suppression of Traffic in Persons and of the Exploitation of Prostitutions of Others”, to replace the earlier international conventions of 1904\(^12\), 1910\(^13\), 1921\(^14\), and 1933\(^15\). This new treaty was not widely ratified and was criticized for its lack of a clear definition of trafficking, lack of enforcement mechanisms and for addressing trafficking as solely the cross-border movement of people into prostitution. Because of the lack of clarity in the convention, “trafficking” has been labelled together with prostitution as a form of exploitation.

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\(^12\) International Agreement of 18 May 1904 for the Suppression of the White Slave Traffic.

\(^13\) International Convention of May 4 1910 for the Suppression of the White Slave Traffic.

\(^14\) International Convention of 30 September 1921 for the Suppression of the Traffic in Women and Children.

\(^15\) International Convention of 11 October 1933 for the Suppression of Traffic in Women.
Additionally, the convention did not include trafficking for other purposes, and did not cover all contemporary forms of trafficking.\textsuperscript{16}

The period of 1990-2000 was characterized with much debate on the question: “who is and who is not a victim of trafficking?” That was because there was not a clear distinction between “voluntary” and forced prostitution, or between smuggling and trafficking.\textsuperscript{17}

In the Protocols of 2000, the UN defined two distinct terms “trafficking” and “smuggling” as follows: “\textit{Trafficking in persons}” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.\textsuperscript{18}

The Protocol also stipulates that the “consent of the victim of trafficking in persons to the intended exploitation set forth in paragraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used”.\textsuperscript{19}

“\textit{Smuggling of migrants}’ shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal enter of a person into a State Party of which the person is not a national or a permanent resident.”\textsuperscript{20}

According to the definition of “trafficking” it is obvious that the trafficked person is an object of exploitation. From the very beginning, the aim of the operation is to enslave a person in order to gain profit.\textsuperscript{21} Smuggling, however, is seen here as an irregular transportation of a person, or a group of persons, across a state border bringing benefit/profit to the smuggler.\textsuperscript{22}

At the global level, the most widely quoted figure of trafficked people each year refers to women and children.\textsuperscript{23} Such estimates are considered to be conservative given without explanation of

\textsuperscript{17} Ibid
\textsuperscript{19} Idem
\textsuperscript{20} Ibid
\textsuperscript{22} Ibid
\textsuperscript{23} Idem
underlying assumptions, as they do not include trafficking inside countries and the trafficking of men.  

At the regional level, the European Commission (EC) estimated in March 2001 that every year “120,000 women and children are being trafficked into Western Europe”. In 2000 the EU’s law enforcement agency, Europol, reported that “the overall number of victims in the EU is still unknown and only estimates are available. What is clear is the fact that the number of victims is much higher than the official statistics from investigated cases in Member States”. 

Although the full scale of trafficking is uncertain, the available data indicate the most important source countries and regions for victims of human trafficking. For example, almost 80 percent of trafficking victims in Germany in 2001 were originally coming from countries of Central and Eastern Europe, especially, Belarus, Lithuania, Ukraine, and Poland.

There are several reasons explaining the lack of data on trafficking in persons. Human trafficking is an underreported crime, thus, most of the cases remain undiscovered. The lack of data can be attributed to the low priority given to the fight against human trafficking by authorities in many countries. The reason for low prioritization appears to be connected to two main factors: first, national legislation is often lacking, inadequate, or not implemented, making the prosecution of traffickers very difficult and often impossible; second, trafficking convictions are often based on victim and/or witness testimony. Such testimony is hard to obtain, as in a majority of cases trafficking victims are treated as illegal migrants and are deported, or if identified as a victim of trafficking, are often too frightened to testify. Thus, inadequate legislation, for both prosecution and for victim/witness protection, implies that the police authorities are reluctant to prosecute traffickers, with knowledge that much effort seldom results in a conviction.

In order to combat international trafficking in persons it is essential that countries share information and data. One problem is, however, that at the international level, sharing of information takes place on ad hoc bases especially among countries of origin and destination. Some countries regard data on

25 Idem
26 Ibid
28 Ibid
29 Ibid
30 Ibid
31 Ibid
trafficking as classified, thus, refrain from sharing such information.\textsuperscript{32} There are countries whose legislation prohibits dissemination of personal information, while some ministries simply adopt a policy of restricted distribution.\textsuperscript{33} Some agencies are reluctant to issue data because the information they possess is very poor and finally there are cases when authorities and law enforcement agencies of certain countries are reluctant to distribute information, especially to destination countries, simply because they are believed to be implicated in trafficking themselves.\textsuperscript{34}

Despite the above-mentioned definitions, a number of commentators still point out the continuing difficulty of measuring trafficking, given the range of actions and outcomes covered by the term. For example, in their article “Developing Better Indicators of Human Trafficking” Laczko and Gramengna refer to O’Connell, Davidson and Donelan, who explain that: “\textit{Trafficking in persons is used as an umbrella term to cover a range of actions and outcomes. Viewed as a process, trafficking can be said to entail several phases – recruitment, transportation (which could be across several countries), and control in the place of destination. Different groups, agents or individuals may be involved in different phases of the process, and can organize recruitment, transportation and control in different ways. There is thus immense diversity between and within trafficking systems}”\textsuperscript{35}

To sum up, the key elements of human trafficking are:

- A fundamental violation of human rights;
- The recruitment, transportation, harbouring, transfer, and receipt of people;
- Threats, coercion, force, fraud, and deception;
- The placement of people in slavery, slavery-like conditions and forced labour services including: forced prostitution and other sexual services, domestic servitude, bonded sweatshop labour and other debt bondage.\textsuperscript{36}

\textsuperscript{33} Ibid
\textsuperscript{34} Ibid
\textsuperscript{35} Ibid
1.4. Relevant Empirical and Theoretical Literature

1.4.1. Empirical Literature

Trafficking in human beings is not a new issue on the international agenda. Much has been written and said about this modern day slavery; however, there is still limited action and the lack of coordination on the part of governments, IGOs and NGOs in responding to this phenomenon. The empirical research for this thesis was conducted in Tbilisi, Georgia from July to August 2006. All organizations actively engaged in anti-trafficking work were approached and asked to provide information. During the whole research period eleven people were interviewed representing governmental agencies, international organizations, inter-governmental organizations and local NGOs.

Much of the initial research into the analysis of trafficking in human beings comes from the documents and annual reports provided by the Tbilisi Office of the International Organization for Migration (IOM), and the Organization for Security and Co-operation in Europe (OSCE Mission to Georgia) dating from 1999 to 2005. Reports include information on the study of labour migration, irregular migration and trafficking in human beings from Georgia. Besides annual reports, IOM provided a detailed overview of anti-trafficking projects implemented by the organization during the period of 2000 – 2006. Apart from the above-mentioned reports, the thesis greatly benefits from the annual reports on the situation of trafficking in persons, issued in the framework of the US “ Trafficking Victims Protection Act of October 2000” and published on the web site of the US Department of State. Reports dating back from 2002 to 2006 are analyzed in this study.

In order to visualize the work carried out by NGOs, the study refers to a number of anti-trafficking projects and initiatives, such as NOTIP – No! – To Trafficking in Persons implemented by the Georgian Young Lawyers’ Association (GYLA) and funded by USAID – U.S. Agency for International Development, as well as the OSCE funded project carried out by the same NGO. The study will also shed light on anti-trafficking projects carried out by another local NGO such as People’s Harmonious Development Society (PHDS).

The research will also refer to certain legal and official documents such as the Plan of Action against Trafficking in Human Beings 2005-2006 and Georgian Law on Combating Trafficking in Human Beings.

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1.4.2. Theoretical Literature

The thesis is based on a network concept, which found its utilization in sociology, social psychology, and social anthropology, as well as in political science.\(^{39}\) Thus, it applies the policy network theoretical approach.

The policy network literature is divided into American and British Literature. The idea of policy network, although not the term itself, emerged from the United States in the 1950s and 1960s. The American use of policy network provided the basis of a sub-government approach, which was a critique of the pluralism model of interest group intermediation. In the late 1970s and 1980s, there was a pluralist reaction against this position, represented notably by Heclo.\(^{40}\) To summarize, the American literature stressed the micro-level, dealing with personal relations between key actors rather than structural relations between institutions.\(^{41}\)

The British literature on networks owes a great deal to non-American sources. Rhodes draws on the literature on inter-organizational theory, much of which is by European authors.\(^{42}\) The British literature on networks is distinct, although disparate. The thesis will be based both on British and American literature, however, in analyzing an issue network, the paper will mostly rely on Heclo’s work. Apart from this, the thesis benefits a lot from materials derived from electronic journals such as the “European Journal for Political Research”, “Political Studies Review”, “Governance”, “Local-government Policy-making”, “International Affairs”, etc.

1. 5. Delimitations and Structure of the Thesis:

The overall aim of the thesis is to look at the anti-trafficking policy formulation and implementation process in Georgia and answer the following questions: What are the different influences that various actors have within the network of policy formulation? And what kind of relationship exists between actors? For this reason, I will study the interaction among a number of actors that try to formulate the anti-trafficking policy in the country. This set of actors is quite diverse as it encompasses various stakeholders operating on different levels.

Starting from pressure from foreign governments, such as; the US government which led Georgia to overlook its position in the fight against human trafficking to the adoption of 2005/2006 National Plan of Action, the thesis will trace the whole policy formulation and implementation process with the use of a policy network theoretical approach. It will provide an account of these actors and show


\(^{40}\) Ibid

\(^{41}\) Ibid

\(^{42}\) Ibid
interaction among them, as well as try to explain different influences that these actors have on each other. I will be looking at the relationship of the following actors: the US Government, Government of Georgia, Human Dimensions Office - OSCE; International Organization for Migration (IOM), Georgian Young Lawyer’s Association (GYLA); and People’s Harmonious Development Society (PHDS). I made my choice on these institutions because they are the most visible actors nowadays in anti-trafficking activities in Georgia.

The use of a policy network in this thesis is quite consistent with Hanf’s early definition of the basic meaning of the term network, “...the term “network” merely denotes, in a suggestive manner, the fact that policy making includes a large number of public and private actors from different levels and functional areas of government and society”.

➢ Part I – Preliminary Part

Chapter 1: Introduction

The chapter gives a description of the problem of human trafficking and provides background information to this phenomenon, and provides the definition of trafficking in human beings and smuggling of migrants. It also defines the aim of the study and gives the research questions, which is followed by the description of empirical and theoretical literature, delimitations and the structure of the thesis.

Chapter 2: Methodology, Research Design and Methods

The second chapter introduces the qualitative research strategy and discusses its pros and cons. It also refers to the epistemological and ontological positions characteristic to the qualitative research as well as to the usage of the inductivist approach and provides information about the research design and methods for data collection and analysis.

Chapter 3: Theoretical Framework (Policy Network Analysis)

This chapter gives an account of the theoretical approach applied to the study of policy formulation, namely, the policy network analysis. It gives a description of various network types and raises the question, which of these network types can be applied to the anti-trafficking policy in Georgia.
Part II – Anti-Trafficking Policy in Georgia & Actors Involved

Chapter 4: Regional Picture and Country Profile
Part two of the thesis gives an overview of anti-trafficking policy formulation in Georgia. First, it shows the regional picture (Eastern Europe and Central Asia – EECA countries) regarding the situation of trafficking in human beings and then it provides a country profile.

Chapter 5: Assessment of the Roles of Actors in Anti-Trafficking Policy Formulation & Development in Georgia
This chapter of the thesis gives an overview of a set of actors in anti-trafficking policy and their activities in the field on the national level. The chapter also contains an analysis of the development of Georgian anti-trafficking policy.

Part III – Analysis of Actor Interaction and Their Influences in Anti-Trafficking Policy
Chapter 6: Analysis
Part three of the thesis tries to answer the research questions: What are the different influences that actors have within the network? And what kind of relationship exists between actors? The chapter analysis includes various policy approaches to anti-trafficking policy development and finally examines one of the typologies of policy networks, namely, introduced by Marsh and Rhodes.

Conclusion
The seventh chapter of the thesis provides brief answers to research questions and draws general conclusions about the phenomenon of trafficking, as well as the author’s personal views regarding the anti-trafficking campaign in Georgia.
Chapter II: Methodology, Research Design and Methods

2.1. Methodology
This thesis will employ a qualitative research strategy. Qualitative research is a distinct field of inquiry that involves both micro and macro-analysis based on historical, comparative, structural, observational and interactional ways of knowing. Qualitative data is what is considered to be non-numerical, and it is usually obtained through a variety of different research methods, which does not mean, however, that quantification in the collection and analysis of data is fully ignored. As a research strategy it is inductivist, constructivist, and interpretivist, but it is not always necessary to subscribe to all three of these features.

The qualitative approach is infused with what is called epistemology, a theory of knowledge. An epistemological issue refers to the question of what is (or should be) regarded as acceptable knowledge in a discipline. A central issue here is the question of whether the social world can and should be studied according to the same principles, procedures and ideas as the natural sciences. When we say that the qualitative research strategy uses interpretivism as its epistemological approach, we mean an alternative to the positivist approach (that advocates applying methods of natural science to the study of social reality). Thus, interpretivism maintains that the subject matter of social science – people and their institutions – is fundamentally different from that of the natural sciences. Consequently, study of the social world requires different logics of research procedure.

This paper adopts interpretivism as its epistemological standpoint.

Questions of social ontology are concerned with the nature of social entities. That is whether social entities can and should be considered objective entities that have a reality external to social actors, or whether they can and should be considered social constructions built up from the perceptions and actions of social actors. Constructivism as an ontological position maintains that social phenomena and their meanings are repeatedly being accomplished by social actors and that

46 Ibid
48 Ibid
49 Ibid
50 Ibid, p.11
51 Ibid, pp.11-13
52 Ibid, p. 13
53 Ibid, p. 16
54 Idem
the social phenomena and categories are in a constant state of revision.\textsuperscript{55} Thus, constructivism as an ontological position is applied to this thesis.

Based on which research strategy we choose, qualitative or quantitative, an \textit{inductive} or \textit{deductive} method can be applied. Generally, qualitative strategy utilizes the inductivist approach, which means that the theory is the outcome of the research.\textsuperscript{56} In other words, the process of induction involves drawing generalized conclusions out of the observation.

The deductive method, on the other hand, is mostly associated with quantitative research. The process of deduction entails the drawing of a hypothesis, based on what is known to the researcher in a particular domain and the theoretical considerations in relation to that domain, which must then be subject to empirical analysis.\textsuperscript{57} However, usage of either deductive or inductive strategies is not quite clear-cut and often they are thought of as tendencies rather than distinct methods.\textsuperscript{58}

When conducting research in social science, it is very hard to use any specific strategy, either inductive or deductive, because of the non-existence of completely objective data.\textsuperscript{59} However, this thesis will have an inductive approach in the sense that it is using empirical materials in order to make a general supposition.

\textbf{2.2. The Critique of the Qualitative Research}

Qualitative research is often criticized for being too impressionistic and subjective. This criticism is derived from the quantitative researchers.\textsuperscript{60} The criticism mainly implies that the qualitative findings rely basically on the researchers’ unsystematic views, as one is free to choose what to focus upon, what strikes him/her significant while conducting a research.\textsuperscript{61} Thus, it is subjective.

Another difficulty connected with the qualitative research is the problem of generalization. It is often argued that the scope of the findings of qualitative research is restricted because when research is conducted within a small number of individuals in a certain organization or locality, it is hard to make generalized assumptions.\textsuperscript{62} Critics of the qualitative research argue that sometimes it is difficult to understand from the qualitative research what the researcher actually did and how he/she

\begin{footnotes}
\item[56]Ibid, p.9
\item[57]Ibid, p.8
\item[58]Ibid, p.11
\item[60]Ibid, p.284
\item[61]Idem, p.284-285
\item[62]Idem
\end{footnotes}
arrived to the certain conclusions, which brings the problem of the lack of transparency in the research.\textsuperscript{63}

Despite the aforementioned criticism of the qualitative research, we can say the following in defense: this research strategy is less codified than the quantitative one, which means that it is less influenced by strict guidelines and directions about data collection and analysis.\textsuperscript{64}

\textbf{2.3. Research Design}

A research design provides a framework for the collection and analysis of data and it varies roughly from general to specific.\textsuperscript{65} This thesis applies a case study research design. The main unit of analysis is the process of formulation and implementation of one certain policy i.e. anti-trafficking policy on the example of a concrete country - Georgia. More specifically, the thesis will analyze the interaction of various actors in a network, which tries to formulate and develop a successful tool for combating trafficking in human beings, i.e., an anti-trafficking policy. These actors are: states, international organizations, and NGOs.

Another reason for using a case study research design refers to the condition of network theory, which requires that researchers examine the process of interest alignment to form a network.\textsuperscript{66} The context dependent character of network studies influences scholars to examine particular examples. According to Gao, network researchers typically study one domain or sector of public activity, usually at the nation state level,\textsuperscript{67} however this is not always the case.

Network analysis measures the occurrence or frequency of relationships between the members of a network.\textsuperscript{68} So far the approach and technique have been mainly applied to social relationships. The application to politics has been late. It emerged mainly in the study of elite local and central networks in the 1970s. Formal policy network studies appeared in the late 1980s led by a group of US sociologists.\textsuperscript{69}

Institutions are important in setting the context of policy, but network studies stress the way in which each domain of public regulation and the nature of public problems and their solution generate certain kinds of relationships and particular patterns of shared interests. By stressing the

\begin{thebibliography}{99}
\bibitem{64} Ibid, p.286
\bibitem{67} Ibid
\bibitem{68} Scott, J. “Social Network Analysis”, 1991, Sage Publications Ltd
\bibitem{69} Rhodes, R.A.W. “Understanding Governance – Policy Networks, Governance, Reflexivity and Accountability”, 1997, Open University Press
\end{thebibliography}
relationships between different types of power holders, the approach highlights the close connections between the apparatus of the state and institutions of civil society.\textsuperscript{70}

2.4. Method

The thesis will utilize both primary and secondary data analysis. It is based on data derived from a wide variety of sources, such as; IGOs, IOs, NGOs, and governmental agencies. Namely, these institutions include: OSCE, IOM, USAID, ABA/CEELI (American Bar Association Central European and Eurasian Law Initiative), Council of Europe, GYLA, SOD (Special Operations Department, Anti-trafficking Unit of the Ministry of Internal Affairs of Georgia), Parliament of Georgia, and the State Fund for Protection and Assistance of (statutory) Victims of Human Trafficking.

Primary data has been collected through semi-structured interviews\textsuperscript{71} with the representatives of each of the above-mentioned institutions. Other data is obtained from sources such as reports, studies, and manuals published by organizations, and official documents deriving from the state, such as; Laws, Presidential Decrees, etc. Documents available on the internet also will be used, such as; UN Protocols and annual reports from the U.S. Department of State.

\textbf{Types of data and units of analysis}

\begin{tabular}{|l|l|}
\hline
\textbf{Types of Data} & \textbf{Units of Analysis} \\
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laws, annual reports, studies; & Government of Georgia \hspace{1cm} Recent attention to trafficking issues; \\
On-going projects re: trafficking; & Foreign Governments (the US Government) \hspace{1cm} Recommendations, Policies, Reports and Practices; \\
Informational campaigns; & International Organizations (OSCE, IOM, USAID) \hspace{1cm} Intermediaries, possessing resources; \\
NPA (National Plan of Action). & Local NGOs (GYLA, PHDS) \hspace{1cm} Working on grass-root level, target-oriented. \\
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\end{tabular}

Source: Adapted from Maria Kousis and Geoffrey Gooch “Methods of Inquiry” in “Globalism, Localism & Identity”, edited by Tim O’riordan, 2001, Earthscan Publications Ltd


3.1. Social Networks and Political Science

Social network analysis is based on the assumption of the importance of relationships among interacting units. The social network perspective encompasses theories, models, and applications that are expressed in terms of relational concepts or processes. The unit of analysis in network analysis is not the individual, but an entity consisting of a collection of individuals and the linkages among them. Network methods focus on dyads (two actors and their ties), triads (three actors and their ties), or larger systems (subgroups of individuals, or entire networks). A network is a set of relationships, in other words, a network contains a set of objects (in mathematical terminology, nodes) and the mapping of the description of relations between objects or nodes. The image of the network has captured the attention of public policy scholars. Sometimes as a metaphor, sometimes as a more formal concept, the network notion emerged as a category to describe and summarize complex relationships between actors in politics and society in general.

In political science, the concept of network has been used mainly in a general, metaphorical way, as a model or image. The network is a portable concept that can be applied to any public arena. Where there is politics there is bound to be networks because the organizations and people involved usually form relationships with each other. However, it should not be neglected that the network notion conveys basically two different meanings: on the one hand, it implies complex interdependencies in substantive terms, which a number of scholars use for action systems that lack clear-cut relations of hierarchical subordination. In the framework of policy-making, this means that a policy emerges not from centrally programmed action but from the autonomous interaction of a number of interdependent organizations or individuals. This implies predominance of horizontal relations in policy-making.

The second concept of a network however, refers to any pattern of interrelationships among people, organizations, events, or other attributes. As Schneider puts it, “a network exists when points are

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76 Ibid
78 Ibid
In this formal perspective, a network does not imply specific structural configuration. Both network perspectives are not mutually exclusive but may be combined.

The policy network approach studies institutions and the links between them. It describes the process by which institutions manage their relationships. While policy network studies share many similarities, there are two main differences in the way researchers approach the topic. The first is over who are the participants to the network. Are they organizations or individuals? Some researchers investigate connections between the bureaus, agencies and groups in a policy domain; others examine the individual bureaucrats, politicians, lobbyists, experts and consultants. The second difference is between scholars, who assume that resources and bargaining characterize networks and others, who regard them as a means to transmit ideas. According to Rhodes, organizations seek to deploy different sorts of resources, such as finance and legal sanctions, to obtain what they want from other organizations. The resulting interdependence creates the policy network. Alternatively, networks are seen to be constituted by and bound together by ideas. All types of governments confront a vast array of interest, thus, aggregation of these interests is a functional necessity. Intermediation is a fact of everyday life in government. Policy networks are one way of analyzing aggregation and intermediation, the oligopoly of the political market place. In addition, the importance of policy networks varies with the stage of the policy process, and Marsh and Rhodes stress its relevance for analyzing policy implementation. They argue that networks exist to routinize relationships.

The policy network model seeks to explain why some groups are more powerful than others within a network and why some networks are more powerful than others, yet critics deny that the model is explanatory. For example, Bennington & Harvey and Dowding claim that the explanatory claims of the model are blurry. It lacks an explanatory theory of power because it does not have “a modeling of the bargaining process which can go beyond the mere labeling or shorthand description

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81 Ibid
82 Ibid
83 Ibid
84 Ibid
Marsh and Rhodes agree that networks must be located within a broader theory of the state. Rhodes defines the state as “a complex set of institutional arrangements for rule operating through continuous and regulated activities of individuals acting as occupants of officers”.

The definition covers all levels of government. Although some interests are privileged, the state has varying degrees of autonomy from those interests and can act in its own interest. Policy network approach analyses organized social complexity, focusing on the organizational interdependence between public organizations and private interest. The policy network approach is a modern variant of the institutional approach to politics, which focuses on “behavior within institutional contexts.” As Peterson remarks, the policy network approach only requires that “an institution has an interest in a policy sector, the resources to effect outcomes, and a need for other resources to pursue its policy objectives.”

As Schneider maintains, coexistence of autonomy and interdependency seems to be one of the central characteristics of modern state intervention where the “civil society” became so strong that the “normal” situation is characterized by a high dependency of the state upon private actors (associations, corporate groups, etc.). Exclusively traditional political institutions, such as parliament and the government apparatus, can no longer perform effective public policy-making as the complexity of policy problems and distribution of policy resources bring private actors in the public decision-making.

### 3.2. Dimensions of Policy Networks


**Actors:** When referring to “actors”, one should certainly include, the number of participants, as well. The number of participants determines the size of the network. Moreover, the type of actors involved influences the character of the network. While actors in policy networks are often individuals, they are mostly members of the organization-representative, the network actors can also be considered as organizations. As far as organization members are concerned, by definition policy

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87 Ibid, p. 11,
88 Idem
89 Ibid, p.12
91 Ibid
networks involve state agencies, whether political or administrative – and at least some organizations of civil society.  

**Function:** Networks are channels of communication, which may perform various functions alone or simultaneously. The most common functions of policy networks are, in order of increasing intensity of relationship, channeling of access to decision-making process, consultation or exchange of information, negotiation i.e. exchange of resources and/or performances, or seen from a different perspective, resource mobilization, cooperation of otherwise independent action and cooperation in policy formation, implementation and legitimating.

**Structure:** The structure of policy network refers to the patterns of relations between actors. There are a number of important variables in this category most of which are interrelated.

The size of network determined by the number of actors and boundaries which may be open and fluent, or closed and monopolistic plays an important role, as well as types of membership, whether participation is voluntary or compulsory. The patterns of linkage between actors are also important as they can be chaotic or ordered. Intensity or strength of the relations defines frequency and duration of interaction. The extent to which the actors are linked by multiple relations (multiplexity) and density are also determining factors. Symmetry or reciprocity of interconnections between actors, as well as differentiation or clustering in subnetworks is important in studying the structure of policy network.

Types of cooperation among actors such as hierarchic authority, horizontal consultation or bargaining, overlapping memberships, interlocking leaderships, frequency of mobility of personnel from one organization to another are crucial variables of the structure of policy network. The same applies to the degree of delegation of decision-making competencies to central units and measure of control by network participants as well as to the nature of the relations whether it is conflicting, competitive or cooperative.

**Institutionalization:** One specific structural property that has been chosen for special treatment is the degree of institutionalization. This refers to the formal character of the network structure and its stability. The degree of institutionalization will depend on the structural characteristics of the network. Thus, institutionalization will tend to be greater in closed networks, with compulsory
membership, ordered linkages, high intensity, multiplexity and symmetry of relationships, overlapping memberships and interlocking lead­erships, and a central policy unit.

**Rule of conduct:** Networks are furthermore characterized by principles of interaction or “rules of the game”, which manage the exchanges within the network. They stem from the role perception, attitudes, interests, social and intellectual-educational background of the participating actors, and are likely to influence these in turn. Indirectly, such a principle will derive from the more general political and administrative culture. Highly institutionalized networks may in addition develop their own “culture” and conventions, just as organizations do.

**Power relations:** Policy networks are also usually power relationships, and are characterized by the distribution of power, which is a function of the distribution of resources and needs among the actors and their mutual organizational structures when it refers to organizations. A specific distribution of power is not only a characterization of a network, but may also be an engine for structural change – and hence for change in domination – of the network.

**Actor strategies:** actors follow strategies both vis-a-vis networks, and within networks themselves. They create or use networks to satisfy their needs, interests and goals and they develop strategies to manage their interdependence.

### 3.3. Typologies of Policy Networks

There are different types of policy networks, with different characteristics and differing levels of visibility. Among scholars who study typologies of policy networks are Waarden, Atkinson and Coleman, Rhodes, Wilks & Wright, and Marsh & Rhodes, etc. For more clarity and further

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99 Ibid

100 Ibid

101 Ibid


He gives a comprehensive typology, including: Statism, Captured Statism, Clientelism, Pressure Pluralism, Sectoral Corporatism, Macro Corporatism, Sponsored Pluralism, Parental Relations, Iron Triangles, and Issue Networks.

103 They differentiate between three network types linking state agencies and organized interest groups: pressure pluralism, sponsored or clientele pluralism, and corporatism. “Pressure pluralism” is characterized by a highly differentiated system of interest representation with narrow, very specialized overlapping domains, which are highly competitive with regard to state access and members. Associations in pressure-pluralist network meet the state independently of other groups and remain outside the formal policy-making process. “Sponsored or clientele” pluralist network differs from pressure pluralism in the sense that groups in the former are incorporated into the policy process and these privileged positions are acquired through political influence or monopolies on expertise. The main characteristics of the “corporatist system” are the predominance of a small number of intermediary organizations with representation monopolies in functional domains that do not compete with each other and the predominance of hierarchical relations between intermediary organizations.

orientation of the thesis, I will concentrate on the following typologies offered by Rhodes, Wilks & Wright; and Marsh & Rhodes. It should be mentioned that the concept of policy networks refers to two types of relationships. First, it points to the political organization of a given society (pluralist or corporatist), and second, it points to the relational configuration of this “political organization of society” towards the state and its agencies.  

3.3.1. The Rhodes Typology
Rhodes developed this typology for a study of British central-local relations. His framework was based on a theory of power-dependence. Rhodes defines a policy network as a collection or a group of organizations connected to one another by resource dependencies and elaborates this definition by distinguishing between five types of networks ranging along a continuum from tightly integrated policy communities to loosely integrated issue networks. These networks are also distinguished by their membership and the distribution of resources between members.

Policy communities are characterized by stability of relationships; continuity of restrictive membership; vertical interdependence based on shared service delivery responsibilities, and insulation from both other networks and, invariably, the public (including parliament). They have a high degree of vertical interdependence and limited horizontal articulation. They are tightly integrated. These policy communities are normally based on the major functional interests in and of government, for example, education.

Professional networks are characterized by the pre-eminence of one class of participant in policy making: the professions. The most frequently cited experience of a professionalized policy network is the National Health Service. Professional networks express the interest of a particular profession and have a substantial degree of vertical interdependence, while drawing a line between other networks.

Intergovernmental networks are the networks based on the representative organizations of local authorities. Their distinctive characteristics are topocratic membership (and the explicit exclusion of all public sector unions); an extensive assemblage of interest encompassing all the services (and associated expertise and clients) of local authorities; limited vertical interdependence because they

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106 Ibid
107 Ibid
108 Ibid
109 Ibid
do not have service delivery responsibilities but also extensive horizontal articulation or ability to penetrate many other networks.\footnote{Schneider, V. “The Structure of Policy Networks – A comparison of the “chemicals control” and “telecommunications” policy domains in Germany”. European Journal of Political Research, Vol, 21, 1992, Kluwer Academic Publishers}

\textit{Producer networks} are distinguished by the prominent role of economic interests (both the public and the private sector) in policy making.\footnote{Ibid}

\textit{Issue network} is distinguished with its large number of participants and their limited degree of interdependence. Stability and continuity are at a premium and the structure tends to be atomistic.\footnote{Ibid}

\subsection*{3.3.2. The Wilks & Wright Typology}

Wilks & Wright distinguish between the “policy universe”, the “policy community”, and the “policy network”. According to Wilks & Wright, the “policy universe” consists of the large population of actors and potential actors, who share a common interest in industrial policy, and may contribute to the policy process on a regular basis. The term “policy community” is reserved for a more disaggregated system involving those actors and potential actors, who share an interest in a particular industry, and who interact with one another by exchanging resources in order to balance and optimize their mutual relationships.\footnote{Ibid} The “policy network” to Wilks & Wright becomes a linking process, the outcome of those exchanges, within a policy community or between a numbers of policy communities.\footnote{Ibid}

Wilks & Wright argue that their approach allows them to recognize both that not all the same policy issues in the same policy sub-sector are handled in the same network and that members of a policy network may be drawn from different policy communities within the same policy area, or even from different policy areas.\footnote{Ibid}

\subsection*{3.3.3. The Marsh & Rhodes Typology}

Marsh & Rhodes typology is based on three points, treating policy communities, policy networks and issue networks as types of relationships between interest groups and government.\footnote{Rhodes, R.A.W. “Understanding Governance – Policy Networks, Governance, Reflexivity and Accountability”, 1997, Open University Press} Rhodes’s earlier typology focuses, deliberately, on well-fare state services involving sub-central governments and, usually, a profession or semi-profession. However, such a definition of network interests and
membership is narrow and limits the utility of the concept of analyzing. In contrast, Marsh & Rhodes typology treats policy networks as a general term. Networks can vary along a continuum according to the closeness of relationships within them. Policy networks are at one end of the continuum and involve close relationships; issue networks are at the other end and involve loose relationships.

A policy community has the following characteristics: it has a limited number of participants and some groups are intentionally excluded, however, there is a frequent and high quality interaction between all members of the community on all policy issue-related matters. A policy community is characterized with a consistency in values, membership and persistent policy outcomes, as well as a consensus, with the ideology, values and broad policy preferences, which are shared by all participants. Because all members of the policy community possess resources, the links between them are exchange relationships. Thus, there is a bargaining between members with resources. The balance of power in policy community is maintained with a positive-sum game. The structure of the participating groups is hierarchical, so leaders can guarantee compliant members.

As Rhodes explains, this model is an ideal type and no policy area is likely to conform to it exactly. Policy community is often compared with issue networks in order to see exact characteristics of the former. Policy networks differ according to their integration, stability and exclusiveness.

What does an issue network look like? It is difficult to say precisely. As Rhodes argues issue network involves only policy consultation and have the following characterization:

- Many participants;
- Fluctuating interaction and access for various members;
- Limited consensus and ever-present conflict;
- Interaction based on consultation rather than negotiation or bargaining;
- An unequal power relationship in which many participants may have few resources, little access and no alternative.

Heclo gives the following description of issue networks: issue networks comprise a large number of participants with quite variable degrees of mutual commitment or dependence on others in their

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118 Ibid
119 Ibid
120 Ibid
Participants move in and out of a network constantly. Rather than groups united in dominance over a program, no one is in control of the policies and issues. Any direct material interest is often secondary to intellectual or emotional commitment. Network members reinforce each other’s sense of issues as their interests, rather than interest defining positions on issues. Powerful interest groups can be found represented in networks but also can individuals in or out of government who have a reputation for being knowledgeable. Particular professions may be prominent, but the true experts in the network are those who are issue-skilled (that is well informed about ins and outs of a particular policy debate) regardless of formal professional training. More than mere technical experts, network people are policy activists who, know each other through the issues.

An issue network is a shared-knowledge group to do with some aspects (or as defined by the network, some problem) of public policy. It is therefore more well-defined than, first, a shared-attention group or “public”; those in the network are likely to have a common base of information and understanding of how one knows about policy and identifies its problems. But knowledge does not necessarily produce agreement. Issue networks may or may not, therefore, be mobilized into a shared-action group (creating a coalition) or a shared-belief group (becoming a conventional interest organization). Increasingly, it is through networks of people, who regard each other as knowledgeable, or at least as needing to be answered, that public policy issues tend to be refined, evidence debated, and alternative options worked out – though rarely in any controlled, well-organized way. As Heclo argues, for at any given time only part of a network may be active and through time the various connections may intensify or fade among the policy intermediaries and government authorities.

Policy networks and communities are concepts that point out the connections and interactions between the state and players outside of the state with regard to policymaking. Heclo’s issue networks incorporate both the inclusion of players other than the state at an informal level in the

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122 Ibid, pp. 102 - 104
123 Idem
124 Idem
125 Idem
policy process, and the development of cooperative relationships with the state players.\textsuperscript{127} This type of policy network is characterized by a balance of power between state and parties other than the state.

Based on what has been said and written about policy communities and issue networks, the thesis tries to study the process of anti-trafficking policy formulation and implementation from these approaches.

On the first place I provide description of formulation and development of Georgian anti-trafficking policy and then I observe it from the perspective of policy network approach and try to place it on a certain policy network scale.

PART II

ANTI-TRAFFICKING POLICY FORMULATION IN GEORGIA

“As human trafficking is a chain of criminal behaviour – often, though not always involving various countries – I would address it as a continuum from the countries of origin to the countries of destination, involving all the relevant actors from government, to law enforcement, judiciary, to the NGOs…”

Helga Konrad

128 OSCE Special Representative for Combating Trafficking in Human Beings, 2004-2006
Chapter IV: Regional Picture and Country Profile

4.1. Trafficking in Human Beings in Eastern Europe & Central Asia (EECA)

There has been a stable increase in the number of persons, especially women and children, trafficked from the countries of the former Soviet Union to South-eastern and Western Europe, as well as to the Middle East and countries in East and South-east Asia. Although there are no exact numbers given the illicit nature of this phenomenon, various studies point out that Eastern Europe and Central Asia (EECA) are a major source of trafficked persons, besides being a transit and, to some extent, also destination countries.

Trafficking in persons became a relevant problem for the EECA countries after the collapse of the Soviet Union and the subsequent opening of its borders in the beginning of the nineties. Massive migration flows between the former republics of the Union as well as towards Western countries started to emerge. This trend of considerable emigration from the EECA countries for the purposes of permanent settlement or temporary labour migration has been basically sustained until today. Many migrants, in particular young women, hope to improve their socio-economic position by working abroad, but instead fall into the hands of traffickers, who exploit them in forced sex work, servitude or degrading industrial work. Particularly vulnerable to this problem are the countries in the western part of the former Soviet Union, such as Moldova, Ukraine, Belarus and the European part of Russia. There is clear evidence that all other countries in the EECA area have also become targets for traffickers who seek to exploit migrants from these countries in Europe, Asia and the American continent.

The attention from the side of the international community to the problem of trafficking in persons in the EECA region has grown substantially over the past decade. A large number of international organizations, including IOM, OSCE, etc. are present in the EECA region and involved in assisting the host governments in establishing national counter-trafficking policies, conducting preventive information campaigns, implementing research and providing assistance to victims of trafficking.

130 Idem
131 Idem
132 Idem
133 Idem
134 Idem
In this context of international attention to counter-trafficking developments in the EECA region, of particular importance during the last couple of years have been the annual reports of the US Department of State on the situation of trafficking in persons, issued in the framework of the US “Trafficking Victims Protection Act of October 2000”. The annual trafficking report includes those countries determined to have a significant number of victims of severe forms of trafficking and includes 10 countries in the EECA region. The report assesses the efforts of the governments to comply with the minimum counter-trafficking standards as formulated by the US law and assigns the countries to three tiers depending on their level of compliance. Governments that do comply are placed in Tier 1. In 2003 seven EECA countries, namely Armenia, Belarus, Kyrgyz Republic, Moldova, Russia, Tajikistan and Ukraine, were grouped in Tier 2, which comprises countries whose governments do not fully comply with the minimum standards, but are making significant efforts to do so. Georgia, Kazakhstan and Uzbekistan were qualified as countries whose governments do not fully comply with the minimum standards and are neither making significant efforts to do so and for that reason were classified as Tier 3 countries.

It should be mentioned that the Tier allocation in 2003 has had a major impact on the EECA countries. For the first time the US government linked a Tier 3 assessment with the possibility of certain sanctions, notably withholding non-humanitarian and non-trade related assistance. Thus, the 10 countries in the EECA region concerned, in particular the three countries grouped in Tier 3, were especially interested in the assessment by the US government.

4.2. Where Does Georgia Stand?

As the Soviet Union collapsed, citizens of independent Georgia, as all other citizens of the former Soviet Union, had the chance to travel abroad without any of the artificial restrictions of the past. During the first three years of the nineties Georgia lived through a number of dramatic civil wars that caused large flows of internal displacement and general social-economic hardship on the population of the country. Many Georgian citizens decided to leave the country during these years.

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135 US Department of State, http://www.state.gov/g/tip/rls/tiprpt/ 2006-10-02
The flow of migration was thought to be especially big between 1993 and 1997, although there are no reliable statistics in Georgia about migration flows. According to the State Department for Statistics in total 294,600 Georgians had left the country between 1990 and 1998. Independent experts however, claim that this figure is too low and calculated that during the same period 1,638,000 Georgians had departed.

When it comes to trafficking in human beings, it is even harder to obtain reliable data about people and especially women trafficked from Georgia. Georgia is a source and transit country for women, children and men trafficked for the purposes of sexual exploitation and forced labour and many Georgian victims are trafficked to Turkey. This is mostly attributed to the non-visa regime between the two countries, which was introduced recently, though it has never been a problem to obtain a visa to Turkey. It is commonly known that Georgian women are engaged in the entertainment sector in Turkey. According to the information from Turkish law enforcement agencies, in 2004 16 Georgian citizens were identified as victims of trafficking in Turkey. There is also information about the migration and possible trafficking of Georgian citizens, men and women, to Greece, Russia, Germany, Spain and other EU countries. First time in 2004, IOM Turkey prepared and published a report, which included information from the Ministry of Internal Affairs of Turkey and which stated that every year around 300-350 thousand migrants arrived to Turkey from Georgia and Azerbaijan. From 1995 to 2002, 6,352 individuals from Azerbaijan and 8,113 from Georgia migrated illegally to Turkey.

The table below shows the deportation reasons from Turkey of the citizens of three ex Soviet Union countries. The table illustrates that the highest number of people deported from Turkey due to prostitution, expired visa, illegal entrance, illegal job, etc. are citizens of Georgia.

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141 Ibid
142 Ibid
143 Ibid
147 Ibid
Since June 2003 until 18 March 2005, according to the data provided to IOM by the Prosecutor General’s Office, a total of 30 cases classified as trafficking in human beings had been investigated and prosecuted to a varying extent by Georgian law enforcement. These 30 cases concerned a total of 66 victims of trafficking, among which 62 were women, 1 man and 3 infants. In most cases (94%), the exploitation concerned some kind of forced sex work, whereas the major destination country was Turkey, with the United Arab Emirates (U.A.E.) in second place in only a few instances. A worrisome tendency is that among the victims of trafficking, 21 per cent were minors at the time when they fell victim to their exploiters.\textsuperscript{148}

Since June 2003, the IOM office in Georgia has assisted a total 19 victims of trafficking, all female. Fourteen of them, all originating from Uzbekistan, have also been included in the above mentioned law enforcement statistics. The remaining four women were:

- Three Georgian women who returned in 2005 from Turkey with the assistance of IOM office in Ankara where they had been trafficked into forced sex work. IOM Tbilisi provided with airport assistance, first-night accommodation, assessment of immediate needs and long-term reintegration needs, and a transport to their home country;
- One Nigerian woman who had been living in Ukraine in June 2004 and was lured into traveling to Georgia. With IOM’s mediation she was released from Batumi\textsuperscript{149} prison and was placed in a temporary shelter, after which she was finally assisted to go back to Nigeria;
- One woman from Kyrgyzstan, who had been forced into prostitution in Tbilisi and who escaped but did not have the opportunity to travel back to her home country.\textsuperscript{150}

Georgia is also a transit country to some extent. Victims from Ukraine, Moldova, Russia and other former Soviet states are trafficked through Georgia to Turkey, the U.A.E., Greece, and Western

\textsuperscript{148} “Combating Trafficking in Persons – Manual for Law Enforcement Agencies”, IOM, 2005
\textsuperscript{149} A costal town in Georgia, close to Turkey
\textsuperscript{150} Ibid
Europe. In 2004 there was a well known case of a group of Uzbek women who were identified in Tbilisi as they were being trafficked to Dubai. Previously there had also been cases of Ukrainian women deported from Turkey to Georgia and recognized by the Georgian border police as potential victims of trafficking; however according to IOM, at least 500 Georgian women are trafficked abroad each year.\textsuperscript{151} Information on trafficking in women from Georgia is difficult to obtain. This is partly due to the lack of research in the field, as well as reluctance of victims to cooperate with law enforcement agencies.\textsuperscript{152}

According to a 2006 report published by the US Department of State on the situation of trafficking in persons, issued in the framework of the US “Trafficking Victims Protection Act of October 2000”, internal trafficking in Georgia for both sexual exploitation and forced labour continues and victims are reportedly trafficked for the purpose of forced labour in the breakaway region of Abkhazia. It is also estimated that traffickers may be using South Ossetia (another breakaway region on the territory of Georgia) to traffic victims from Russia into Georgia and onwards.\textsuperscript{153}

Until June 2003, no criminal investigation had been launched in Georgia against individuals suspected of trafficking or of trafficking-related offences. The lack of specific counter-trafficking legislation had been a serious obstacle to investigating cases of trafficking and to combating organized crime with respect to trafficking. The IOM research conducted in 2001 revealed that many firms and individuals in Georgia targeted potential migrants quite openly, trusting that the poorly equipped legislation and low implementation of laws, as well as corruption among law enforcement officers, would give them immunity.\textsuperscript{154}

The Government of Georgia has made considerable headway in 2005 - 2006 in developing and implementing counter-trafficking activities. Important milestones include the adoption of trafficking-specific legislation, establishment of an Inter-Agency Commission to manage the National Plan of Action and, in general, a growing awareness of the need to combat trafficking in persons in line with the international conventions to which Georgia has committed itself. Nevertheless, it is too early to make a conclusive assessment of the recent developments in the field of counter-trafficking, as management structures are still being developed and specific counter-trafficking legislation has been enacted only recently.

\textsuperscript{152} “Irregular Migration and Trafficking in Migrants – The Case of Georgia”, a report by International Organization for Migration (IOM), Regional Office for the Caucasus and Mission to Georgia, September, 2000.
Chapter 5. Assessment of the Roles of Actors in Anti-Trafficking Policy Formulation & Development in Georgia

It has to be mentioned once again that the government of Georgia was not alone in formulating the anti-trafficking policy. A number of actors actively participated in this process. Some of these stakeholders have a direct influence on anti-trafficking policy formulation and activities and some of them are involved indirectly. Mandates and strategies of these actors are diverse and they serve a number of other goals, however, they try to cooperate in order to combat trafficking in human beings.

5.1. Foreign Government – The United States

It is important to emphasize the role of the US anti-trafficking law, which envisages that the employees of US embassies abroad are providing country reports to the government of the US. The information is collected through interviews conducted with the representatives of various governmental structures, ombudsmen’s office, NGOs and international organizations that are working on the issues of trafficking in human beings on the local level. Based on this information, the Secretary of State submits the annual “Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report” to Congress. This report covers “severe forms of trafficking in persons” defined as: “(a) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or (b) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.”

At the center of the U.S. Government’s efforts is the Trafficking Victims Protection Act of 2000 (“TVPA”), signed into law on October 28, 2000. The TVPA enhanced three aspects of federal government activity to combat trafficking in persons (TIP): protection, prosecution, and prevention. The TVPA provided for a range of new protections and assistance for victims of trafficking in persons; it expanded the crimes and enhanced the penalties available to federal investigators and


156 U.S. Department of State, http://www.state.gov/g/tip/rls/tiprpt/ 2006-10-29
prosecutors pursuing traffickers; and it expanded the U.S. Government’s activities internationally to prevent victims from being trafficked.\textsuperscript{157}

The Department of State is required by law to submit a Report each year to the U.S. Congress on foreign governments’ efforts to eliminate severe forms of trafficking in persons. It is intended to raise global awareness, to highlight the growing efforts of the international community to combat human trafficking and to encourage foreign governments to take effective actions to counter all forms of trafficking in persons. The Report has increasingly focused the efforts of a growing community of nations on sharing information and partnering in new and important ways. In assessing foreign governments’ efforts as mentioned above, the TIP Report highlights the “three P’s”— \textit{prosecution, protection, and prevention}. But a victim-centered approach to trafficking requires equally addressing the “three R’s” — \textit{rescuing, rehabilitation, and reintegration}. The U.S. law that guides these efforts, the Trafficking Victims Protection Act (TVPA) of 2000, makes clear from the outset that the purpose of combating human trafficking is to ensure just and effective punishment of traffickers, to protect their victims, and to prevent trafficking from occurring.\textsuperscript{158}

The Trafficking Victims Protection Reauthorization Act of 2003 (“TVPRA 2003”), signed into law by President Bush on December 19, 2003, reauthorized the TVPA and added responsibilities to the U.S. Government’s anti-trafficking portfolio. In particular, the TVPRA 2003 mandated new information campaigns to combat sex tourism, modified the federal criminal law, created a new civil action that allows trafficking victims to sue their traffickers in federal district court, established the Senior Policy Operating Group (“SPOG”) on Trafficking in Persons, and required a yearly report from the Attorney General to Congress on the U.S. Government’s activities to combat TIP.\textsuperscript{159}

“Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report” represents an assessment tool for the US government regarding trafficking situation worldwide. If we have a look at the Trafficking in Persons reports, we will see that Georgia had different Tier allocations since 2002. For more clarity, see the table below:

Tier allocation for Georgia since 2002 in its fight against trafficking in human beings:

<table>
<thead>
<tr>
<th>GEORGIA</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
</tr>
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<tbody>
<tr>
<td>TIER</td>
<td>Tier 2</td>
<td>Tier 3</td>
<td>Tier 2 watch list</td>
<td>Tier 2</td>
<td>Tier 2</td>
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In 2002 it appeared in Tier 2, which means, “The Government of Georgia does not fully comply with the minimum standards for the elimination of trafficking; however it is making significant efforts to do so”.\(^{160}\) The report was quite short and critical, mentioning non-existence of anti-trafficking legislation, lack of financial means and resources from the part of the government, involvement of government officials in the production of fraudulent travel documents and in involvement of travel agencies as facades for trafficking.\(^{161}\)

However, according to 2003 report, situation in Georgia deteriorated in respect to the government’s response to combat trafficking and accordingly, the country was moved to Tier 3, which implied that “the government of Georgia does not fully comply with the minimum standards for the elimination of trafficking and it is not making significant efforts to do so”.\(^{162}\) The report said, “Georgia is a country with limited resources, exacerbated by 300 000 displaced persons and three breakaway republics outside government control. While the government made some efforts to strengthen law enforcement coordination, and advanced closer to amending its criminal legislation, its efforts were unrecognized and lagged behind those of NGOs”.\(^{163}\) Tier 3 allocation was a very problematic issue for Georgia as for the first time it was connected with certain sanctions from the part of the US Government. For Tier 3 countries, the president of the United States is empowered to suspend certain types of non-humanitarian, non-trade-related foreign aid.\(^{164}\) Nations in the Tier 2 category that show signs of falling behind in their efforts are placed on a special “watch list” that effectively names and shames them, while putting them on notice that they might soon be subjected to sanctions. The power of the Trafficking in Persons Report can be seen in countries’ reactions to a Tier 3 listing. Numerous states that have found themselves potentially subject to penalties—such as; Bolivia, Cambodia, Ecuador, Israel, Greece, Turkey, and the United Arab Emirates—won their way

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off the Tier 3 list in the next year by passing new legislation, launching investigations, stepping up prosecutions, and strengthening efforts to shelter victims of trafficking.\textsuperscript{165} Georgia was not an exception. After being labeled as a Tier 3 country, the government of Georgia started to undertake a number of actions that shortly after updated its status and in 2004 it was moved to the Tier 2 watch list. That was due to its failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons compared to the previous year, as well as its commitment to take future steps over the next year.\textsuperscript{166} The report also mentioned, “…the changeover in government required reconstituting most government-supported mechanisms. The new government is expected to respond more effectively to institutional weaknesses and corruption, which hindered the previous government’s anti-trafficking efforts”.\textsuperscript{167} In 2005 Georgia appeared in Tier 2 because according to the report, the government took steps to implement several of its commitments such as establishment of special anti-trafficking unit and preparing a National Plan of Action. “The government should take proactive steps to fully implement its action plan, implement and formalize a victim referral mechanism with NGOs assistance, ensuring increasing victim identification, and continue special law enforcement training programs.”\textsuperscript{168} Since 2005 Georgia remains as a Tier 2 country, however, the report maintains that despite legislative and institutional improvements to combat trafficking in human beings, the government of Georgia failed to provide adequate protection and assistance to trafficking victims in 2005. That is, to say that it did not establish a shelter for victims of trafficking or provide any financial assistance and rehabilitation to them. The report maintains that the government relied a lot on NGOs and IOs to conduct trafficking prevention programs in 2005.\textsuperscript{169}

5.2. International Organizations
There are a number of international organizations working on the issue of trafficking in human beings in Georgia. The following organizations are particularly active.

\textsuperscript{165}Wier, A. “Traffick Jamming”, Bulletin of the Atomic Scientists, September-October, 2006
\textsuperscript{167}Ibid
\textsuperscript{169}Ibid
5.2.1. Organization for Security and Co-operation in Europe (OSCE)

“Trafficking in human beings is a disgrace to human dignity and an affront to all of us. This is not the time to pay lip service, it is time for action.”

Mircea Geoana

OSCE’s anti-trafficking efforts in the past several years have resulted in an increased awareness among OSCE participating states and a strengthening of commitments in this field. Organizations major commitment in the anti-trafficking field was adopted in Vienna in 2000 as Ministerial Council Decision No.1 and was built upon by the Permanent Council Decision 426, Ministerial Council Decision No. 6 (adopted in Bucharest in 2001) and Ministerial Declaration on Trafficking in Human Beings, adopted in Porto in 2000.

Building on these commitments, the OSCE has elaborated a detailed plan – OSCE Action Plan to Combat Trafficking in Human Beings through its informal Working Group on Gender Equality and Anti-Trafficking in Human Beings. This action plan not only recommends specific actions to the OSCE member states in the field of prevention, protection and prosecution, but also provides technical assistance to participating states, including, the implementation of the Code of Conduct and appropriate training of personnel.

OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR)

OSCE/ODIHR is at the forefront of international efforts to prevent trafficking in human beings and to ensure a coordinated response that puts the rights of the victims first. ODIHR develops and implements anti-trafficking programs that focus on raising awareness, legislative review and reform, as well as on building NGO capacity to provide counselling and direct assistance to the victims. By assisting in the creation of national referral mechanisms, ODIHR seeks to establish a co-operative framework through which state obligations to protect the rights of trafficked persons and to organize support are coordinated with services carried out by civil society. The ODIHR Anti-Trafficking Unit has increasingly taken a “clearing house” function by facilitating consultations, networking and information exchange, principally in their work with OSCE field missions.

170 The OSCE Chairman-in-Office and Romanian Foreign Minister
171 Full texts of all documents are available on line at http://www.osce.org/docs/200-10-30
173 “Trafficking in Human Beings in South Eastern Europe”, 2003, UNICEF/UNOCHR/OSCE ODIHR
174 Ibid
175 Ibid
The OSCE Mission to Georgia supports the Government of Georgia and local non-governmental organizations in developing an effective framework for anti-trafficking activities. The framework is in line with OSCE anti-trafficking commitments and focuses on protecting the human rights of the victims. The Mission’s anti-trafficking activities in Georgia dates back from 2002 when a working group was created for bringing amendments to the Criminal Code of Georgia. It has also supported a project to review Georgian anti-trafficking legislation through the Anti-Trafficking Fund of the OSCE/ODIHR. This project resulted in the preparation of a draft law by a group of Georgian governmental and non-governmental experts, and assisted by ODIHR, the International Organization for Migration, the American Bar Association's Central European and Eurasian Law Initiative, and the US Department of Justice.

In 2003, the OSCE Mission supported a workshop for anti-trafficking hot-line operators to improve their skills in dealing with calls from potential and actual victims of human trafficking. As a result of this activity, a handbook for hot-line operators was created and a working group composing of NGO representatives and government officials interested in anti-trafficking activities was formed.

In June 2004, the Mission organized a study visit to Ukraine consisting of 20 government and non-government anti-trafficking experts, who later formed the core of a working group which developed a new Action Plan to Combat Trafficking during meetings at the OSCE Mission in autumn 2004. The working group identified a number of urgent issues that needed to be solved, and at the same time, it emphasized that for solving these problems mutual cooperation was required between governmental and non-governmental sectors. Taking into consideration the fact that there were more professionals who had expertise in trafficking related issues in non-governmental sector, than they were in governmental agencies.

The plan was presented and discussed at an OSCE/ODIHR financed conference in Tbilisi in November 2004, and was signed by Georgian President Mikhail Saakashvili on 29 December of the same year.

176 See annex 1, Interview with the National Democratization Officer, Organization for Security and Cooperation in Europe, OSCE mission to Georgia
177 www.osce.org 2006-10-31
178 See annex 1, Interview with the National Democratization Officer, Organization for Security and Cooperation in Europe, OSCE mission to Georgia
The Mission co-ordinates its support for the implementation of the Nation Plan of Action with other international organizations focused on victim protection. It has also supported a comprehensive assessment of the national referral mechanism, which was presented at a conference in Tbilisi in the spring of 2005. The resulting recommendations - including identification, referral, shelter and support during court proceedings, return, social and economic integration - are being used by the Mission, as well as other national and international organizations and the Government to develop the support structures for trafficking victims.\(^\text{180}\)

### 5.2.2. International Organization for Migration (IOM)

IOM has been active in counter-trafficking activities since the beginning of the 1990s. “IOM is committed to the principle that humane and orderly migration benefits migrants and society, and acts to assist in meeting the operational challenges of migration, advance the understanding of migration issues, encourage social and economic development through migration, and work towards the effective respect of human dignity and well-being of migrants”.\(^\text{181}\)

Under the heading of trafficking in migrants, IOM is particularly concerned about those migrants who are, or have been deceived or coerced into situation of economic exploitation, which unfolds through forced labour, forced servitude, coercion, debt bondage, or other violations of their fundamental human rights. Furthermore, IOM is concerned about trafficking because it poses a migration management problem for the governments of countries of origin, as well as those of transit and final destination.\(^\text{182}\)

The organization employs a multi-pronged approach to prevent trafficking, as well as to assist and protect its victims through co-operative partnerships in the countries of origin, transit and final destination. In the field of prevention, IOM conducts information campaigns in the countries of origin to inform potential victims of the dangers of trafficking and irregular migration. IOM awareness rising activities target schools, urban and rural community groups and families. The methodology, tailored to each target group, includes the utilization of a variety of communication activities and several media outlets. For example, IOM Tbilisi office carried out the following information campaigns and counter-trafficking programs in the country since 2000. In September 2000, IOM Tbilisi published a report “Irregular Migration and Trafficking in Migrants – the Case

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\(^\text{180}\) See annex 1, Interview with the National Democratization Officer, Organization for Security and Cooperation in Europe, OSCE mission to Georgia

\(^\text{181}\) Resolution No. 923 (LXXI) of November 27 1995

of Georgia”. This project was the first to discuss the problem in depth and it was carried out with IOM Tbilisi’s own resources, not including any specific beneficiaries, but rather all those interested in the issues concerned.\textsuperscript{183} This research resulted in the report “Hardship Abroad or Hunger at Home”, published in September 2001 and funded by the Government of Netherlands (Ministry of Foreign Affairs). This report represented an in-depth study of victims of trafficking and irregular migrants, as well as activities of dubious mediating agencies (travel, tourism). IOM was assisted by four local NGOs by conducting interviews with commercial sex workers, irregular migrants and IDPs (internally displaced persons). In total 571 persons were interviewed out of which 121 were trafficking victims.\textsuperscript{184}

In 2001 IOM started to implement an “Information Campaign to Prevent Trafficking in Persons in Georgia”. This is an ongoing project which entered its third phase of implementation this year. The project represents a Mass-Media campaign aimed at reaching broad sections of the Georgian population to inform them about migration opportunities and constraints related to going abroad, and warns them of the risks related to trafficking, by means of three hotlines, three consultation centers, dissemination of brochures and posters, and Public Service Announcements through Mass-Media outlets. The first phase of the project was financed by the Governments of Belgium, the Netherlands and Switzerland; however, the second and the third phases of the project were funded only by the Government of the Netherlands.\textsuperscript{185}

In 2003, IOM published the first critical review of the efforts of the Government of Georgia and other actors to improve Georgia’s counter-trafficking policy. This project was supported by the IOM Headquarters in Geneva and was conducted in all twelve CIS countries. Another ongoing project, which started in 2005, refers to the “Capacity Building of Georgian Law Enforcement Agencies for the Prosecution of Smugglers and Traffickers”. This project is aimed at training law enforcement officers in better understanding the crime of trafficking and providing them with the capacity to better combat trafficking and assist victims according to international standards. The governments of Belgium and Italy financed the project. As a result, a total number of 217 law enforcement officers from four agencies participated in the various training activities. This project was the first large-scale project of this kind in Georgia.\textsuperscript{186}

\textsuperscript{183} Counter-trafficking Programs of IOM in Georgia (Overview of projects implemented since January 2000), 2006, IOM
\textsuperscript{184} Ibid
\textsuperscript{185} Ibid
\textsuperscript{186} Ibid
5.2.3. United States Agency for International Development (USAID)
USAID, as a federal agency, is responsible for U.S. foreign economic assistance to developing countries around the world. It assists countries in undertaking democratic and economic reforms, recovering from disaster, and trying to rise above poverty. It is based in Washington DC and has field offices all over the world. Funded by U.S. taxpayers, USAID works closely with the Department of State to align programs and receives policy guidance from and reports to the Secretary of State.187

USAID supports the Georgian government’s anti-trafficking plan and cooperates with the Georgian Young Lawyer’s Association (GYLA). Currently, USAID represents a donor for GYLA’s anti-trafficking project “NOTIP – No! – To Trafficking in Persons”.

5.3. Local Non-Governmental Organizations (NGOs)
NGOs are often viewed as being the “conscience of government”, and representatives of civil society, and have traditionally stepped in where governments have failed to take the initiative. Trafficking is no exception. Many anti-trafficking organizations in origin and final destination countries play an important role in research, prevention, advocacy, and awareness-raising.188

5.3.1. Georgian Young Lawyers Association (GYLA)
GYLA started as a union of professional lawyers, which was dedicated to reforming the poor reputation of the legal profession in Georgia. GYLA was founded in 1994 and was soon officially registered as a non-profit, non-governmental organization. GYLA is a professional, membership-based organization with nearly 600 members.189

Over the years, GYLA has pursued several initiatives:

- Provide a free legal aid system;
- Offer legal training and civil education;
- Draft and lobby Georgian legislation;
- Represent citizens in court and carry out strategic litigation;
- Develop lawyer’s professional skills;
- Encourage a robust civil society;
- Promote transparency and access to public information.

188 Tzvetkova, M. “NGO Responses to Trafficking in Women”, Gender and Development Vol. 10, No. 1, March 2002
189 www.gyla.ge 2006-11-01
GYLA started to cooperate with OSCE in 2003 on improving Georgian legislation in respect to trafficking in human beings. GYLA’s USAID funded project NOTIP – No! – To Trafficking in Persons comprises of three major components: 1. Consultations; 2. Awareness rising; and 3. Legal drafting. GYLA is also carrying out a media campaign to raise awareness about trafficking. Parts of the media campaign are geared particularly to potential victims of trafficking. GYLA also provides free-of-charge legal aid and shelter to victims of trafficking.190

5.3.2. People’s Harmonious Development Society (PHDS)

The first Anti-Trafficking program in Georgia was initiated in the framework of program “Women Human Rights Advanced Leadership Training” by five Georgian NGOs with the support of the Open Society Institute (OSI) in 1999-2000. This program included research of this problem, a series of trainings and the publication of a booklet.191

In 2002 PHDS realized a project - “Anti Trafficking Training” - prevention, lobbying and advocacy, hot-line and social help for trafficking victims, institutional development and networking – Kiev-Odessa.

In 2003 PHDS implemented a joint project with OSCE/ODIHR and the European Commission “Building NGO Capacity on Combating Trafficking in Human Beings in South Caucasus”. As a result of the project 22 women in 11 regions of Georgia were trained by OSCE/ODIHR trainers.

Among a number of other projects implemented by PHDS, one of the recent counter trafficking initiatives was a pilot project “Strengthening Counter Trafficking Prevention Work in Georgia”, which was carried out in 2005. The project undertook preventive counter trafficking work targeting “at risk” populations in four regions of Georgia.192 PHDS also participated in a working group for drafting the National Plan of Action against Trafficking in Human Beings.

5.4. Government of Georgia – Anti-Trafficking Policy Development

In response to the 2003 report under the “Trafficking Victims Protection Act of October 2000”, the government of Georgia started to make certain steps towards improving the situation in respect to the trafficking problem in the country. By that time, the parts of Georgian legislature most relevant

190 www.gyla.ge 2006-11-01
191 www.phds.ge 2006-10-30
to trafficking in human beings were the Criminal Code, revised in June 2003, and the Presidential Decree of January 2003 outlining the national plan of action for combating trafficking.\(^{193}\) Until June 2003, when the Criminal Code was revised, there was only one trafficking related article in the legislation of Georgia and it only referred to trafficking in minors.\(^{194}\) The previous Criminal Code also contained a number of articles that covered certain aspects of trafficking, but which failed to serve as useful instruments for launching successful criminal investigations against suspected traffickers.\(^{195}\) Article 143 of the unrevised Code, for example, addressed illegal imprisonment and the concept of “taking a victim abroad”. The article, however, was not specific enough to convey trafficking as a criminal offense, particularly because most victims left Georgia voluntarily, not knowing that they were being trafficked abroad.\(^{196}\)

5.4.1. Trafficking-Related Legal Initiatives Undertaken Since 1997\(^{197}\)

In order to gain a full understanding of the state of Georgia’s counter-trafficking legislation, certain legal initiatives undertaken by the State Chancellery (the presidential administrative apparatus) and the Ministry of Justice should also be mentioned. Since 1997, the President of Georgia has issued a number of decrees pertaining to the protection of human rights, and in particular, the rights of women.\(^{198}\) The Presidential Order 308 of 18 June 1998, titled “On Approval of the Plan of Action for Improving Women’s Conditions in Georgia for 1998-2000”, stressed the need to stem the growth of poverty among women and called on the Department of Migration to “study the migration of women and its impact on the national economy.”\(^{199}\) Whether this study was ever conducted could not be verified.\(^{200}\)

The first time when trafficking in human beings was officially mentioned in reference to Georgian legislation was in February 2000 when President E. Shevardnadze issued Decree 64, titled “A plan for fighting the abuse of women (for the years 2000-2002)”, which contained just one clause on trafficking women into sexual exploitation. In this clause, a number of ministries were instructed to

\(^{193}\) “Analysis of Institutional & Legal Frameworks and Overview of Cooperation Patterns in the Field of Counter-Trafficking in Eastern Europe and Central Asia”, Research Report, Nov, 2003, International Organization for Migration (IOM)

\(^{194}\) Ibid

\(^{195}\) Ibid

\(^{196}\) Ibid

\(^{197}\) See Appendix II for the short list of trafficking related legal initiatives undertaken by the Government of Georgia since 1997

\(^{198}\) General Overview of Trafficking Legislation in Georgia, ABA/CEELI Georgia office, June 2001.


\(^{200}\) “Analysis of Institutional & Legal Frameworks and Overview of Cooperation Patterns in the Field of Counter-Trafficking in Eastern Europe and Central Asia”, Research Report, Nov, 2003, International Organization for Migration (IOM)
register cases and to develop assistance programs for victims, and relevant authorities urged to cooperate and coordinate activities with each other and NGOs in order to combat the problem. The Plan, coordinated and evaluated by the Department of Human Rights Protection of the National Security Council, did not result in any significant increase of government-run counter-trafficking programs. Despite scattered and short-lived activities by the Parliament of Georgia and a number of NGOs, the Government failed to implement the counter-trafficking clause to any significant extent.\textsuperscript{201}

The Presidential Decree 240 of 17 May 2002, titled “On Strengthening the Measures of Protection of Human Rights in Georgia”, called for the establishment of a governmental counter-trafficking policy. It also instructed the Ministry of Justice to draft amendments to the Criminal Code which qualify trafficking in human beings as a punishable act and to develop appropriate sanctions within six months of the decree’s entry into force. By the autumn of 2002, the Ministry of Justice presented a first draft of the “Law on Amendments to the Criminal Code of Georgia”, consisting of a new generic article on trafficking in persons and a change in Article 172 regarding trafficking in minors. While the draft was disseminated among other relevant government structures, the Ministry of Justice also gave local NGOs and international organizations the opportunity to comment. Most comments (including those of ABA, IOM and OSCE) focused on the fact that the definition of trafficking in persons was not fully in compliance with the internationally adopted definition stipulated in the UN Trafficking Protocol. The Ministry of Justice incorporated some, though not all, suggested changes and forwarded the draft legislation to the State Chancellery for review on 6 January 2003. The draft passed without any comments at the session on 19 March 2003 and was signed by the President on 2 April 2003, when it was sent to Parliament for consideration. The Legal Committee of the Parliament discussed the text for the first time during a public hearing on 17 April 2003. The parliamentary committee decided to forward the draft law to the plenary session and to incorporate some changes proposed during the hearing. These suggestions mainly concerned the need to bring the definition of exploitation more into conformity with international accepted ones.\textsuperscript{202}

The Human Rights Committee of the Parliament also expressed interest in the issue of trafficking on the basis of these proposed amendments to the Criminal Code and organized a hearing in the beginning of May. The international community, NGOs and independent experts participated in

\textsuperscript{201} “Analysis of Institutional & Legal Frameworks and Overview of Cooperation Patterns in the Field of Counter-Trafficking in Eastern Europe and Central Asia”, Research Report, Nov, 2003, International Organization for Migration (IOM)  

\textsuperscript{202} Ibid
order to assist the Parliament in determining its counter-trafficking policy. The proposed law swiftly went through another hearing, after which the Parliament unanimously voted to enact the revisions to the Criminal Code at the 6 June 2003 plenary session.\textsuperscript{203}

Although these revisions had improved the existing legislation, they still did not encompass all elements of the trafficking process as defined in the UN Trafficking Protocol. The new law was, therefore, not entirely in compliance with international standards. The law’s definition of trafficking was: “Buying or selling or making other illicit transaction in relation to a human being, also recruiting, transferring, harbouring or receipt of a person, by means of coercion, blackmail and deception with the purpose of exploitation.”\textsuperscript{204}

Exploitation was defined in an endnote to Article 143 as: “The use of a person, with the intention to engage her/him in forced labour, involve her/him in criminal or other anti-social activity, in prostitution or in other types of services, or for the purpose of transplanting or other use of a person’s organ, part of organ or tissue. Putting persons into slave conditions shall mean depriving them of identification documents, restricting their freedom of movement, prohibition of links with their families, correspondence and telephone contacts, also their cultural isolation and the coercion of work in humiliating conditions and/or with no adequate reimbursement.”\textsuperscript{205}

The concept of “buying, selling or other illicit transaction in relation to a human being” in the general definition was vague and could lead to interpretation problems during prosecution and trial. Other shortcomings could be found in the list of intents and means. The concept of transportation was not mentioned in the general definition, and there was no explicit reference to the use of threat or force, or to abduction, fraud, and the abuse of power or vulnerability in the list of means. Other articles of the Criminal Code covered some of these crimes. However, including all purposes and means in the generic trafficking article would more effectively facilitate prosecution of suspected traffickers.\textsuperscript{206}

5.4.2. Other Relevant Legislative Developments
One of the essential elements of existing legislation was the Presidential Decree 15 of 17 January 2003, titled “On the Approval of the Action Plan to Combat Trafficking (2003-2005)”. Other government agencies had also undertaken legislative initiatives. The Legal Committee of the

\textsuperscript{203} “Analysis of Institutional & Legal Frameworks and Overview of Cooperation Patterns in the Field of Counter-Trafficking in Eastern Europe and Central Asia”, Research Report, Nov, 2003, International Organization for Migration (IOM)

\textsuperscript{204} Ibid

\textsuperscript{205} Ibid

\textsuperscript{206} Ibid
Parliament of Georgia dedicated a separate hearing to the issue of trafficking in March 2002. As a result, a short resolution calling on the Government of Georgia to ratify the UN Trafficking Protocol and to bring Georgian legislation in agreement with the UN Convention against Transnational Organized Crime and its supplementary acts before 1 May 2002 was adopted by the Parliament (Parliament of Georgia, 2002). The resolution’s implementation was stalled due to subsequent personnel changes and a significant shift in the power balance of Georgian politics. Until the adoption of the new law in June 2003, the Parliament did not undertake any actions based on the resolution.207

5.4.3. Towards a Unified Trafficking Legislation

Despite the positive developments in Georgia regarding the creation of counter-trafficking legislation, there was an obvious need for general counter-trafficking legislation, uniting previously issued presidential decrees and detailing the responsibilities of each governmental agency involved. Two specific articles in the Criminal Code would not suffice for combating trafficking effectively, as the amendments did not indicate the responsibilities of each state agency and, therefore, did not address the creation of appropriate management structures. Several agencies, such as the National Security Council and the Ministry of Justice, acknowledged that such a general law was indeed required but saw serious obstacles in the low budgets of implementing agencies. Low budgets would also naturally influence the implementation of a high-cost program, such as assistance to victims of trafficking. For example, the 2003 budget of the Government of Georgia did not envisage any expenditure for the implementation of the counter-trafficking action plan adopted by the President of Georgia.208

In August 2003, at the initiative of a Georgian NGO GYLA and financially supported by the OSCE, a working group was established to draft such a comprehensive counter-trafficking law.209 Two government agencies and IOM alongside with the implementing NGO started writing this law, which was supposed to be concluded by the end of 2003. Until the adoption of the National Plan of Action in January 2003, only a few government agencies were active in dealing with trafficking-related problems. The State Department of Tourism and Resorts of Georgia and the State Anti-Monopoly Service of Georgia, for example, united in


208 Ibid

209 See Appendix One. From the interview conducted in Tbilisi, Georgia, on July 5, 2006 with the National Democratization Officer in OSCE (Mission to Georgia)
February 2001 in an effort to establish control over the operation of tourism firms by proposing a registration and licensing system. This was relevant from a counter-trafficking perspective, as past IOM research on trafficking in Georgia (2000, 2001) has shown, many so-called tourism firms were actually disguises for traffickers and smugglers attempting to lure people abroad.\footnote{Irregular Migration and Trafficking in Migrants – The Case of Georgia”, a report by International Organization for Migration (IOM), Regional Office for the Caucasus and Mission to Georgia, September, 2000.} The licensing proposal encountered resistance from a number of other government agencies and was stalled when the Parliament also opposed it. The main argument used by the proposal’s opponents was that a licensing system might open the way for abuse by corrupt officials. At the same time, the opposition did not propose any alternative control mechanism to monitor the operations of suspect firms; these establishments could still traffic Georgians abroad with virtual impunity.\footnote{Hardship abroad or Hunger at home – a study of irregular migration from Georgia”, International Organization for Migration, IOM, 2001}

\textbf{5.4.4. Counter-Trafficking Action Plan}

A significant change took place when the President signed, on 17 January 2003, Decree 15, \textit{“On the Approval of the Action Plan to Combat Trafficking (2003-2005)”}.\footnote{“Analysis of Institutional & Legal Frameworks and Overview of Cooperation Patterns in the Field of Counter-Trafficking in Eastern Europe and Central Asia”, Research Report, Nov, 2003, International Organization for Migration (IOM)} The Decree was prepared by the National Security Council, which had been working on it since October 2002. A draft of the National Plan of Action was disseminated among all relevant governmental structures and a number of local NGOs. Their comments were incorporated and forwarded to the President, who signed the Plan without any further comments and delay. The National Plan of Action identified five different fields of action:

1) Taking legislative measures to ensure human rights protection of trafficking victims, especially members of the most vulnerable groups (women, adolescents and children);

2) Preventing trafficking by means of information dissemination and training of government officials, social workers and journalists;

3) Providing assistance to trafficking victims;

4) Prosecuting the perpetrators of trafficking and creating a victim protection system;

5) Monitoring and evaluating the implementation of the action plan on a systematic basis.\footnote{Each field of action contained a number of concrete guidelines, usually specifying in detail the nature of the activity to be implemented, the actors responsible for the activity and the timeframe within which the activity must have been carried out. A total of 15 state structures were mentioned}
as implementing partners, along with NGOs and mass media which also played a role in trafficking prevention. Control over the implementation of the National Plan of Action lied with the Human Rights Protection Department of the National Security Council.

The adoption of the Plan was a major step forward for the Government of Georgia in the fight against trafficking in persons, as it detailed a considerable number of important activities that needed to be implemented in Georgia, as well as the agencies accountable for these activities. At the same time, the Plan contained a number of flaws:

a) Most action points that mentioned more than one responsible agency did not identify which agency should take the lead in developing the said activity, instead merely listing the participating agencies. This could have led to confusion among agencies over which one should take the initiative. This could also have led to a lack of coordination and potential duplication of activities, or even conflict of initiatives. The leadership and guidance of the National Security Council in monitoring the implementation of the plan was therefore of vital importance.

b) The plan identified a number of points of action that were not as relevant to counter-trafficking issues or only partially addressed the roots of the problem. For example, as a means of preventing trafficking, the plan stipulated that the Ministry of Culture was to “establish strict control over art groups and ensembles traveling abroad to avoid including undesired persons.” Irregular migrants frequently use this ploy to obtain a visa, however it is only one of the many methods of traveling abroad.

c) The plan applied the confusing terminology of “sex tourism”, which according to a National Security Council official refers to trafficking persons abroad for forced sexual labour under the guise of tourism. The plan failed to explain this interpretation, which radically differs from the internationally accepted one.

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215 Ibid
Under the auspices of the Plan of Action, a number of developments took place:

1. **Creation of the Counter-Trafficking Unit of the Ministry of Interior**

On 29 January 2003, only 12 days after a Presidential Decree outlined the need for a Counter-trafficking Unit, the Ministry of Interior announced the creation of the “Sub-unit of the Combating of Trafficking”. The Unit was established at the initiative of the Ministry of Interior, although its initiation was highly influenced by the frequent contact of officials from the Ministry of Interior with a number of international organizations, in particular ABA, IOM and OSCE. The self-defined aims and objectives of the Unit were to:

- Uncover, register, combat and prevent trafficking in persons;
- Identify the persons that are intending to commit or have committed the crime of trafficking;
- Collect data concerning criminal cases of trafficking.

The Unit was supposed to cooperate closely with other departments of the Georgian law enforcement structures. However, the Unit’s cooperation with other departments in the ministry and law enforcement structures in general has been problematic. This was mainly due to the fact that law enforcement officials were not aware of the complex nature of trafficking and the grave human right violations it entailed. Many officials also had stereotyped perceptions of trafficking, usually equating it with consensual prostitution conducted abroad. Due to a lack of specific counter-trafficking legislation before June 2003 and of prosecution cooperation from trafficking victims, the results have been disappointing.\(^\text{216}\)

2. **Amendments to existing legislation and new legislative initiatives**

The Ministry of Justice took the initiative to prepare two amendments to the Criminal Code of Georgia on the basis of the Presidential Decree 240 of 17 May 2002. These amendments were enacted by the Parliament on 6 June 2003. Another legislative initiative aimed at impeding tourism firms from operating as disguises for trafficking and smuggling persons abroad.\(^\text{217}\)

3. **Enhanced inter-agency coordination**

In May 2003, the National Security Council announced the creation of an Inter-Ministerial Working Group, chaired by the Deputy Secretary of the National Security Council and further consisting of the Deputy Ministers of Foreign Affairs, Justice, Education, Culture, Health, Labour and Social

\(^{216}\) “Analysis of Institutional & Legal Frameworks and Overview of Cooperation Patterns in the Field of Counter-Trafficking in Eastern Europe and Central Asia”, Research Report, Nov, 2003, International Organization for Migration (IOM)

\(^{217}\) Ibid
Welfare, as well as the Deputy Prosecutor, the Deputy Head of the State Border Guards and the Head of the Counter-Trafficking Unit of the Ministry of Interior. This working group was officially presented at a round-table meeting organized on 24 and 25 June 2003 by the National Security Council and the Public Defender’s Office in cooperation with IOM.\(^{218}\) The roundtable’s participants agreed to create an inter-agency working group at the executive level to steer the implementation of the National Action Plan. The number of government implemented counter-trafficking activities increased after this meeting, although this increase was probably also affected by the US Department of State’s negative assessment earlier that month.\(^{219}\)

5.4.5. Activities by Ministry of Culture to Control Cultural Groups Traveling Abroad

According to the obligations specified in the National Action Plan, the Ministry of Culture created a multi-disciplinary commission tasked with monitoring the international travel of cultural groups in February 2003. The Commission was headed by the Deputy Minister of Culture and consisted of the Head of the Counter-Trafficking Unit of the Ministry of Interior and several well-established cultural groups. One of their tasks was to examine requests, submitted by cultural groups travelling abroad, for letters of support from the Ministry of Culture to assist their visa application at foreign consular offices. The Commission had to distinguish between bona fide and mala fide travellers.\(^{220}\)

Weak internal coordination among government entities was an obstacle for successfully implementing all components of the National Action Plan, despite the given improvements in this area. Another constraining factor was the lack of additional budget allocations to the implementing agencies. The 2003 budget of Georgia had not earmarked any funds for executing the National Action Plan. This became an insurmountable hurdle for most agencies, as their budgets did not allow for any unforeseen expenditures. In the meantime, government agencies largely relied on assistance from international organizations and NGOs.\(^{221}\)

However, the aforementioned improvements in counter-trafficking activities in the country led the US government in 2004 to allocate Georgia in the Tier 2 watch list, which generally included countries whose “governments do not fully comply with the Act’s minimum standards but are making significant efforts to bring themselves into compliance with those standards, and:

\(^{218}\) "Analysis of Institutional & Legal Frameworks and Overview of Cooperation Patterns in the Field of Counter-Trafficking in Eastern Europe and Central Asia", Research Report, Nov, 2003, International Organization for Migration (IOM)


\(^{220}\) "Analysis of Institutional & Legal Frameworks and Overview of Cooperation Patterns in the Field of Counter-Trafficking in Eastern Europe and Central Asia", Research Report, Nov, 2003, International Organization for Migration (IOM)

\(^{221}\) Ibid
a) The absolute number of victims of severe forms of trafficking is very significant or is significantly increasing; or
b) There is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year; or
c) The determination that a country is making significant efforts to bring themselves into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year”. 222

Though trafficking in human beings has been criminalized, Georgian legislation was still far from being perfect in this regard. In order to create an effective legislative base for fighting against trafficking, as mentioned above, a single and comprehensive law was needed to establish the legislative and organizational base for the prevention of and fight against trafficking in human beings, rights and obligations of state bodies, public associations and officials in measures against human trafficking, rules of coordination of their activity, legal status of victims of trafficking and guarantees for their social and legal protection.

5.4.6. The New Law on Combating Trafficking
The new draft law on combating trafficking in human beings was prepared by GYLA in coordination with the Ministry of Interior, Ministry of Justice, International Organization of Migration and other state agencies and non-governmental organizations. The draft law paid special attention to the protection of human rights of victims of trafficking and the harmonization of the current Georgian legislation with the United Nations Protocol and other relevant international legal standards. 223

The new law on Combating Trafficking was passed on April 28, 2006 and came into force one month later. The law defines the legal and organizational basis for combating trafficking in Georgia, obligations of state agencies in the activities for combating trafficking, legal status of the victims of trafficking, and their rights and obligations. 224 Article 4 of this law “State Policy in Combating Human Trafficking” maintains that the state shall promote the prevention of human trafficking,

223 “Violence Against Women in Georgia” Report submitted on the occasion of the 36th session of the UN Committee on the Elimination of Discrimination against Women, New York, August 2006, by GYLA (Georgian Young Lawyers Association) and OMCT (Operating the SOS-Torture Network, World Organization against Torture)
224 Ibid
protection of human rights of (statutory) victims of human trafficking, their assistance and rehabilitation and shall implement measures to combat human trafficking.  

5.4.7. The National Plan of Action for Combating Trafficking in Persons (2005-2006)  
On December 29, 2004, the President of Georgia approved the Action Plan against Trafficking (2005-2006) and to ensure the efficient implementation of this plan, established an ad hoc Interagency Commission against Trafficking under the auspices of the National Security Council of Georgia.  The Inter-Agency Commission consists of representatives of the following agencies and institutions:


And has the following goals:

a) to draft proposals regarding effective anti-trafficking activities and the ways of eliminating the factors stimulating trafficking and to present these proposals to the National Security Council of Georgia;

b) to submit to the President the proposals regarding the amendment of the legislation pursuant to the anti-trafficking Action Plan for 2005-2006 and enforcement of international treaties;

c) to prepare a full list of international and regional treaties and agreements concerning trafficking for presentation at the session of the National Security Council and to draft proposals on the expediency of Georgia’s joining these documents;

d) to prepare analytical reports on the condition of Georgian migrants seeking employment and human rights for presentation before the session of the National Security Council and to work out proposals on the improvement of the migrants’ condition;

225 Law of Georgia on Combating Human Trafficking, Article 4, 2006

226 “Violence Against Women in Georgia” Report submitted on the occasion of the 36th session of the UN Committee on the Elimination of Discrimination against Women, New York, August 2006, by GYLA (Georgian Young Lawyers Association) and OMCT (Operating the SOS-Torture Network, World Organization against Torture)
e) to discuss the issues related to trafficking in close cooperation with the NGO sector, and international and local organizations dealing with trafficking in order to work out joint proposals for submission to the President;

f) to submit to the President proposals on illegal labour emigration, also on the establishment and strengthening of anti-trafficking institutional mechanisms;

g) to monitor the situation with regard to illegal labour migration and anti-trafficking activities;

h) to submit to the National Security Council information on the activities performed during the year;

i) to study the information prescribed by the action plan, and based on this information, prepare respective reports for submission to the National Security Council.\textsuperscript{227}

The National Plan of Action (NPA) (2005-2006) consists of seven major objectives. The first objective of the NPA refers to the legal regulation of the labour migration related issue with a view to eliminating favorable conditions for human trafficking.\textsuperscript{228} The Government of Georgia foresees the following goals for implementing this objective, i.e.; the development of a relevant contractual basis to address labour migration issues, and the elaboration and enforcement of a relevant legislative framework. Georgia does not have a law on labour migration thus, the strategy includes: drafting and submission to the Parliament the Law on Labour Migration, elaboration of bilateral agreements on readmission; conduction of negotiations with the respective countries, as well as the elaboration of bilateral agreements with the countries of final destination on the creation of legislative guarantees for legal labour and allocation of labour quotas; elaboration of a proposal on the accession to the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families; preparation of a full list of international and regional agreements and treaties on the problem of trafficking and elaboration of proposals for Georgia’s accession to these instruments; as well as preparation of periodical analytical reports on the state of Georgian labour migrants and on the protection of their human rights at the country of final destination, including recommendations aimed at improving their position there.\textsuperscript{229} According to the NPA, the implementing bodies are the Ministry of Labour, Health and Social Affairs of Georgia, Ministry of Foreign Affairs of Georgia and the Ministry of Justice of Georgia as well as interested NGOs.

\textsuperscript{227} “Violence Against Women in Georgia” Report submitted on the occasion of the 36th session of the UN Committee on the Elimination of Discrimination against Women, New York, August 2006, by GYLA (Georgian Young Lawyers Association) and OMCT (Operating the SOS-Torture Network, World Organization against Torture)

\textsuperscript{228} Plan of Action against Trafficking in Human Beings 2005-2006 (A project implemented by PHDS in partnership with the OSCE Mission to Georgia)

\textsuperscript{229} Ibid
Solving the problem of labour migration is very important because if in case of Turkey Georgia faces a problem of sexual exploitation, for example in case of Greece, there is a problem of labour exploitation.\footnote{See Appendix I, Interview with the Deputy Chair of HumanRights and Civil Integration Committee of the Parliament of Georgia}

The second objective of the NPA refers to the improvement of the existing legislative bases on combating trafficking in persons. As already mentioned above, the Government of Georgia made significant changes in this respect. The law on combating trafficking was adopted in April 2006, which came into force a month after. In this case, cooperation between the Government of Georgia and other actors such as international organizations and local NGOs was especially noteworthy. As already discussed above, GYLA took initiative of preparing a draft law within the framework of the OSCE project. Initially, GYLA started to work with OSCE in 2003 with a project which envisaged the improvement of the Georgian legislation regarding trafficking. The whole legislative drafting process involved a series of working meetings of the Parliamentary Commission with international and local experts from NGOs and international organizations. However, successful implementation of the anti-trafficking legislation in Georgia requires a set of other legislative initiatives and amendments to the already existing law. For example, preparing drafts of amendments and additions to the Criminal Code and Criminal Procedure Code of Georgia providing for criminal liability of legal persons for the crime of trafficking in persons, as well as preparation of amendments and additions to the Law of Georgia on Operative and Search Activity that would take into account the specificities of an investigative and operative-search activity on human trafficking related crimes.\footnote{Plan of Action against Trafficking in Human Beings 2005-2006 (A project implemented by PHDS in partnership with the OSCE Mission to Georgia)}

The third part of the NPA talks about raising public awareness of irregular labour migration and trafficking in persons. According to the NPA, this objective should be met with the help of the following strategies and parties involved: planning and implementation of information and educational activities, including the provision of information on legal schemes of employment and study abroad, conduction of special trainings on trafficking-related problems for target groups such as judges, employees of consular departments, police and prosecutor’s office, border guards, social workers, journalists and health care professionals. This objective also sets forth putting trafficking related issues into the national educational curriculum to give information to high school and undergraduate students, as well as training of teachers. The parties involved in implementing this
activity are a number of Ministries, including; the Ministry of Education and local NGOs as well as international organizations.\textsuperscript{232}

The fourth objective of the NPA envisages the evaluation of the scale of the problem of irregular labour migration and trafficking in persons. For the achievement of this objective, the government of Georgia identifies several strategies. Creation of an integrated data base on physical and legal persons found guilty of and/or punished for organizing and/or assisting irregular labour migration and/or offences involving trafficking in persons. As mentioned in the first part of the thesis, one of the problems with effective fighting against trafficking rests in the non-existence of any systems of information exchange between the countries of origin, transit and final destination. So the Government of Georgia identifies the strengthening of regular contacts and cooperation between these countries with a view to prevent the facts of trafficking, and providing for the return of victims to the countries of origin and ensuring their safety.\textsuperscript{233}

Taking into consideration the international character of trafficking in human beings, it is vital to include diplomatic missions and embassies in anti-trafficking activities, thus, the NPA of Georgia includes this problem in the terms of reference of officers of Georgia’s diplomatic representations operating in the countries showing an increased risk in terms of trafficking.\textsuperscript{234}

The fifth objective of the NPA talks about the protection and rehabilitation of victims of trafficking in persons. For this reason, the government envisages the development and implementation of the system of support for victims of trafficking, as well as the identification of gaps and shortcomings in legislation, policies and assistance services, while taking into account gender specificities in the risk groups.\textsuperscript{235} Particularly, this part of NPA refers to the creation of certain measures for creating the National Referral Mechanism for the protection of the victims of trafficking.\textsuperscript{236} Thus, the strategies of the NPA pass on the elaboration and implementation of the Code of Conduct (code of ethics) for law enforcement officers and prosecutor’s office agencies in the process of investigation of trafficking-related crimes in line with internationally existing standards in this field. At the same time, the NPA pays a great deal of attention to the creation of shelters for the victims of trafficking. In this respect, certain steps have been made from government and international organizations.

\textsuperscript{232} Plan of Action against Trafficking in Human Beings 2005-2006 (A project implemented by PHDS in partnership with the OSCE Mission to Georgia)

\textsuperscript{233} Ibid

\textsuperscript{234} Ibid

\textsuperscript{235} Ibid

\textsuperscript{236} The National Referral Mechanism has already been drafted and is expected to be approved my the government of Georgia at the end of November 2006.
Consequently, one state shelter was opened in Batumi this year with the financial support of USAID. The state provided premises for the shelter and USAID allocated funds to fully equip it. It is estimated that within three years, the state will entirely own the shelter and take the full responsibility for its effective operation. It is expected that another shelter will be opened next year in Tbilisi.\(^{237}\)

The sixth objective of the NPA maintains that the creation and strengthening of the mechanisms against irregular labour migration and trafficking in persons needs to be achieved. This objective was met with the establishment of an independent anti-trafficking unit at the Ministry of Internal Affairs of Georgia.\(^{238}\)

And, finally, the seventh objective of the NPA foresees the monitoring of the situation in the sphere of combating trafficking and irregular migration. This part of the NPA includes the following strategies: establishment of indicators for the identification of potential victims of trafficking with a view to facilitate the elaboration of trafficking prevention measures, presenting information to the Office of the National Security Council of Georgia on the work performed during the reporting year; preparing a report to be submitted to the National Security Council; and finally, cooperating with NGOs that are active in the field of counter-trafficking and irregular migration and involving them in the monitoring process in order to find effective ways of solving the problem of trafficking.\(^{239}\)

Generally speaking, the role of NGOs in the implementation of the NPAs is a complex issue because it is related to understanding the role of civil society in a democratic society. This makes the position of NGOs difficult in the newly established political systems. For example, despite their experience, expertise and high esteem in which their work is held, NGOs in South East Europe were not often included in the groups developing NPAs and did not participate on an equal footing with other partners on National Committees. Very often, the role of NGOs is limited to implementing their own small scale projects funded by international organizations.\(^{240}\)

5.4.8. Towards 3 Ps: Prosecution, Protection, Prevention

According to the 2006 report published by the US State Department on the situation of trafficking of persons in Georgia, law enforcement responses to trafficking was mixed in 2005. The government increased its arrests and investigations, but failed to show progress in convicting and sentencing

\(^{237}\) See Appendix I, Interview with the Director of the State Fund for Protection and Support of Victims of Trafficking

\(^{238}\) Ibid

\(^{239}\) Ibid

\(^{240}\) “Trafficking in Human Beings in South Eastern Europe”, 2003, UNICEF/UNOCHR/OSCE ODIHR
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Prepared by Teona Kupunia

traffickers.241 “The Georgian government investigated 27 cases and prosecuted 9 cases of trafficking during the reporting period; however the anti-trafficking unit continued to operate throughout Georgia with 29 offices in Tbilisi and 12 offices in regions, with one office stationed in the airport for 24 hours a day” – the report said.242

When it comes to the protection of victims of trafficking, the Government of Georgia failed to provide adequate protection and assistance to trafficking victims in 2005; however it made significant steps in 2006 towards improving the situation. The new law on trafficking provides for the creation of the State Fund for Protection and Support of Victims of Trafficking. The functions of the Fund include: protection, assistance and rehabilitation of the victims of trafficking by assigning them the status of a victim of trafficking (VoT); providing shelter and giving them a compensation of up to 1000 GEL243 (which equals approximately 457 Euros).

In trafficking preventive measures, the Government of Georgia, still greatly depends on the anti-trafficking activities carried out by local NGOs and international organizations (IOM and OSCE for example), however, in 2005 the government assigned the leading anti-trafficking activities to the Prosecutor General’s Office and appointed the Prosecutor General to chair its anti-trafficking Inter – Agency Commission.


242 Ibid

243 “Violence Against Women in Georgia” Report submitted on the occasion of the 36th session of the UN Committee on the Elimination of Discrimination against Women, New York, August 2006, by GYLA (Georgian Young Lawyers Association) and OMCT (Operating the SOS-Torture Network, World Organization against Torture)
PART III

ANALYSIS OF ACTOR INTERACTION AND THEIR INFLUENCES

IN ANTI-TRAFFICKING POLICY

“It is clear that governments acting individually cannot address the problem adequately”.

Antonio Vitorino\textsuperscript{244}

\textsuperscript{244} EU, Home Affairs Commissioner.
Chapter VI: Analysis

6.1. Prologue to the Analysis

Fighting against trafficking in human beings has become a top policy priority of the international community in the past decade. An expanding network of international organizations, states and local non-governmental actors are complementing each other in every stage of the policy making process. Anti-trafficking policy, like anti-corruption, exemplifies a “transnational” policy and according to Orenstein’s definition, it is “developed, diffused, and implemented with the direct involvement of global policy actors and coalitions at or across the international, national, or local levels of governance.”

In the case of anti-trafficking activities in general, transnational policy actors have not only been involved directly in all stages of the policy process, but to analyze, one could argue, that anti-trafficking policy would not exist without the involvement of these actors. That is, transnational actors have placed human trafficking high on the policy agenda, developed policies to combat it, and have overseen implementation of these policies.

However, before actually analyzing different influences that actors in the anti-trafficking policy formulation process have on each other in a country like Georgia and whether the interaction and cooperation of these actors can be labelled as a network, or more concretely, a policy network, we should try to raise and answer one interesting question: what are the different ways in which transnational actors frame the problem of trafficking and how these ideas have shaped the development of different policy strategies?

International relations scholars offer varying explanations for how transnational actors set policy agendas. Realists argue that transnational policy agendas are determined by the structural conditions of the international system, with powerful actors, such as, the United States acting alone or through international organizations, to set priorities and dictate policy strategies.
Proponents of an organizational approach argue that international organizations are agents in their own right, with bureaucracies acting independently from states to shape the way problems are interpreted and to design and implement policies accordingly.\(^{250}\)

Constructivist approaches seek to understand how ideas can exert an independent effect on policy formation and policy outcomes.\(^{251}\) Peter Hall describes the role of ideas in policy making as follows: “Policymakers customarily work within a framework of ideas and standards that specifies not only the goals of policy and the kind of instruments that can be used to attain them, but also the very nature of the problems they are meant to be addressing.”\(^{252}\)

Different ideas about the nature of the human trafficking problem shape the different kinds of policy responses transnational actors pursue. A high degree of consensus exists among the transnational actors involved in this policy area that trafficking of persons through the use of force or coercion is a violation of human rights that should be prevented and suppressed. Issues that involve bodily harm to vulnerable individuals are, according to Keck and Sikkink, policy areas where transnational advocacy networks are typically most consensual and influential, especially when a causal chain of responsibility is vivid.\(^{253}\) In the case of human trafficking, we can identify a clear “victim” – trafficked persons – around which the transnational policy community can mobilize. The causal chain of responsibility is somewhat murkier, however. Firstly, if one identifies traffickers as the main offenders, then a policy response aimed at capturing and prosecuting individual culprits is the preferred policy response.\(^{254}\) Secondly, if one focuses on the demand side of trafficking, from customers of the sex industry to business owners who rely on low cost labour, a policy response that targets the source of the demand is warranted. And finally, if one focuses on the larger economic inequalities that create a constant supply and demand for trafficking, one might shift focus from individual to structural level policy responses. Focusing on economic rationales for trafficking could have the concomitant effect, however, of weakening the consensus around trafficked persons being

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considered victims of “coercion” strictly defined. These three scenarios point to the importance of identifying how actors frame the policy problem that they seek to address. The concept of framing was first utilized by social movement theorists to explain protest mobilization, but has since gained currency in international relations and policy studies to understand other forms of collection action. According to Snow and Benford, framing consists of actors negotiating “a shared understanding of some problematic condition or situation they define as need of change, make attributions regarding who or what is to blame, articulate an alternative set of arrangements, and urge others to act in concert to affect change.” Implicitly, what makes collective action frames significant are not so much their innovative ideational features, rather, framing is a process through which actors articulate or tie together information and existing ideas in order to spur particular forms of collective action. Returning to the three scenarios above, framing trafficking as an issue of transnational organized crime, for instance, entails showing the ways in which the trafficking of persons resembles the trade in other illegal commodities – which, in turn, would justify a law enforcement approach to combating the problem.

If to analyze how anti-trafficking policy in Georgia was conceptualized, we can look through Peter Hall’s conceptualization of “policy paradigms” offering one useful analytical framework to address the question of how and when ideas have a significant effect on policy outcomes. Like the concept of framing, Hall suggests that specific policy actions are reliant on how one defines and conceptualizes a problem. Hall’s framework thus follows a fundamental ontological tenet of constructivism: that ideas or collective understandings can constitute interests and preferences. This “constructivist turn” marks a departure from rationalist approaches, which take interests and preferences as given in explaining particular outcomes. Policy paradigms, according to Hall, also set the goals, priorities and content of policy. That is, policy paradigms facilitate action among

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policymakers by specifying how to solve a defined policy problem through a specific course of action. Policy paradigms or frames also help policymakers legitimize a particular policy strategy to other relevant actors, as well as to the general public. In other words, how transnational actors package or frame an issue provides a means to convince each other, as well as key decision makers and the general public, that certain actions constitute a plausible and acceptable policy solution. In the case of Georgia, we can say that a combination of migration, law enforcement and human rights approaches were utilized.

As we have seen, a critical juncture in the development of transnational policies to combat human trafficking was the United Nations (UN) Assembly’s adoption of the Convention against Transnational Crime in November 2000, and the accompanying “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,” which entered into force in December 2003. The UN Protocol’s definition of trafficking aimed to provide a general baseline from which transnational actors could develop and implement a common set of standards to prevent trafficking, protect victims and prosecute offenders. The Protocol provides the single most authoritative collective statement on the goals of policies to combat trafficking and the kind of instruments that should be used to achieve them.

6.2. Four Approaches to Anti-Trafficking Policy

While all the institutions working on the issue of trafficking base their actions on the same international law, and in theory, use the same definition of trafficking, in practice their approach differs, depending on the broader context of their work and the mandate of their organization/institution. These differences can be divided in four categories: migration, law enforcement, human rights, and economic. Approaching the issue of trafficking from one of these four perspectives, often results in different legal and administrative tools being used to solve the problems and in different actions undertaken by the participating actors.

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261 Campbell differentiates among “programs,” “paradigms,” “frames,” and “public sentiment” on the basis that programs and paradigms operate at the cognitive level and frames and public sentiments at the normative level. Campbell also suggests that programs and frames are located in the foreground of policy debate, while paradigms and public sentiments are located in the background. While this conceptual differentiation is useful, this analysis follows Hall in analyzing ideas and outcomes that are readily observable – or, in Campbell’s terminology, those in the foreground of policy debate. John L. Campbell. 1998. “Institutional Analysis and the Role of Ideas in Political Economy.” Theory and Society 27: 377-409;
264 “Trafficking in Human Beings in South Eastern Europe”, 2003, UNICEF/UNOHCHR/OSCE ODIHR
The migration approach to the problem of trafficking in human beings is primarily used by the International Organization for Migration (IOM). In our case, IOM counter-trafficking programs in Georgia have grown out of pre-existing programs for assisting “standard migrants” – economic migrants whose illegal status and/or inability to support themselves in a new country placed them in need of humanitarian assistance. From the IOM perspective, the status of “victim of trafficking” is similar to that of the “victimized migrant” – a person desperate enough to give up a migration dream to return home. While IOM staff clearly recognizes the unique status of trafficking victims as particularly vulnerable and exploited, their model of assisting these victims is premised upon an understanding of the problem of trafficking as principally one of unregulated economic migration.265

The law enforcement approach to trafficking is represented by the Ministries of Interior of particular governments, police, border police and regional initiatives/organizations to combat organized crime. For this reason, with the initiative of the Government of Georgia a special anti-trafficking unit was created under the Ministry of Interior. This unit was created because trafficking in human beings is seen as a crime similar to trafficking in drugs and arms, and often committed by the same international crime groups. While the main goal of the law enforcement agencies is to prevent/combat trafficking in human beings, there is a visible tension, a lack of understanding of the human rights violations involved, and an inability to identify the victims of the crime.266

The human rights approach, which underlines the need and obligations of states to protect the human rights of trafficked persons, should, in theory, underpin all anti-trafficking approaches since the human rights framework is derived from the human rights standards and principles contained in international treaties, conventions and protocols. In other words, states are obliged to adopt the human rights approach under international law. Most importantly, both the UN Secretary General and the UN High Commissioner for Human Rights have identified trafficking in human beings as one of the grossest violations and challenges of human rights.267 Since 1994 Georgia has signed a number of international Conventions and Treaties on the protection of Human Rights and

265 “Trafficking in Human Beings in South Eastern Europe”, 2003, UNICEF/UNOCHR/OSCE ODIHR
266 Ibid
267 “Trafficking in Women and Girls”. Report of the UN Secretary General, A/55/General Assembly/22 August 2000,
Also: the Secretary-General’s statement to the High Level Conference in Palermo, Italy, to mark the opening of the signature of the UN Convention against Transnational Crime, 12 December, 2000, see site: http://www.oecd.org/palermo.convmain.html 2006-10-30
cooperation between states against crime. Few of these Conventions and Treaties deal with trafficking in human beings.\textsuperscript{268} Until quite recently, no dynamic actions have been taken in this direction despite the requirements set forth in the conventions and terms for their implementation.\textsuperscript{269} Additionally, the Government of Georgia demonstrated a lack of awareness and sense of urgency regarding trafficking, by believing that it was not a major problem in the country and deemed other more urgent social and political problems required priority attention.\textsuperscript{270}

The human rights approach to anti-trafficking action has been adopted by intergovernmental, international and local human rights organizations, as well as by some governmental structures. The role of international organizations is to support governments in fulfilling their human rights obligations. The tool that the international organizations are using are those of introducing human rights norms through active participation in the governmental and inter-agency bodies established to combat trafficking, as well as through the monitoring of existing anti-trafficking initiatives.\textsuperscript{271}

An economic approach to anti-trafficking shares much in common with the human rights approach advocated by transnational groups and compatible local NGOs. Proponents of this approach seek to shift the emphasis of anti-trafficking efforts away from strict law enforcement or a migration approach to policies that not only protect victims of trafficking, but address the broader socioeconomic conditions underlying human trafficking.\textsuperscript{272} Advocates also contest the rigid binaries of trafficking versus smuggling, legal and illegal migration, and voluntary versus involuntary prostitution. One underlying assumption of this approach is that women are trafficked for work in the sex industry for a variety of reasons. Many women are coerced to leave their homes under false promises of legal work in the West, and some are forced into prostitution through threats, bondage and even torture. While such violations of human rights attract the startling headlines and place anti-trafficking efforts high on the policy agenda, advocates of this approach suggest that, in reality, most


\textsuperscript{269} “Anti-trafficking Regional Program – Turkey 2004”, A project implemented by “People’s Harmonious Development Society and “Hope & Help”, Armenia with the financial support of Women’s Network Program Open Society Institute, Women’s Program “Open Society Georgia” Foundation and Organization for Security and Cooperation in Europe.

\textsuperscript{270} “Analysis of Institutional & Legal Frameworks and Overview of Cooperation Patterns in the Field of Counter-Trafficking in Eastern Europe and Central Asia”, Research Report, Nov, 2003, International Organization for Migration (IOM)

\textsuperscript{271} “Trafficking in Human Beings in South Eastern Europe”, 2003, UNICEF/UNOCHR/OSCE ODHHR

women migrate more or less voluntarily.\textsuperscript{273} Indeed, they claim, few people would choose prostitution, if it were not for economic hardship or the lack of access to legal labour markets. Seeking work in illegal markets abroad is viewed as one of the few available means for people to escape poverty in their home countries and secure legal employment in the West.\textsuperscript{274} More concretely, proponents of an economic approach advocate easing restrictive migration policies in the European Union, which makes trafficking more profitable for the traffickers and more exploitative for trafficked persons. Proponents of an economic approach also draw attention to the limitations of migration and law-enforcement approaches, by citing the inadequacies of international law to protect trafficked persons or decrease the trafficking trade. For instance, while states are forbidden to expel persons who face possible torture or degrading treatment in their home countries, in most cases trafficked persons face a high probability of deportation to their countries of origin. Returning to the same limited economic opportunities that prompted them to seek employment abroad in the first place, a significant proportion of repatriated persons re-enter the cycle of trafficking. Proponents of an economic approach cite high levels of re-trafficking to advocate shifting the international community’s funding priorities away from law enforcement and border control to direct assistance and economic and political development that would reduce “supply” factors.\textsuperscript{275} These four approaches have shaped various policies\textsuperscript{276} to combat human trafficking in a number of different countries,\textsuperscript{277} including Georgia.

6.3. Towards Answering Research Questions

Based on the explanations made above, we can draw some insights from the examination of the role of different policy actors, including international organizations, such as; the IOM, OSCE, USAID and foreign governments such as the United States, as well as local NGOs (GYLA, PHDS) in the formulation of anti-trafficking policy in Georgia. If we briefly analyze all the network typologies introduced in the theoretical part of the thesis, we will get the following picture: The network typologies found in the literature share a common understanding of policy networks as power dependency relationships between the government and interest groups, in which resources are

\textsuperscript{273} Report on Trafficking in Human Beings in Southeastern Europe (2003): 23
\textsuperscript{274} For a summary of the “feminization of poverty” in Central and Eastern Europe see Rebecca Jean Emigh and Iván Szelényi, eds. 2001. Poverty, Ethnicity, and Gender in Eastern Europe During the Market Transition. Praeger.
\textsuperscript{276} Ibid
\textsuperscript{277} For instance in case of Balkans
exchanged. The typologies, however, differ from each other according to the dimensions along which the different types of networks are distinguished.\textsuperscript{278}

While Jordan & Schubert base their typology on only three main criteria - the level of institutionalization (stable/unstable), the scope of the policy-making arrangement (sectoral/trans-sectoral), and the number of participants (restricted/open)\textsuperscript{279}, Waarden uses seven - actors, function, structure, institutionalization, rules of conduct, power relations, actors’ strategies - finally singling out three as the most important to distinguish between existing types of networks: number and type of societal actors involved, major function of the network, and balance of power.\textsuperscript{280}

Wilks & Wright apply the “Rhodes model” to the relations between government and industry.\textsuperscript{281} They introduce, however, three major modifications of the model. First, they stress the disaggregated nature of policy networks in the policy sectors, suggesting that government-industry relations have to be analyzed at the sub-sectoral, not at the sectoral level. Second, they place considerable emphasis on interpersonal relations as a key aspect of the policy network, while Rhodes, drawing from inter-organizational theory, strictly focuses on the structural relationships between institutions. And third, Wilks and Wright redefine the terminology of policy networks. They distinguish between “policy universe”, “policy community”, and “policy network”.\textsuperscript{282}

Marsh & Rhodes use the concepts of policy community and issue networks in a more formal way. They have developed a scale along which networks can be ordered. It consists of four dimensions: \textbf{membership, integration, resources and power}.\textsuperscript{283} Rhodes distinguishes five types of networks according to the degree to which their members are integrated, the type of their members, and the distribution of resources among them. He places his network types on a continuum ranging from highly integrated policy communities at the one end and loosely integrated issue networks at the other end; professional networks, inter governmental networks, and producer networks lie in-between.\textsuperscript{284}

\textsuperscript{278} Borzel, T. A. “Organizing Babylon – on the different conceptions of policy networks” Public Administration Vol. 76 Summer 1998 (253-273)
\textsuperscript{282} Ibid
\textsuperscript{284} Borzel, T. A. “Organizing Babylon – on the different conceptions of policy networks” Public Administration Vol. 76 Summer 1998 (253-273)
Marsh & Rhodes typology deems to be the most applicable due to fact that it distinguishes between two extreme network types: policy communities and issue networks, this gives me the opportunity to place anti-trafficking policy on a certain policy network scale that analyzes the following dimensions: membership, integration, resources and power.

I suggest that the anti-trafficking policy formulation process in Georgia might appear more horizontal than vertical, with the policy network comprised of local NGOs, governments and transnational actors coordinating anti-trafficking efforts on a national level. However, here we have to consider positional advantages and material resources of different actors in order to understand how anti-trafficking policy agendas are formed and developed.

The following section considers the role of different actors in policy formulation and development, paying particular attention to the United States as one of the most powerful actors in the region (EECA). Based on the description made in the beginning of Part II, the interests of powerful actors in the EECA region and in this case Georgia, like the US and bureaucratic cultures of international organizations indeed play an important role in forming and implementing anti-trafficking policy. While governments are formally responsible for formulating National Action Plans, transnational actors have been directly and indirectly involved both in policy formulation and implementation. The OSCE, the IOM and the USAID, as well as local NGOs, serve on formal state bodies responsible for anti-trafficking efforts or participate in a more informal advisory role to government agencies.

Figure 1 represents how I see the Georgian anti-trafficking policy network to be functioning.

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To understand the process of anti-trafficking policy formulation in Georgia one must consider the role played by the United States. The United States “Trafficking Victims of Protection Act of 2000”, drafted in line with the UN Protocol, set the US foreign policy agenda to combat human trafficking.\textsuperscript{287} The State Department’s Office to Monitor and Combat Trafficking in Persons oversees the implementation of the Act. Annual Trafficking in Persons Reports are the Office’s primary policy instrument, which monitor governments’ compliance with the minimum standards to prosecute traffickers, protect victims, and prevent trafficking. As mentioned in the previous part of the thesis, the United States can withhold aid or impose sanctions on countries, whose governments are deemed to have not “fully complied with the minimum standards and are not making significant efforts to do so.”\textsuperscript{288} Thus, the US policy combines both “carrots” and “sticks” to ensure governments’ compliance with the US anti-trafficking policy objectives. Policies to combat trafficking advanced by the US correspond most closely with the migration and law enforcement paradigms. First of all, the Reports monitoring government compliance ignore government practices, such as summary deportation and imprisonment of trafficked persons, which diverges from a strict human rights approach to trafficking and falls most closely to migration policy paradigms advocated by the IOM.\textsuperscript{289} Secondly, the State Department explicitly places economic

\textsuperscript{287} Trafficking Victims Protection Act (22 U.S.C. 7101 et seq) and Trafficking Victims Reauthorization Protection Act (Public Law 108-193)

\textsuperscript{288} Mattar, Y. M.. “Monitoring the Status of Severe Forms of Trafficking in Foreign Countries: Sanctions Mandated under the US Trafficking Victims Protection Act.” 2003, Brown Journal of World Affairs 10 (Summer/Fall).

approaches outside its policy mandate. As the introduction to the 2005 Report states: “The report does not focus on other government efforts that contribute indirectly to reducing trafficking, such as; education programs, support for economic development, or programs aimed at enhancing gender equality, although these are worthwhile endeavors.”

In 2003, when Georgia was categorized as a Tier 3 country, the government finally expressed interest and concern to improve the trafficking-related situation in the country. As showed earlier, government’s attempts were not sufficient and still are lacking the effectiveness that is required for a successful fight against human trafficking. One of the fundamental reasons for this kind of lack of awareness from the part of the Government of Georgia about the scope and urgency of human trafficking and its reluctance to acknowledge it as a problem was because trafficking in persons is still a relatively new crime for the Georgian law enforcement structures and this is also a possible factor hindering the opportunities for Georgian society to get a full picture of the actual scale of trafficking in persons in the country.

The role of transnational actors in anti-trafficking policy formulation in Georgia is remarkably big. International organizations, such as; IOM and the OSCE, play a huge role in supporting the Georgian government in its fight against trafficking in human beings. Although policy approaches of these two organizations differ, their support has not been mutually exclusive. As Lindstrom argues, while the aforementioned four interrelated policy paradigms have shaped subsequent policies strategies, migration and law enforcement approaches have taken precedence over more human rights and economic emphases. If we have a look at the activities of the USAID, as a representative of the US’s interests in Georgia, we will see that its anti-trafficking policy approach is characterized more with consultative, awareness raising and legislative trends. According to the new USAID funding policy, organizations advocating prostitution, as an employment choice, or which advocate or support the legalization of prostitution are not appropriate partners for USAID anti-trafficking grants and contracts, or sub-grants and sub-contracts. Consequently, USAID opposes the economic approach to anti-trafficking policy formulation. As it is mentioned above, USAID finances one of GYLA’s anti-trafficking projects, thus, the relationship between them can be

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292 “Combating Trafficking in Persons – Manual for Law Enforcement Agencies”, IOM, 2005
considered as cooperative and mutually complementing and the \textit{NOTIP – No! – To Trafficking in Persons} project represent the outcome of this partnership.

Two main activities of IOM globally include providing direct assistance to trafficked persons and collecting, consolidating, and analyzing information on human trafficking, and Georgia is not an exception. The IOM provides direct assistance through funding and operating a network of emergency or temporary shelters. IOM in Georgia runs informational campaigns and arranges training sessions for the law enforcement agencies. It also cooperates with local NGOs, by providing them with small scale projects.\textsuperscript{295}

OSCE as mentioned above, was initially cooperating with Georgian NGOs, first by introducing amendments to the Criminal Code regarding the trafficking in human beings. Then by participating in the drafting of a general anti-trafficking law, by providing financial assistance to a number of Georgian NGOs who were working on this issue (GYLA). In addition, the OSCE assisted in the creation of NPA (PHDS). OSCE represents a very substantial resource center, both financially and in terms of human resources. The main activities of the OSCE program are an in-depth assessment of the needs, proving technical assistance in reviewing the legislation, setting up standard operating procedures for the protection and assistance of trafficked persons, supporting the design of national referral mechanisms and training, and the development and publication of technical materials.\textsuperscript{296}

Public awareness is a key to the success of the anti-trafficking movement. The relationship between the government of Georgia and the local civil society is occasionally controversial and is characterized by limited cooperation. While NGO experts provide technical support, they have little influence over government policy. There are two reasons for that. First, government decisions in Georgia are made by only a few officials, with little public participation and strategic planning. Second, NGOs still need to improve their ability to plan and work together in the constantly changing political environment. This includes balancing and better managing their sometimes conflicting roles as community watchdogs, policy advocates, and government partners.\textsuperscript{297} The relationship between the government and civil society can be both cooperative and confrontational. Although NGOs’ technical expertise is often appreciated by government officials, NGOs still have difficulty introducing and affecting new policies. Policy changes are more likely to succeed when

\textsuperscript{295} \textit{Counter/trafficking program of IOM in Georgia (Overview of Projects Implemented Since January 2000)}, May 2006

\textsuperscript{296} See annex 1, Interview with the National Democratization Officer, Organization for Security and Cooperation in Europe, OSCE mission to Georgia

\textsuperscript{297} Broers, L. “After the "Revolution": civil society and the challenges of consolidating democracy in Georgia” 2005, Central Asian Survey (September) 24(3), 333–350
officials are willing to consider the analysis and recommendations of NGOs.\textsuperscript{298} Although NGOs are driving the global anti-trafficking movement, governments remain vital because they are the ones that establish anti-trafficking policies, strengthen law enforcement and fund support for victims. Conversely, effective government policies can not be made without information from the NGO community, especially those that have direct experience with trafficking victims.\textsuperscript{299} In this case, we have to mention the role of PHDS, a Georgian NGO, which has been active in anti-trafficking initiatives and activities since 2000. This Georgian NGO was a very active participant of the NPA working group and has also been involved in a number of activities that, according to the NPA should eliminate trafficking in human beings in Georgia.\textsuperscript{300}

While trying to answer the research questions, \textit{what are the different influences that these actors have within the network? And what kind of relationship exists between them}, I will analyze and compare the policy community and an issue network (Marsh & Rhodes typology) and try to place Georgian anti-trafficking policy network in one of these realms.

According to Marsh & Rhodes, a policy community is characterized by a limited number of participants with some groups consciously excluded; a dominant economic or professional interest; frequent interaction between all members of the community on all matters related to the policy issues; consistency in values, membership and policy outcomes over time; consensus, with the ideology, values and broad policy issues shared by all participants; exchange relationships with all members of the community having some resources; bargaining between members with resources; and the hierarchical distribution of resources within the participating organizations so that leaders can guarantee the compliance of their members. There is a balance of power, not necessarily one in which all members equally benefit, but one in which all members see themselves as involved in a positive-sum game\textsuperscript{301}

If we have a look at membership (actors) in the anti-trafficking policy in Georgia, we will see that this network of cooperation is quite diverse in terms that it contains a wide variety of actors who differ a lot from each other. Their positions on the global scale, resources they possess and their influences globally are very different; however one can see a mutual exchange in which the

\textsuperscript{298} Broers, L. “After the “Revolution”: civil society and the challenges of consolidating democracy in Georgia” 2005, Central Asian Survey (September) 24(3), 333–350


\textsuperscript{300} Plan of Action against Trafficking in Human Beings 2005-2006 (A project implemented by PHDS in partnership with the OSCE Mission to Georgia)

relationship between governments and other actors is characterized as having a degree of interdependence, and the policy change is seen as the outcome of a range of factors, including negotiation and consultations.\textsuperscript{302} In the case of Georgian anti-trafficking policy, the changes that occurred involved an interrelated group of policy activists, including; members of the non-profit sector and international organizations that were applying human rights and migration approaches, government agencies that were applying a law enforcement approach, various ministries, law enforcement agencies, etc.

According to the \textit{Figure 1}, the network comprises a large number of participants with quite variable degrees of mutual commitment or dependence on one another.\textsuperscript{303} We can see that the US government has a direct influence on the government of Georgia, thus, their relationship is asymmetrical and directional and there is also a relationship between foreign government(s) and international organizations. \textit{Figure 1} shows that international organizations are important nodes in the network, as they represent a liaison between the Georgian Government and foreign governments, as well as representing vital partners for local NGOs. We can say that network members reinforce each other’s sense of issues as their interests, rather than interest defining positions on issues.\textsuperscript{304}

If actors in anti-trafficking policy formulation in Georgia represent a policy community is arguable. Membership in the anti-trafficking policy is not limited, as is characteristic to a policy community. If we look at the NPA, we can see that a great deal of activities, besides governmental agencies, are attributed to international organizations and local NGOs, although they have consultative functions. The Georgian anti-trafficking policy network is not at all dominated by economic or professional interests; however, there is a big financial dependence between international organizations and local NGOs, as well as between Government of Georgia and international organizations.

An issue network is characterized by competition between a large number of participants and a range of interests: changeable interaction and access for the various members; the absence of consensus and the presence of conflict; consultation rather than bargaining; and an unequal power relationship in which many participants have limited resources and restricted access.\textsuperscript{305} An issue network is a shared-knowledge group to do with some aspects of public policy. Members of issue networks are not as privileged as members of policy communities in terms of power in the policy-

\textsuperscript{304} Ibid, pp. 102 - 104
\textsuperscript{305} Ibid, p. 187
making process, but have to rely on their skills and other types of resources because issue networks are characterized by an absence of a consensus on policy principles. Particular professions in issue networks may be prominent, but the true experts in the network are those who are issue-skilled, in our case; IOM, OSCE and PHDS. More than mere technical experts, network people are policy activists who know each other through the issues.\textsuperscript{306} This characterization is applicable to Georgian NGOs, IOM and OSCE. Heclo’s issue networks incorporate both the inclusion of players other than the state at an informal level in the policy process, and the development of cooperative relationships with state players.\textsuperscript{307} Georgian anti-trafficking policy can be defined as such. Since there are interests and consequently cooperation, policy network is characterized by a balance of power between state and parties other than the state. This challenges the idea that the interests held by institutions are necessarily fixed or unitary, and that the interests of governments and other agencies (nongovernmental) are necessarily in conflict.\textsuperscript{308} An issue network emphasizes the activities of actors rather than organizations and allows for different groups (non-profit, etc.) to play influential roles in policy formulation through a cooperative but informal relationship with government agencies.\textsuperscript{309} Heclo’s issue networks enables us to move away from the two key assumptions of most policy network literature – that any agency outside the state operates from fixed interest bases, and that their public policy relationship with government only enables them to negotiate representation of their interests in public policy outcomes solely within the formal policy process.\textsuperscript{310}

The anti-trafficking policy is a specific policy area, where not only establishments possessing political, organizational and economic power count, but also those issue experts who have knowledge about various aspects of this phenomenon.

This is why, I believe, that the issue network approach is most suitable in explaining anti-trafficking policy in Georgia. Specificity of this policy area and the number of actors involved gives us the possibility to shift the focus onto the networking of policy activities across the state and other agencies, and the development of mutually acceptable policy positions based on shared expertise and interest in the policy outcomes.


\textsuperscript{308} Nyland, J. “Issue Networks and Nonprofit Organizations”, Policy Studies Review, Vol, 14, 1995

\textsuperscript{309} Ibid

\textsuperscript{310} Ibid
In this thesis, I argue that what we are dealing with in case of Georgian anti-trafficking policy can be considered as an issue network.

Chapter 7: Conclusion

Criminality in the 21\textsuperscript{st} century has seen a change through new forms of expression. It has overturned the traditional relationship of victim and aggressor and developed into a professional criminal enterprise constantly adapting its criminal structure to meet the demands of the moment. As a result, the trafficking in persons has acquired a worldwide character, affecting thousands of persons, the victims, for the most part, being women and children. The principle causes of these phenomena are poverty, unemployment and a lack of education in the victims’ countries of origin, tied with the possibility to acquire extraordinary economic advantage or employment through prostitution or placement in the Western European and Arabic countries and their black markets.\footnote{Combating Trafficking in Persons – Manual for Law Enforcement Agencies, IOM, 2005}

There are complex counter-trafficking efforts, which include the criminalization of human trafficking, law enforcement measures, the protection of victims, and prevention. The main problem with the fight against human trafficking is that governments do not fully realize the severity of this phenomenon and consequently, they can not provide effective measures to fight against it. The issue is not even the priority for many countries. Many consider human trafficking a problem of “illegal” or “irregular” migration rather than a criminal problem and treat trafficked people as criminals rather than as the victims they are.\footnote{Ibid}

The problematic juxtaposition of policing, immigration and human rights imperatives that is manifested in the phenomenon of trafficking raises complex regulatory, ethical and legal issues. The offence itself can be placed within a number of frameworks – in addition to being a migration issue, it can be conceived as a criminal issue, a human rights issue, a public order issue, a labour issue, a gender issue and lastly, as a moral issue.\footnote{Kalayaan, “Community Action against Sex Trafficking: A Trainer’s Manual. Quezon City: Kalayaan.}

Different agencies and stakeholders, motivated by the dictates of their respective institutional or campaign agendas, have tended to adopt variable combinations of these contextual frameworks.\footnote{Kelly, L. & Regan, L. “Stopping Traffic: Exploring the Extent of and Responses to, Trafficking in Women for Sexual Exploitation in UK”, 2000, p.4, Policing and Reducing Crime Unit: Police Research Series}

Departing from this, we can draw the following conclusions: Anti-trafficking policy has become an “obsession” of the international community, with a large number of international actors coordinating...
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efforts to develop, diffuse and implement anti-trafficking policy. Yet differences exist in how these actors frame the nature of the trafficking problem, pointing to the need to investigate the points of conflict, as well as a “consensus” in emerging transnational policy areas. Whether trafficking is portrayed as a migration, law enforcement, human rights or economic problem shapes the kind of policy strategies created to address the issue.\textsuperscript{315}

We can summarize and say that actors in this network have different influences on one another according to where they stand, and the relationship between them is issue oriented and involves cooperation and partnership, as well as a great deal of financial interdependence.

I believe that government of Georgia made a considerable headway in developing and implementing counter-trafficking policy. As mentioned earlier, a set of government-initiated programs took place. It is noteworthy that the National Referral Mechanism will also be adopted by the end of November 2006, which will define the roles and responsibilities of actors more clearly.

Generally speaking, much work needs to be done by governments worldwide, individuals and the international community, if the problem of trafficking in human beings is going to be solved and it will require considerable financial support.\textsuperscript{316} Public awareness, international cooperation, national legislation, training of law enforcement officials, and local action will all have to be mobilized to a much greater and more committed scope, if people are to be protected from the scourge of trafficking.\textsuperscript{317}

\textsuperscript{317} Ibid
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Law of Georgia on Combating Human Trafficking, Article 4 2006


LIST OF INTERVIEWS

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USAID – From the American People

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Akaki Chabrava – Head of the Anti-trafficking Unit at the Special Operations
Department of the Ministry of Internal Affairs of Georgia

Nino Abaishvili – Project Coordinator, (GYLA)
## APPENDIX II

### Trafficking related legal initiatives undertaken by the Government of Georgia since 1997

<table>
<thead>
<tr>
<th>Date</th>
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<td>2000, February</td>
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<td>“Law on Amendments to the Criminal Code of Georgia”</td>
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<tr>
<td>2002</td>
<td>Resolution calling for the “Government of Georgia to ratify the UN Trafficking Protocol and to bring Georgian legislation in agreement with the UN Convention against Transnational Organized Crime and its supplementary acts” adopted by the Parliament of Georgia</td>
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<td>2006, April 28</td>
<td>The unified “Law of Georgia on Combating Human Trafficking”</td>
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