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Human Trafficking and its Gender Dimension in the International Protection System:

The Legal and Policy Framework for the Protection of Victims and the
Limits of the Italian Asylum System

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Riassunto

Il Protocollo delle Nazioni Unite sulla Prevenzione, Soppressione e Persecuzione del Traffico di Esseri Umani, in Particolare Donne e Bambini, anche noto come Protocollo di Palermo o Protocollo UN TIP, adottato nel 2000, definisce il traffico di esseri umani come

“(a) reclutamento, trasporto, trasferimento, l'ospitare o accogliere persone, tramite la minaccia o l'uso della forza o di altre forme di coercizione, di rapimento, frode, inganno, abuso di potere o di una posizione di vulnerabilità o tramite il dare o ricevere somme di danaro o vantaggi per ottenere il consenso di una persona che ha autorità su un'altra a scopo di sfruttamento. Lo sfruttamento comprende, come minimo, lo sfruttamento della prostituzione altrui o altre forme di sfruttamento sessuale, il lavoro o i servizi forzati, la schiavitù o pratiche analoghe, l'asservimento o il prelievo di organi ... (b) Il consenso della vittima della tratta di persone allo sfruttamento di cui [sopra] è irrilevante in uno qualsiasi dei mezzi di cui [sopra] sono stati utilizzati.”

Questa definizione risulta essere il punto di partenza di questo studio, attraverso un'analisi del contesto giuridico e delle politiche adottate a livello internazionale, europeo, includendo l'Unione Europea, fino a giungere al nostro obiettivo, il contesto italiano. L'obiettivo del lavoro è quello di definire come il sistema della tratta ed il sistema di protezione internazionale cooperano in maniera più o meno efficace per una presa in carico delle vittime di tratta.

Quella della tratta non è di certo un'area di studio nuova, e in questi anni ha visto una grande evoluzione. È vero che il fenomeno è rimasto invariato per quanto riguarda alcune generalità delle vittime, come ad esempio il fatto di provenire da un paese di via di

sviluppo oppure che la maggior parte delle vittime continuano ad essere donne o ragazze. Ciò che però è cambiato nelle statistiche, è sicuramente il numero significativo di vittime di tratta, soprattutto donne, che entrano nei sistemi di asilo dei paesi europei e, in particolare in Italia. Questo aumento di vittime di tratta richiedenti asilo, è dovuto a svariati fattori, in particolar modo le politiche migratorie sempre più restrittive dei paesi europei, l'esternalizzazione delle frontiere in paesi come la Libia, e la conseguente assenza di canali sicuri di ingresso in Europa. Questi fattori spingono numerosi migranti ad intraprendere la strada dell'irregolarità per entrare nel nostro paese, molte volte affidandosi ai cosiddetti *smugglers* ed alcune volte cadendo vittima di tratta, per entrare in Italia come richiedente di protezione internazionale. Questo studio mostra il cambiamento nel fenomeno della tratta dalla *crisi migratoria* del 2014, sino agli ultimi sviluppi, in particolar modo affidandosi alla prospettiva di genere, conducendo un'analisi delle motivazioni che spingono le donne ad entrare in dinamiche di tratta. Un aspetto centrale che caratterizza le storie di molte donne è la loro condizione di vulnerabilità personale, sociale e/o economica, da cui si originano dinamiche di tratta. Tuttavia, parlare di vulnerabilità di queste donne, non significa negare la loro *agency*, cioè la capacità di un soggetto di prendere decisioni di scegliere liberamente, anche in situazioni di grave sfruttamento; a volte le stesse scelgono di affidarsi al trafficante, e di entrare consapevolmente nel mondo del traffico. Il fenomeno della tratta è ampio, molto complesso e presenta sfumature che a volte sono del tutto impercettibili, difficile da cogliere nella sua interezza.

Il secondo capitolo si basa sullo studio del quadro normativo per la protezione delle vittime di tratta a livello internazionale, europeo, e nazionale sul quale si sviluppano i contesti di protezione per le vittime di tratta, e prevenzione del fenomeno, in primis, come detto, a partire dalla suddetta definizione del Protocollo di Palermo. La definizione, inoltre, si concentra molto sull'irrelevanza del consenso in alcuni casi. Il protocollo ha, ad oggi, 117 paesi firmatari, che sono circa il 93 per cento dei paesi del mondo. Tuttavia, il protocollo è principalmente uno strumento di contrasto alla criminalità organizzata, e contiene poche misure obbligatorie sull'assistenza e la protezione delle vittime, che di fatto sono lasciate all'attuazione discrezionale dei singoli Stati firmatari.

Un passo decisivo verso un approccio integrato nella lotta alla tratta degli esseri umani e una maggiore attenzione ai diritti umani e alla tutela delle vittime, è stato rappresentato dall'adozione nel 2005 della *Convenzione di Varsavia* del Consiglio d'Europa.

Per quanto riguarda invece l'approccio di genere, viene menzionata la *Convenzione di Istanbul* del Consiglio d'Europa del 2011, che concerne la lotta alla violenza di genere sulle donne, e la violenza domestica. Al giorno d'oggi questa è la convenzione più avanzata internazionalmente, e di un'importanza tale che ci si pone come obiettivo di imporla a livello di Unione Europea. La convenzione attua secondo quattro: prevenzione, protezione, sostegno alle vittime, ma anche repressione alla tratta e politiche integrate, definendo per gli stati che la ratificano, degli obblighi precisi

Il secondo capitolo prenderà poi in esame gli strumenti dell'Unione Europea per il contrasto alla tratta e la protezione delle vittime, tra cui in particolare la *Direttiva 2011/36/EU* che concerne *la prevenzione e la repressione della tratta di esseri umani e la protezione delle vittime, e che sostituisce la decisione quadro del Consiglio 2002/629/GAI*; è difatti in accordo con i cambiamenti nel fenomeno della tratta che il quadro normativo europeo si sviluppa e si attualizza, rispettando un approccio basato sul genere e sui diritti umani, focalizzandosi molto sul garantire una protezione a chi viene riconosciuto come vittima di traffico o grave sfruttamento. Il capitolo dedica inoltre attenzione alle strategie lanciate dall'Unione Europea, come quelle del 2021 per *Combattere Il Traffico E Il Crimine Organizzato* e l'ultima proposta di dicembre 2022 per la revisione della direttiva 2011, che nonostante presenti molte modifiche importanti, punta in linea con il cosiddetto *Modello Nordico* sulla criminalizzazione dei clienti di/delle *sex workers*. Diversi studi però hanno messo in luce le ricadute negative che questo modello ha sulle vittime, spingendole ancor di più nell'invisibilità e quindi esponendole maggiormente ad abusi e forme di sfruttamento.

Il nostro paese è invece attivo nella lotta alla tratta dalla fine degli anni 90, più precisamente, l'Italia risulta essere all'avanguardia nella tutela e nell'assistenza delle vittime di tratta, in particolare grazie alla protezione sociale ex articolo 18 del *Testo Unico Sull'Immigrazione*. Inoltre, l'Italia è stato uno dei primi e dei pochi paesi europei ad aver introdotto un meccanismo di coordinamento tra il sistema anti-tratta e quello asilo,

portando all'individuazione di diversi casi di richiedenti asilo vittime di tratta. In particolare, nel 2017 l'*Alto Commissariato delle Nazioni Unite per i Rifugiati* (UNHCR) e la *Commissione Nazionale per il Diritto di Asilo* hanno redatto delle Linee Guida rivolte alle Commissioni Territoriali per il riconoscimento della protezione internazionale su "l'identificazione delle vittime di tratta tra i richiedenti protezione internazionale e procedure di referral", con lo scopo di creare meccanismi di rinvio tra il sistema tratta e quello asilo. In questo elaborato, metterò in luce gli aspetti innovativi così come i limiti di questo sistema stilando un percorso diviso in cinque fasi: identificazione, prima assistenza (percorso a breve termine), (re)inserimento lavorativo e sociale (percorso a lungo termine), e procedimento civile e penale. Queste fasi vengono sviluppate principalmente attraverso il lavoro delle Commissioni Territoriali, insieme al sistema anti-tratta, in modo tale da permettere alla vittima di tratta non solo di essere identificata come tale, ma anche di ricevere protezione, e delle garanzie sociali e legali.

Il sistema di asilo in Italia è molto articolato, e coinvolge diversi enti e realtà con competenze, risorse e strutture diverse e specifiche. In particolare, il sistema di accoglienza opera su due livelli: prima accoglienza, che comprende gli *hotspots* e i centri di prima accoglienza, e la seconda accoglienza che comprende i CAS (Centri di Accoglienza Straordinaria) e i SAI (Sistemi di Accoglienza e Integrazione); tutti gli enti, siano essi di prima, o di seconda accoglienza, hanno un'elevata possibilità di venire a contatto con soggetti vulnerabili, e presunte vittime di tratta, ma nonostante questo, non tutte le realtà sul territorio nazionale sono pronte ad un'efficace riconoscimento delle vittime, e sono ancor meno adatte ad un'effettiva presa in carico, in coordinamento con i Centri specializzati alla violenza, principalmente di genere, i cosiddetti *Centri Anti Violenza* (CAV).

La tratta di esseri umani presenta infatti molti punti critici a cui prestare attenzione per il riconoscimento e la protezione delle vittime. Il contatto con le vittime può avvenire sin da subito, sulle navi di salvataggio, oppure negli hub, che negli ultimi anni hanno iniziato ad implementare la procedura *hotspot*, che aumenta il tempo di permanenza dei migranti, in modo tale da schedarli, e ne facilita quindi il riconoscimento; ciò nonostante, il riconoscimento è subordinato ad una serie di fattori, che in questi due casi sono il carattere emergenziale dei due sistemi, e il tempo di permanenza dei migranti sulle navi o negli

hub, che non permette lo sviluppo di una relazione di fiducia con le vittime, e che quindi non ne facilita il riconoscimento.

Anche il Meccanismo di Referral tra i sistemi anti-tratta e il sistema di asilo presenta dei limiti, non da poco, nella sua attuazione; principalmente il fatto di non essere implementato a livello nazionale, seguendo uno schema definito. Difatti, l'attuazione disomogenea non permette l'utilizzo efficiente e coordinato degli enti e delle realtà territoriali, senza inoltre garantirne l'implementazione sui vari livelli di accoglienza. Inoltre, il Meccanismo di Referral in questione non definisce procedure e ruoli specifici di tutti gli attori che potrebbero venire a contatto con le vittime di tratta, dagli enti del terzo settore, al settore pubblico.

I fattori che limitano il sistema italiano sono anche quelli basati sul riconoscimento della vulnerabilità, come *l'approccio di genere*, quello basato sui *diritti umani*, e quello *intersezionale*. In primis quello di genere ha dei forti limiti, perché categorizza le vittime di tratta come solamente donne e solamente vulnerabili; non in tutti i casi però è così: vittime di tratta sono anche uomini, bambini, e donne con facoltà di autodeterminarsi sessualmente, con *agency* in merito alla loro situazione di tratta. In secondo luogo, l'approccio basato sui diritti umani sembra escludere i soggetti "non vulnerabili" dall'aver diritto alla protezione, e questa lettura è esattamente l'opposto della definizione basata sui diritti dell'umano come inalienabili ed universali. Infine, l'approccio intersezionale si basa principalmente su un atteggiamento criminalizzante, dedito alla lotta contro il fenomeno della tratta; sicuramente questo tipo di approccio è importante, ma non primario, dovendo garantire in primis la protezione.

In ultimo, soprattutto basandosi sull'esperienza personale, come lavoratrice in un CAS, oltre che sulla bibliografia recente, è importante presentare alcuni metodi necessari al riconoscimento e alla protezione delle vittime di tratta, soprattutto nel contesto dell'accoglienza. Tutte queste pratiche sono, al giorno d'oggi, l'obiettivo prioritario del Meccanismo di Referral per il coordinamento tra il sistema anti-tratta e quello di asilo, ma di difficile implementazione, per le ragioni suddette ma anche per la mancata formazione degli operatori di CAS e SAI, che non permette lo sviluppo di una sensibilità sul tema della tratta.

Ci si riferisce, in ordine, all'importanza di ricorrere ad un'equipe specializzata sul riconoscimento delle vulnerabilità, come psicologi e etnopsicologi; avvalersi di mediatori culturali che possano interfacciarsi con le (presunte) vittime di tratta, tenendo in considerazione il *background* linguistico e culturale; definire delle procedure standard per il riconoscimento delle vulnerabilità delle vittime e di possibili situazioni di tratta o sfruttamento, anche predisponendo incontri di gruppo e personali e formando l'equipe operativa dei centri di accoglienza; sempre riguardo alla formazione, predisporre dei momenti di insegnamento per le Commissioni Territoriali, le Autorità competenti, ma anche la società (di arrivo e di partenza), ed i servizi dediti alla persona (come gli ospedali), a riconoscere e gestire campanelli di allarme per (presunte) situazioni di tratta, è fondamentale; cruciale è disporre i migranti di tutti i numeri fondamentali per ricevere informazioni e protezione, come il *Numero Verde Antitratta* ed altri servizi analoghi. Infine, determinante e prioritario è il coordinamento tra strutture di migrazione e di violenza, ma anche altri enti pubblici e privati, per una presa in carico a tutto tondo delle vittime, anche attraverso la ricerca accademica e sul campo.

1. Introduction

In accordance with the United Nations Protocol of 2000 to Prevent, Suppress and Punish Trafficking in Persons, human trafficking is defined as:

- (a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harboring 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 labor or services, slavery or practices similar to slavery, servitude or the removal of organs;
- (b) “The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;”
(Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime 2000, Article 3)

This definition was the basis through the studies on human trafficking have evolved at the international level from the beginning of the century. However, the purposes of human trafficking and the phenomenon itself undergoes an on-going process of changes, challenging the system for the protection of the victims.

In fact, estimates show that victims of human trafficking are growing year by year, and the means used by traffickers are developing and becoming more “specialized” in order to bury the victims of trafficking in the society. Apart from this, migration routes are

constantly changing and the European Union (EU), specifically in Italy, yearly welcomes hundreds of victims, of various nationalities, mainly from Sub-Saharan Africa, with a recent growth in the South Asian.

In this context, the European Union, and in a big extent the Italian territory has become the key pillar for the entrance of a huge quantity of migrants who ask for asylum. From the *migration crisis of 2014* Italy, and in general all the European Union, has welcomed hundreds of thousands of asylum seekers, up till 2017, when the number drastically decreased, mainly for the cooperation between Italy and Libya, that blocked migration flows (Marchetti *et al.* 2020). Similarly, during the SARS-CoV-2, sea arrivals stayed low, probably due to the restrictions imposed by Italian government at the frontiers; however, from the beginning of 2022, we are facing a new wave of arrivals, mainly from south Asia and north Africa.

Moreover, since the mentioned migration crisis, the system of human trafficking is growingly linked to the system of European International Protection. The high number of sea arrivals of people who asked for international protection in the last few years, has seen a huge increase in victims of human trafficking. The rise in number of trafficked victims asking for asylum could be connected to the closure of any legal solution to the entrance of migrants in Europe and Italy. The difficulty encountered by them has obliged migrants to resort to other solutions, which in this case is the concrete “support” of smuggler and the appeal to traffickers in order to arrive on the European soil. Similarly, migrants have chosen the alternative to use the asylum-seeking channel as a strategy to be “protected” on the territory. Also, the system of international protection, specifically the Italian one, contains some flaws which permits victims of human trafficking to pass unperceived, and this is of great help also for the criminal organizations. More, the inadequacy of the system to cope with vulnerabilities and the obstacles in terms of legal and social procedures, is exacerbating the system of vulnerability, increasing the possibility for migrants, mainly women, not only to fall into trafficking and exploitative situations, but also to choose trafficking as the only viable solution.

Moreover, human trafficking is, as we will discuss, gender-based, that along with other traits, carries vulnerabilities, and increases the chance of human trafficking; women are the main victims of trafficking, whether in their country of origin, during their travel, or

at the arrival; indeed, recent statistics show that women are well over the half of victims, 53 of women and the 22 percent of women underage in 2018 (UNODC 2020), the majority for the purpose of sexual exploitation. A worrying statistic that is based on the idea that women themselves suffer from a higher degree of vulnerability than men. However, as it will be showed, not all women are just victims, and the complexity of the issues around which human trafficking evolves, demonstrate the necessity of in-depth studies over the argument. In this sense, gender related studies worry on the challenges that the system of trafficking is based on; women sometimes choose to enter the world of trafficking, as a better solution to leave their country of origin, to make easier and faster money, or any other reason.

Main objective of the research

The main objective of this thesis is so, to show the link of the gender dimension to human trafficking and its present interconnection to the system of international protection, with a specific focus on the Italian case. The work shows the phenomenon of human trafficking, the system of vulnerability that gravitates around this, encompassing mostly the gender dimension. The objective will be to clarify the change in the phenomenon of migrant victims of human trafficking, and how the gender dimension strongly impacted the statistics over the trafficking in human beings. Additionally, will be presented the constant change in the system of international protection and how human trafficking and the system of international protection are interlinked and function together. More, how the system of international protection is coping with the issue. The thesis will focus particularly on the Italian legal and policy framework, but giving an overview of the international, and the European (included the European Union) legislation. This in order to, lastly, showing the strengths and the weaknesses of this system, when it comes into practice.

The research tries to address the following research questions:

- How, changes in the phenomenon of human trafficking, have an impact on the system of international protection?
- Which are the vulnerabilities of the system, and what are the possible solutions?

Those two aspects may be defined as complementary; indeed, for one side, the system of

international protection is welcoming more asylum seekers, and so more victims of human trafficking, and this is putting the system under a great pressure; on the other hand, the system already enclose some inadequacies, and is not ready to face the growing number of victims; for this, the aim is exposing and considering some practices and solutions to ameliorate the apparatus of international protection.

Apart from the analysis of relevant literature, the present work is the result some reflections based on personal experience as a cultural mediator in a Centro di Prima Accoglienza (CAS), in the Region of Veneto, which started in 2020; moreover, the relevance of the argumentation, due to the general increase of the migration flows, as said, and so the increase of the victims of human trafficking in the system of international protection, is a profitable context for this research. Considering, indeed, the great complexity of this arguments, *in primis* for what concern identification of victims, as well as offering support and protection, the research is fundamental to tackle the issues with the aim to improve the system. More, even if Italy presents a vast panorama for what concern the policy and legal framework, most of time it clashes with the operational system when it come into practice, unprepared to cope with the large number of victims of trafficking “landing” on Italian soil in search for protection.

Personal experience, combined with the great relevance of the argument in the context of migration and social issues is the ground around which this thesis evolves.

Further, the nowadays literature over the legal and policy framework for the international protection of the victims of human trafficking, has an increased relevance in the European and Italian academic context, as well as the social literature; more, the relevance of the gender-based approaches in the migration context, is a new field in the studies over migration, particularly for what concerns the system that produces vulnerabilities in context of international protection.

The theoretical approach of this work is made by desk research and the analysis of legal documents and reports. Articles and documents used for this work are updated, even though is sometimes problematic to keep up with the changes in phenomenon. Mainly, for the study of the phenomenon of human trafficking, the focus has been on the developing of data by the *United Nations Office on Drugs and Crime*, regarding trafficking in human beings, and argumentative studies over the issues of gender in

migration, and specifically connected to human trafficking; also, in order to map the legal and policy framework at the International, the European, the European Union and the Italian level, a great focus has been put on norms and policies and their developments through time, by careful examination over vulnerability of victims, international protection, and the gender-based approach. This choice, in such a way as to find response in the operational apparatus of the international protection system, through the personal experience and the literature over the argument.

Also, utilizing updated academic literature and administrative guidelines on the subject of human trafficking and international protection, among numerous valid alternatives, permits to develop and on-time argumentation over the issue; more, the material identified, are today relevant in a gender-based perspective and in the vulnerabilities of the system for international protection.

Outline of the thesis

The thesis is structured in 3 main paragraphs. The first is presenting the phenomenon of trafficking in general, its changes in terms of numbers and categories from the migration crisis, to nowadays, focusing mainly on the European human trafficking, and Italian trafficking as countries of destination for victims. Then, will be presented an overview on the victims of human trafficking who ask for the international protection, making assumption over the reasons that brought to this sharp increase in the request for asylum; Finally, will be presented the gender dimension in human trafficking and, in particular, the situation of women who are victims in the system of international protection. The study will remark the vulnerability connected to gender, but also the conscious choice of some women to enter the world of trafficking, as the only solution to emigrate from their country of origin.

The second chapter will focus on the legal and policy framework at the international, the European, the European Union, and the Italian level; Mainly, with a focus on the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*, and the notion of vulnerability and the irrelevance of consent. Then the *Warsaw Convention* and its human-rights approach; continuing with the vast panorama

of Directives and Programs in the European Union legal and Policy Framework; Concluding with the Italian apparatus, with the great relevance of the *Article 18 of the Consolidated Act on Immigration* (D.lgs 268/1998) and its implementation, and the 2017 UNHCR *Referral Mechanism for the cooperation between the anti-trafficking system and the asylum system*, for the recognition and protection of victims. Great attention will be put on the gender issues connected to human trafficking.

The last chapter will be focused mainly on my personal experience, almost triennial as an operator and cultural mediator in a CAS, focusing on the system “in-field”. The main objective is to present the strength of the system, but also its weaknesses and the context on which the exploitation and human trafficking develop in the Italian asylum apparatus. Firstly, the chapter will deal with the specific approaches for the protection of the victims on the Italian soil, with the limits of the system, calling for the approaches that keep in mind the vulnerabilities of subjects; this in order to demonstrate that approaching to migrants just defying their vulnerability has some constraints, also in what concern the *Referral Mechanism* cited above. Finally, a set of actions needed at the operational level will be presented, taking into account an ideal situation; the Italian system of asylum in cooperation with anti-trafficking present some flaws, mainly at the operational level. The idea is to defy, with an internal view and a vast bibliography, the *modus operandi* of Italian entities that works with asylum seekers and victims of human trafficking, determining their ability to effectively cope with victims of trafficking to grant their rights, and giving them protection and justice.

2. The Phenomenon of Human Trafficking, the So-called “Refugee Crisis”, and its Gender Dimension

The first part of this study will be focused on the phenomenon of human trafficking in Europe, in particular in Italy, with special attention to the period starting with the so-called *migration or refugee crisis*, in 2014, up to nowadays. Subsequently, little referring will be on the outcomes of the SARS-CoV-2 pandemic referred to the arrivals through the Mediterranean routes. The aim is to show the development of the phenomenon and the changes in terms of the nationalities and gender, in the overall composition of migrants involved in trafficking. The emphasis will also be on “how” trafficked persons enter in the European soil, with a particular spotlight on the shift from hidden trafficking to a more “broad daylight” situation, in which trafficked persons enter in Europe asking for international protection.

This first chapter, as a whole, aims to explore the migration flow of human trafficking in Europe, as countries of destination, with a particular attention to the Italian context; indeed, Italy is one of the main countries of arrival, along with Spain and Greece, of irregular migration in Europe, as well as the country of destination of human beings trafficked for the reason of sexual exploitation and forced labor.

The purpose is to highlight “if” and subsequently “how” the phenomenon of human trafficking in Europe has changed, and on a final instance, the aim is to explain “why” trafficked persons choose to enter the system of asylum instead of remaining shadowed on the Italian soil. In fact, growing number of studies, for example the 2022 report on “trafficking in Persons” show that the system of international protection has recently been welcomed a growing number of trafficked people, and people asking for asylum

constitute the majority of victims¹; specific attention will be on the recent constrictions of legislative framework regarding legal migration, and the disruptive output of those laws, which exponentially increased recourse to the asylum system, in Europe and Italy: in the first place because more people try to enter Europe through the expedient of the asylum application, since there are no other legal ways, generally increasing the vulnerability of migrants; and in second instance because criminal organization use this mean in such a way as to pass the victims unnoticed.

Finally, the aim is to point out the gender dimension of the trafficking phenomenon; generally, data show that women are the largest part of the victims of traffic, corresponding to almost 50 percent of all trafficked victims; those are trafficked for the purpose of sexual exploitation in the majority of circumstances. Records on trafficking women show an exponential increase in women asking to enter the apparatus European asylum and requesting international protection for being victims of human trafficking.

2.1 A general overview on human trafficking and its evolution through the years

Even though today more than 90 percent of countries criminalize trafficking in all forms in accordance with the *United Nations Protocol of Trafficking in Persons of 2000*², since the so-called *migration crisis* of 2015, European countries, have reported a sharp increase in the number of trafficked people. The Global Report on Trafficking in Persons, of 2018 detected thousands of victims worldwide³. Data shows that the numbers of victims have tripled since 2003 (UNODC 2020), mainly due to economic needs (51%)⁴.

Approximately, in 2016, the total number of detected victims reported by the UNODC was slightly above 25000, with more than 250 victims per country, on average (UNODC

¹ The full report is available at the following link: <https://it.usembassy.gov/it/rapporto-2022-tratta-esseri-umani/>. (Last accessed on January 24th 2022)

² Nations that are party to the protocol as of 15th September 2021 are 178.

³ Data from 142 countries has been collected, those englobing 94% of the world's population (UNODC, Global Report on Trafficking in Persons, 2018)

⁴ Other reasons were pointed to be dysfunctional families (20%), intimate partners as traffickers (13%); as well as mental, behavioral, or neurological disorder, and any other physical disability of victims. Moreover, reasons that exacerbate vulnerability of individuals are irregular immigration status, limited or no education, lack of knowledge in the legal framework at the society of arrival or scarce known of the foreign language in the country of arrival. In court studies, various risk factors may be detected in the same case.

2018). Most victims were from East Asia, followed by sub-Saharan Africa, South Asia, Europe and Central Asia, North Africa, and the Middle East, and, ultimately, the Americas.

In this chapter, the emphasis will be on the changes in the phenomenon of trafficking in persons from 2015 to the post-SARS-CoV-2 pandemic in European countries, the European Union, and, specifically in Italy. As it is expected, wealthier countries, and in this case Europe, welcomes thousands of victims; indeed, those areas more likely to be the destination countries for migrants coming from developing countries who search for better economic conditions or more safety, rather than being countries of origin by migrants.

Generally, based on data from the 2020 Global Report, global flows of trafficking were 534, slightly increasing from the 2018 UNODC Report; anyway, due to the illegal nature of trafficking in persons which makes it harder for the researchers to detect traffickers' routes, the real number is likely to be much higher than estimates. Also, in line with data, many times victims are trafficked within the same subregion, without crossing countries' borders, being even more difficult to be detected. In fact, figures show that trafficking within the same geographical area, (also defined local) made up slightly more than 70 percent of the total trades; those being highly based on flows from rural or small towns, to large cities or more prosperous areas (32 percent); instead, trafficked persons who are intercepted before leaving the countries of origin made up 17 percent of the total; finally, trafficking across borders covers the smallest percentage being 13 percent of the total (UNODC 2020, 57).

To go deeper into the phenomenon, in the years 2017 and 2018, countries of Western and Southern Europe detected victims of 125 different citizenships, demonstrating that, even if percentages of human trafficking are not the highest, European countries are destination for trafficked victims from a wide range of origins (UNODC 2020). Another important data is that victims from East Asia and Sub-Saharan Africa were detected in almost every region of the world (UNODC 2020).

Since the onset of studies relative to human trafficking, it has been showed that main targets of traffickers⁵ are people in precarious socio-economic conditions or in situations of persecution. Figures estimates that in Europe, irregular migrants, in precarious socio-economic conditions, which do not have VISAS to work, or to stay in one country, are highly vulnerable and more likely to become trafficking victims: threats on their behalf, which result in fear of being deported, function as powerful push factors to become victims of racket. Data shows that 65 percent of detected victims in Western and Southern Europe are migrants, while in the Middle the percentage is around 60 percent, followed by East Asia and the Pacific (55 percent), Central and South-East Europe (50 percent), and North America (25 percent) (UNODC 2020).

As a matter of facts, the practice of trafficking is drawn upon the idea that economic factors, and therefore the deprivation that derives from lack of financial stability, is the engine around which this practice develops. Consequently, data shows that areas of conflict are easier to target for perpetrators, whether during, or in a post-war environment; indeed, the political, economic, and social stability which derives from governance instability, namely absence of law, high criminal activity, and lack of functional institutions, offer the conditions to take advantage of whoever in a situation of deprivation⁶. Also, higher unemployment means, undoubtedly, higher risks of trafficking in that area. However, migrants, all the more women, often find themselves accepting and resorting to smugglers or traffickers to move to the European countries, as there is, as mentioned above, no legal mean for entering the European nations.

Furthermore, people escaping conflicts can be more easily deceived into travel arrangements, accepting deceitful job offers in neighboring countries, or marriage

⁵ The present chapter can not extensively explain means and tools used by traffickers for the exploitation; however, in this context it is important to clarify that traffickers can act on their own, or in association with other traffickers, but also in organized criminal groups; However, a higher number of court cases analyzed by UNODC, reported single traffickers and not organized criminal groups (UNODC, Global Report on Trafficking in Persons, 2020). Most of the offenders, over 60 percent of the total, are male and adult, meanwhile, women traffickers are mostly active in the recruitment part of trafficking, which could (help to) explain the difference in the sex profile of the victims. Moreover, networks of smugglers and traffickers construct a huge and branched-chain network all over the world.

⁶ According to the United Nations Trafficking in Persons Protocol, “abuse of a position of vulnerability” qualifies as the combination of means through which persons can be subjected to a range of particular actions such as recruitment, transportation, and harboring, for purposes of exploitation.

proposals that are, in fact, exploitative situations. Further, clearly, situations of conflict in many countries tend to have a negative impact on the livelihood of people living in those areas, even when they are not directly involved in warfare, exacerbating situations of social, economic and governance distress. Traffickers may target communities that are particularly vulnerable because of forced displacement, which lack access to job opportunities, and dignified social conditions, or suffer from discrimination, by their communities and/or families. In the same, people, suffering from vulnerabilities in countries of origin do not always lack their agency, but instead they often decide to migrate under trafficking conditions, as it turns out to be the best alternative to enter the European soil.

The same can be said for situations of economic deprivation in countries of arrival, as research demonstrates that this is used as the main ground from traffickers to retrieve persons and is the driving factor around which perpetrators convince migrants to continue in the exploitative situation, relying on the debt bondage⁷; indeed, migrants in situation of distress sometime choose to rely on the alternatives of trafficking and exploitations, as these are valid alternatives for rapid gain, especially if those migrants are irregular on the territory⁸. In the same pathway, asylum seekers, who technically could have access to regular jobs, in many cases see irregular jobs (implying trafficking and exploitation, easier to find and more lucrative) as a valid alternative to less remunerative occupation⁹.

⁷ Reports, since the 2015, indicate that economic deprivation is the main instrument used by traffickers to persuade victims to fall into trafficking. Only after the promise of increasing the well-being of victims, traffickers' resort to construction of the debt bondage. This consists in a debt contracted by the victims, as the cost of travel, living expenses, medication, fines, document expenses, etc. The debt gives to traffickers the power to control victims, and is used as a strategy to create a system of reward and penalties, aiming to increase in that way, the obligation contracted by the victim, enhancing the power of offenders' control; traffickers put in place the bondage through some strategies (e.g overload of victim's schedule), in a way that trafficked persons are not able to stand to daily targets, increasing the amount of their debt

⁸ Court cases report economic needs as the driving factor in 52 percent of cases regarding female victims and 50 percent in cases regarding male victims. (UNODC, Global Report on Trafficking in Persons, 2020 p.70)

⁹ Percentage outlines that about 90 percent of victims are working in the private sector, and one-quarter is used in the sexual sector with the remaining in agriculture, construction, domestic work, or manufacturing, just to cite some. Instead, about 10 percent is engaged in the public sector, mainly for the purpose of forced labor. Unfortunately, forced marriage is one of the most widespread, yet hidden forms of human trafficking; many women, also underage, are forced into marriage by relatives or extended family members, without the possibility to choose their future. However, estimates are highly vague in nature, as the clandestine nature of the trafficking industry makes it impossible to move beyond general projections.

In the 2020 Global Report on Trafficking in Persons¹⁰, particular focus has been put on the COVID-19 pandemic, which has increased the vulnerability of trafficking¹¹.

Said that, the SARS-CoV-2 Pandemic and the post-SARS-CoV-2 situation exacerbated the already fragile scenario of many developing countries and the world as a whole; beyond the GDP alone, in fact, all the macroeconomic determinants, as income levels and unemployment, in the countries of origins of victims, seemed to influence the amount of trafficking flows from third-world countries to the wealthier; the recession has functioned as a factor of social and economic exclusion of people from a dignified economic well-being: people at the marginal position in the society have been even more affected, and high unemployment rates result in a higher risk of trafficking (UNODC 2020, 77).

All the same, the shadowed world of human trafficking, built upon the system of vulnerability, disempowerment, and social exclusion, should be ridden as a multifaced context, constructed in a complex apparatus, and constantly evolving.

2.2 Trafficking flows in European countries and in Italy

Going down to the specific trafficking flows to Europe and the European Union, the first Global Report of the United Nations Office on Drugs and Crime (UNODC), surely is the starting point for studies on trafficking, and it reflect some of the percentages of the victims in human trafficking between the years 2003 and 2007. The top nationality among European trafficked victims, were women coming from Romania. In the same Report, Nigerian women already appeared as one of the countries of origin for trafficked persons (Nicodemi 2020)¹².

Unfortunately, numbers of Nigerian women had an abrupt surge from 2014, reaching the flashover in 2016 with the so-called migration crisis, and having a small inflation in 2018.

¹⁰ The Report covered 148 countries globally, number that encompass 95 percent of the global population.

¹¹ Risk factors for the increase in trafficking include, but are not limited to, for example, extreme poverty, and lack of social or financial support.

¹² See: UNODC, Global Report on trafficking, 2009 at www.unodc.org/documents/Global_Report_on_TIP.pdf. (Last accessed on 23rd January 2023)

Taking a step forward, In the European Union, data show that between 2015 and 2016, registered cases of human trafficking were 20.532.¹³ Among these, 68 percent were women and 23 percent underage; 44 percent of the total were citizen of the European Union, while the rest pertained to countries like Nigeria, Albania, Vietnam, China and Eritrea. The vast majority were adult women, primary used for sexual exploitation¹⁴.

Over the years from 2017, victims and statistics seemed to be stable, with no significative change in percentage, apart for an increase in transsexual (male to female) victims, mainly coming from Brazil.

Consistent with other years, the UNODC in the last Global Report of 2020, demonstrates that Central and South-Eastern Europe feature with mostly adult women as detected victims (53 percent), and along with young women (22 percent), made up the vast majority of the total; data have not significantly changed over the years. As expected, the vast majority, 64 percent, is trafficked for sexual exploitation, and trafficking for forced labor constituted 18 percent of the total. The remaining 18 percent is trafficked for other purposes; following the other sub-region, offenders are mainly adult men, the large majority nationals of the country of conviction, and trafficking for sexual exploitation builds the largest percentage. Victims from Central and South-Eastern Europe are mostly trafficked to Western and Southern Europe, while the sub-region receives victims mainly from East Asia and the Pacific (24 percent).

Instead, due to the subregional division, with Eastern Europe caught together with Central Asia¹⁵ is difficult to estimate European flows of victims solely. However, data report that almost every victim is trafficked from (and to) the same subregion, with an overwhelming 97 percent. Among total victims, and in disagreement with the rest of Europe, the largest part is trafficked for the purpose of forced labor (66 percent), while just above one quarter is trafficked for the purpose of sexual exploitation and 5 percent has to deal with other forms of exploitation. Another discrepancy is data regarding prosecution and conviction in the area, which involves mainly women in the convicted

¹³ Of course, as can be imagined, the total amount of trafficked human beings in the EU was higher, due to the illegal nature of the practice.

¹⁴ By contrast, among male victims, the major part is lured for labor exploitation.

¹⁵ See: UNODC Global on Trafficking 2020, at https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf. (Last accessed on 23rd January 2023)

position: the percentage of women prosecuted stands around 76 percent, while convictions constitute 80 percent of the total. Nevertheless, according to other parts of Europe, victims are mostly women, even though with a smaller deviation (46 percent); those are followed by adult men (38 percent), girls underage (11 percent), and boys underage (5 percent).

For what concern statistics of victims in Western and Southern Europe, where Italian and the main Mediterranean routes are located, women (37 percent) mainly suffer trafficking for sexual exploitation, even though forced labor and other forms of exploitation (such as begging and criminal activities) have increased from the so-called migration crisis. Foreigners are the most detected victims¹⁶, from Sub-Saharan Africa for the most part, while convicted are mainly men, coming from countries of destination in more than one-quarter of analyzed cases; moreover, foreigners made up an essential share of convictions.¹⁷

Specifically, 44 percent of total victims are trafficked for sexual exploitation, wherein 74 percent is made up of women, and 16 of girls underage; 32 percent are trafficked for the purpose of forced labor, in which 26 percent are women, and 6 percent girls; 21 percent comprises instead victims for other forms of exploitation, on the rise from previous years (UNODC 2020, 133-134). As said, victims are mainly from Sub-Saharan Africa (20 percent).

Regarding the Italian statistics, from 2017 the Informatic System for the Collection of Information on Trafficking (SIRIT, in Italian), which was developed in 2010, reported that in Italy the percentage of Nigerian victims of trafficking, occupied a place on relevance between 2017 and 2019. The same report shows that the huge majority of victims were female, amounting to over 2000 in those 3 years, while male was “just” 100, on average. An overwhelming part of victims, almost the totality of cases, were used in the sex industry.¹⁸

¹⁶ Above all, victims are for the most part foreigner, either from the same subregion (2 percent) or from the outside. Instead, domestic victims made up only 35 percent of the total.

¹⁷ National offenders constitute 36 percent of total convictions, while 5 percent are from the same sub-region. The remaining part is composed of foreigners from any other subregion.

¹⁸ For more information: <https://www.osservatoriointerventitratta.it/>. (Last accessed on 23rd January 2023)

Instead, from a more recent data, in 2019 Europe has seen an increase of victims from Cotê d’Avoire, mainly women, employed for sexual exploitation, and in some cases for labor exploitation. Other nationalities which started to appear in statistics are Bengalese and Pakistani victims, which could also be proven by the most recent arrivals by land, from the Trieste frontier. Nonetheless, the Italian government has an important percentage of undocumented migrants working the agri-food sector, in exploitative situations; the percentage are blurred due to the irregular, situation of migrants but the pandemic has surely exacerbated the situation of vulnerability of those employed in the agricultural sector. Romanians are one the largest groups of farmworkers in Italy, according to the CREA report of 2019. In some areas, Romanians have ‘replaced’ migrants from Africa because, firstly their low wages, and secondly as Romanians seem a labor force less-empowered (Palumbo 2020); also, the the EU migrant workers can easily move across Europe, producing what is called a “circular migration” in which those migrants rely on the temporary and precarious remains and are more exposed to irregular work and exploitation (Palumbo 2023).

By pulling the strings, one might say that trafficking and exploitation routes are well formed between Europe and Africa, mainly destined for forced prostitution; Projections of the International Organization for the Migrations (OIM) support that 80 percent of the migrant women suffer (or suffered) from trafficking, mainly during the registered migration crisis and in the pre-covid situation.

2.3 Victims of human trafficking seeking asylum: reasons for the recent growth

Halfway through the migration crisis, the European Commission in a document of 30th October 2015, pointed out how the just-said crisis of those years have been used by criminal organizations in order to enhance the vulnerabilities of the subjects, particularly women and children¹⁹, or instead tried to intercept more vulnerable groups in order to permit the entrance in European territories with false promises. In the same report of 2015,

¹⁹ The full Report of the European Commission is available at this link, on its Italian version: <http://eur-lex.europa.eu/legalcontent/IT/TXT/HTML/?uri=CELEX:52015DC0510&from=IT>. (Last accessed on 23rd January 2023)

the European Commission (EC) pointed out some guidelines and priority actions according to the European Agenda on migration.

The EC also remarked the hypothesis that the constant growth of irregular women migration should indicate the possibility that the Mediterranean Route, apart from being a migration route, has become an important passage for human trafficking. However, as Serughetti pointed out, after the accord between Italy and Libya, migration fluxes of women, whether regular or not, sharply decreased; this could indicate that the situation of women has become harsher in Libya. Also, it stands the possibility that the situation in Libya is chilling, and migrants, especially women but not only, suffered the worst violence, from psychological and sexual abuse to torture (Serughetti 2018). In the same pathway, recent data demonstrates that Libyan trafficking in human beings is predominant, and the channels used by criminal organizations aiding and abetting irregular migration, have been used in Europe in order to introduce people destined, since the beginning of their journey or during the trip, to be involved in some kind of exploitation.

As showed in the 2020 Report *Lotta alla tratta di persone e diritti umani. Un'analisi del sistema degli interventi a sostegno delle vittime alla luce dei fenomeni di grave sfruttamento in Italia* by Paola Degani, victims of trafficking in Italy that possessed no title to stay on the territory were slight below the 50 percent in 2019, falling to less than one quarter in 2020. Instead, we see a huge growth on the asylum seekers as victims of trafficking, passing from 29.8 percent in 2017 to over 40 percent in the subsequent years. These statistics show on a side that there is only a slight connection between the possession of a proper documentation in order to reduce vulnerability of the subjects and the risk to fall into trafficking.

From data collected in the project “Mechanism for coordination of trafficked victims”²⁰ it emerges that in 2018 well over 5000 people have been notified from Italian

²⁰ The project called Meccanismi di Coordinamento per le Vittime di Tratta is available at: <https://www.unhcr.org/it/wp-content/uploads/sites/97/2021/01/Linee-Guida-per-le-Commissioni-Territoriali-identificazione-vittime-di-tratta.pdf>. (Last accessed on 23rd January 2023). The project was developed in 2015 and has the aim to define some mechanism for the coordination between the system of protection for victims of human trafficking, and the apparatus of international protection.

Territorial Commissions for the Recognition of International Protection²¹ as possible victims of human trafficking.

Among those, over 90 percent (94,44 percent) were possible victims of trafficking for the purpose of sexual exploitation, 4,96 percent would be used for labor exploitation and the 0,6 percent for other purposes. The vast majority were Nigerian, with a percentage that stands around the 85 percent, but in line with current developments, the number of potential victims from other countries, is increasing. In particular, in descending order of percentage, Côte d'Ivoire, Bangladesh, Cameroon, Gambia, Senegal, Ghana, Guinea, Mali, Somalia, and Pakistan (Nicodemi 2020, 720).

The growth of this phenomenon on the Italian soil, but at large, in whole Europe, in the last few years could be linked to many reasons, seen the complexity of this argument, and the many facets of the context in which trafficking develops.

One of those, pointed out by the European Legal Framework, particularly in the Common European Asylum System (CEAS), is the special guarantees, the so-called *special needs*, for people who suffer (or have suffered) from a high rate of vulnerability²².

For that reason, the recent establishment of specialized agencies dedicated to preventing and combating trafficking in persons, as well as assisting victims, which can facilitate dialogue between different areas of expertise (from police forces to social assistance), it is probably one cause for the effective promotion of coordinated responses for the recognition of a situation of vulnerability. A joint effort, of the competent authorities in the European countries, the multidisciplinary investigation, and specific training, as well as prosecution units, can bring to prompt identification of victims, responsive protection, and readdressing of trafficked persons; also, a multidisciplinary approach results in targeting the different forms of this crime, based on a victim-centered, child and gender-sensitive, and human rights-based approach. Finally, along with the public sector, private agencies, and organizations, namely, in Italy the so-called *Centri di*

²¹ The Territorial Commission a body with the task of evaluating and deciding on the application for international protection, after hearing the applicant. There are currently 20 of them nationwide.

²² Even though the concept of vulnerability lacks a clear definition, and instead is just defined by some characteristics that could cause or contribute to the situation of vulnerability.

*Accoglienza Straordinari (CAS)*²³, *Sistema di Accoglienza e Integrazione (SAI)*²⁴, or more general *ONGs*, and other types of associations, play a central role in the fight against human trafficking; combination with both of them is the key point to tackle the issue and addressing viable solution for the challenge of trafficking in persons (UNODC 2020, 18).

Said that, according to percentage of victims found entitled to receive international protection, the capacity in pre-identification of victims from the Territorial Commission has increased²⁵. Moreover, the rise of alerts for alleged victims of trafficking, demonstrates that competent authorities for the request of international protection are acquiring more and more knowledge of the phenomenon in all its facets and an increasingly greater ability to intercept the route indicators as indicated in the Guidelines, but also implementing policies and running joint work forces among the different actors involved.

Also, apart from the system of *referral*²⁶, the European and in specific the Italian apparatus for conviction has done more than one step forward, even in what concerns studies in this sense, and some educational interventions for the empowerment and consciousness, for victims on one hand, and for asylum framework on the other²⁷.

It is not clear, however, if the growth in trafficked persons asking for protection depends on the increased ability of the officers at the frontiers, and the professionals in the asylum system, to identify the victims or, on the other hand, if this increase was due to a boost in the total number of trafficked persons²⁸.

²³ First Reception Centers on the Italian soil

²⁴ Second Reception Centers for the Integration on the Italian soil. SAI substituted SIPROIMI and SPRAR the Security Decree of 2018.

²⁵ A statement that can be subjected to debate.

²⁶ Extensively explained in the second chapter.

²⁷ Some examples are the recommendation for the EU institutions and Member States, that concentrate the efforts on end the agricultural exploitation in the territories of the European Union. Recommendations comprehend developing more gendered studies and tools in order to collect data; revise and monitor activities; promote actions and safety entry channels to Europe etc. (L. Palumbo, A. Scirba, 2018, p.71)

²⁸ Yet, the increase in the number of ones found guilty could be traced in the growing effort in ameliorating legislation over trafficking in persons, by creating new laws and adapting old ones. Some examples in the legal framework could be the policy implications on traffickers and vessels, and improvements in protection of trafficked victims who are irregular on the territory (UNODC, Global Report on Trafficking in Persons, 2018). Moreover, data from the 2018 Global Report, shows that a high number of trafficked victims from those sub-regions, for example, Sub-Saharan Africa, where detections and convictions are low, are more likely to be found in other sub-regions, where the percentage is higher, for example Europe. Nevertheless, worldwide impunity is extremely high, as many victims remain undetected, and on top of that, regions with the largest impunity lack capacity to record and share data on trafficking in persons (UNODC, 2018).

The first reason could be that many asylum seekers waited for many years some developments over their legal procedure, remaining imprisoned in reception centers (CAS). Those structures are unable to facilitate migrants in their social and work inclusion, and this could lead them to resort to other options, as for example fall into the trafficking system. In fact, the delay of legal procedures to obtain the international protection is so protracted in time that an increase in social and legal vulnerability is unavoidable; in the same way, the situation level up the exploitative working conditions that asylum seekers are willing to accept. Additionally, inefficiency of hosting centers to protect asylum seekers, often placed in rural areas, outside of cities, and isolated²⁹, enhance the possibility of being lured. In this sense, some scholars also refer to the increase of asylum seekers and refugees in number in the agri-food sector, as “refugeesation of the agricultural workforce” (Dines and Rigo, 2015)³⁰; This due to the inadequacies of the protection system, and the lack of implementation of some procedures, which delay (or impede) the social and working inclusion of migrants, smoothing the possibility to enter an exploitative situation (Palumbo 2020).

The third reason for the increase in victims asking for the asylum could derive not from the trafficked person itself, but instead from the dealer, who obliges the person to ask for protection. The integration in a CAS is definitely the best option for some traffickers, because it facilitates the exploitation of victims in the country of arrival. In fact, in many cases criminal organizations push for this option, being the only one that could prevent victims to be irregular on European territory, providing the necessary documentation to go unnoticed, and facilitate working conditions.

Finally, it might be said that one of the main factors accountable for the recent growth in irregular migrants who ask for protection could be the changeover in the legal framework adopted by European countries in terms of regular migration, as explained before. Indeed, the main reason for the recent increase in numbers of ones asking for international protection could be a direct response of the increased limitation in possibilities for regular migrants to reach the European soil. In fact, restrict entrance

²⁹ The so-called phenomenon of *ghettoization*.

³⁰ In Palumbo 2020

opportunities almost oblige persons to research other routes, literally speaking³¹. Those are illegal, and dangerous, and in many cases increase vulnerability of the victims, resulting in a higher possibility to be trafficked and exploited. Migrants, mainly in economic needs, owing to the lack of safe legal entry channels, choose the entrance through illegal Mediterranean routes, asking for international protection, and falling into trafficking networks, if not already into it.

The tendency to shut down legal entrance in Europe developed in the aftermath of the migration crisis, disproportionately increased victims of trafficking in the context of asylum seekers, and the criminal activities associated with it.³²

One case in point for what concern restrictive measures adopted by Italian government, is the Security Decree (so-called Salvini Decree) of the 04/10/2018 n°113, which unduly increased the number of irregular migrants on the Italian soil³³. Further example could be the *hotspot approach* that confines a huge number of irregular migrants on the territories of Lampedusa, Trapani, Pozzallo, Taranto, and Messina for what concern Italy, or Lesbo, Samo, Chio, Lero, and Kos for Greece, denying the accelerated procedures to one with special needs. Further some provisions, as the *Third Country of Origin and Transit*, contribute to foster the access of migrants to the European territories and left them to the *mercede* of criminal organizations.

It is therefore clear that today, the vast majority of migrants enters Europe via Mediterranean routes, asking for international protection; among those, many cases surged as alleged situations of human traffic. So, from the new statistics, it is clear the interconnection between the system of asylum and victims of human traffic; indeed, latest studies on the number of convictions between 2017 and 2019, demonstrate that the largest parts of victims that entered in specific assistance programs are those migrated between

³¹ For irregular migrants who choose to travel using the expedient of smuggling or trafficking, the issue of consent is a central aspect of the choice made by them. In fact economic migrants, which are not eligible of international protection and should be deported to their home country, supposedly choose to travel to improve familiar and/or their conditions. However, issue of the consent and to what extent those migrants are aware of the challenges they will face, lacks of accurate studies.

³² Criminal activities sharply growth: not just human trafficking, but also smuggling. Indeed, in line with recent studies, practices of smuggling and human trafficking do not present such clear boundaries, but on the contrary, they are interlaced.

³³ Link of the official Decree: <https://www.gazzettaufficiale.it/eli/gu/2018/10/04/231/sg/pdf> (Last accessed on 23rd January 2023)

2015 and 2017, which have been echoed by the restrictive measures of the post-migration crisis.

In fact, if on one side, the legislation has become stricter for the entrance in the European territory, on the other hand, the number of evaluation and process for presumed victims and specific projects in this sense, are constantly increasing with a taking over of many cases by territorial institutions or the EU Territorial Commissions.

On a final instance, the conversion to a more restrictive measures needs to be reconsidered, applying new procedures for the inclusion of irregular migrants on the Italian and, at large, the European framework. Similarly, the International and territorial cooperation among institutions should be supported by a profound change.

2.4 The link between trafficking and asylum from a gender perspective

This last part will be an argumentation over the gender dimension in human trafficking, considering solely the European countries, with a focus on the Italian system for international protection.

Firstly, it is fundamental to point out that, as expected, most people entering human trafficking are females, mainly adult women, with a percentage of 46% over the total, but also underage girls, trafficked for sexual exploitation and forced marriage in most part; however, realities differ from one sub-region to the other; surely, figures from 2015 to post-pandemic steadily show that most victims detected globally are used for sexual exploitation³⁴.

Figures show that trafficking of women had a slight drop through the years, passing from 49 percent in 2016 to 46 percent in 2018, even though it still constitutes the largest percentage³⁵. Females, trafficked for the purposes of sexual exploitation constitutes the largest amount, (77 percent in 2018) even if downward compared to 2016 (83 percent of

³⁴ The sex industry is the most proliferated among trafficking networks, however, many forms of exploitation were detected, for example, rubber, forced labor, etc. (UNODC, Global Report on Trafficking in Persons, 2020)

³⁵ Another group that is a victim of trafficking is LGBTQI+ individuals, who are often forgotten in case studies but who, along with women, present higher risk-factors (including gender), in comparison to other categories.

the total)³⁶. The same can be said for girls, underage, with slightly different percentages: 72 percent for sexual exploitation, 21 percent for forced labor, and 7 percent for other reasons.

What is sure, is that the irregular migration of women, in accordance with the trend, is constantly increasing, and the same can be said for women entering the asylum system in European territories. Instead, different projections regard nationalities of migrant women, point out a more heterogenic composition of nationalities in the last few years, in contrast to the period of migration crisis. (Cirillo and Nicodemi 2022). In fact, since that crisis, women on sea arrivals were mainly Nigerian, who had the mandate, in many cases, to enter in criminal organization for prostitution. Instead, during the diminution of 2018 – 2019, data saw a sharp decrease in the arrival of Nigerian women. On the contrary, it is significant that data by the Italian National Commission, show a stable trend for what concerns requests for protection of Nigerian women, meaning that those asking for international protection are ones arrived long before the 2019, and mainly during the crisis. Those women are in the almost totality of cases victims of trafficking, and for this, used their story to get access to the protection system, referring to their past history of trafficking and abuse (Cirillo and Nicodemi 2022). Many of them suffered more than one abuse, and some, more than one situation of trafficking, in Europe or during their journey.

Those make part of the hidden statistics of victims trafficked by criminal organizations, that, along with the so-called “Dublined”, asked for asylum after been probably exploited for many years on the European land³⁷.

Instead, from the official Rapporteur of the Anti-Trafficking toll-free number, emerges that, in 2021 notified victims of human trafficking pertains to more than 50 different nationalities³⁸. Among those, stand out not only Nigerian women, but especially Pakistani

³⁶ Instead, 38 percent of people are trafficked on the ground of forced labor, 6 percent to enter the field of criminal activities, for begging (1.5 percent), and forced marriages (1 percent); organ removals, baby selling, and other purposes finalize statistics (UNODC, Global Report on Trafficking in Persons, 2020).

³⁷ A Dublined is defined as a migrant who has already been registered in one European country and who therefore cannot seek asylum in another one.

³⁸ Compare the Report of 2021 at https://www.osservatoriointerventitratta.it/wp-content/uploads/2022/03/Relazione_NV_2021_10.03.22-small.pdf (Last accessed on 23rd January 2023)

victims, along for trafficked victims from Ivory Coast, Moroccan ones, Tunisian, Bengali, Senegalese, Brazilian and Gambian.³⁹

Primarily, in fact, the system of trafficking and exploitation is based on vulnerabilities; mainly, but not only, affects people in financial distress, often poor, forming a group which is, *di per sé*, structurally disadvantaged and suffer from reduced opportunities; yet, consequently, women are “willing” to accept higher levels of exploitation, and in some circumstances certain abuses, rationally⁴⁰.

In the same way, social marginalization, and others structural disadvantages, rather increase the probability of exploitation. In this sense, a structural disadvantage could be defined as an individual, family, or socio-economic circumstance that is systematically ground for marginalization within a society or the community, and places individuals in a disadvantaged position when compared to the society at large⁴¹. The main example of structural inequality is represented by a “black migrant worker, women or being part of LGBTQ+ category”.

By definition, none of these characteristics represent by itself, a disadvantage; however, the process of social devaluation and stigmatization of these groups, is often coupled with a restricted structure of opportunities for their members, which systematically translates into a disadvantaged position within their society or community. (Vijayarasa 2015)

Thereby, the category of irregular migrants, mainly ones across border, is structurally disadvantaged, and situation of irregularity is one of main factors for the creation of vulnerability; also, in many cases, migrants fear being evicted or reported to authorities

³⁹ Moreover, in this context, it seems important to report that, also on the basis of data concerning the huge number of women, with dependent minors, arriving in the European Union, and in particular in Italy, from Ukraine due to the conflict with Russia, could be subject to the system of trafficking in human beings, since they present extremely high-risk factors.

⁴⁰ . Clearly, it is unknown the extent to which irregular migrants have the possibility to choose whether to migrate, over which conditions, or how much they are aware of the journey expecting them; also if they are conscious of the severity of using irregular documents, contracts, or whether they know what a contract meant; or, on which extent the person has decided consciously to travel, and how their parent's participation in the deal affected their judgment. Also, if they properly understood how the debt would affect them. Finally, if they properly understand the cultural disorientation and the harsh conditions of the journey. Those epistemological questions are often unanswerable, and in some sense, those are the key point that could defy migrants to choose to undertake these dangerous journeys to the unknown.

⁴¹ The structural inequality is not so well-defined and encompass broad categories of circumstances that could enhance vulnerability of the subjects.

because of their irregular status. This mainly happens in wealthy countries where traffickers usually abuse victims who have no permission to work and/or to stay in the country of exploitation; in fact, convicted usually threaten their victims with the promise to take them back to their country if they do not collaborate: the fear of being sent back discourage them to report any exploitation to authorities and seek whatever justice support, even in worst situations⁴² (UNODC 2020, 111).

Commonly, traffickers are able to facilitate the irregular migration of women and to insert them in some sort of illegal activity in order to generate income⁴³; In this situation, migrant women are preferred targets because, in some cases, they have no idea about their working status rights and are unaware of the legal support they could receive in countries of arrival.

Sometimes traffickers (in the country of arrival) take advantage of the victims, keeping their passports and other documents and/or threatening their families at home. Moreover, sometimes the traffickers have an accord with families of the victims, which are the ones who have decided to sell them. Psychological dependency is another tactic, used on migrants recently arrived, still disoriented.

From recent statistics it is clear that the victims, in this case mainly of Nigerian origin, were lured using their situation of vulnerability, by figures like the so-called *madames*, or even by people belonging to their own family⁴⁴. These women, in some cases minors at the time of their departure, and with a level of elementary schooling, were deluded of

⁴² In the European Union residence status, and the lack of it is perceived, by the migrants as the most crucial factor and it is the driving factor for labor exploitation (UNODC, Global Report on Trafficking in Persons, 2020 p.111). In fact, traffickers trap employees to themselves, linking migration status to labor conditions, for example subscribing to the emission of a specific type of passport or a particular employment contract. Moreover, victims are threatened with some sort of fee that the irregular migrant must pay back, which could comprise several ways, from payment for the documents to medical or legal assistance, or any transportation costs. In some of those cases, coercion is used until the fee is paid back (UNODC, Global Report on Trafficking in Persons, 2020 p.113).

⁴³ This mainly happens in those sectors where a large amount of workforce is needed, or which is based on periods of the production cycles (e.g agriculture); indeed, is actually common for employers use various intermediaries to find workforce; the same applies in those supply chains where manufactories took semi or final products from other companies located abroad, where labor forces work at lower wages, without proper working conditions.

⁴⁴ It is important to clarify that the epithet of “trafficker” is applied indistinctively, in most European countries, to anyone in the vast panorama of human traffic, who sells sex, even to ones who legalize working conditions for women. This, fortunately, gives some sort of social security to these victims.

the infinite possibilities they would have in the new society⁴⁵. During the journey, and in the country of arrival they realize how much the debt to be repaid is high and that, in some cases the promised work does not meet expectations⁴⁶.

For the majority of trafficked people, and mainly for women, abuses happen at every stage of the migration network, starting from the ones who sell them or help them to obtain documents, to arrive at the promises not fulfilled by relatives or convicts; from the travel conditions migrants are forced to endure, to the physical, and psychological violence, or even the possibility to be detained in some places.

However, being a woman does not necessarily create vulnerability, and as said before in regards of migrants, women sometimes are perfectly aware of the choice of being trafficked and They resort to this solution as the only choice to get away from an “uncomfortable” situation in their country of origin. And, for all the reasons mentioned a few lines up, entering the world of trafficking is the solution.

With regard to the sex industry, it foreshadows an even more complicated scenario, primarily because of the moral charge associated to the industry of sex trafficking, enormous and heavy (Agustín 2006). Many women know, before migrating, that the promised job has some kind of sexual aspect, even though the level of exploitation, the weight of emotional sphere connected to it, and the expectations are unknown and totally different from the reality. As an instance, that those will be perform a street work, in which the women need to stand in avenues for many hours, in whatever atmospheric condition, and perform the sexual performance repeatedly, even unwillingly⁴⁷ is totally omitted by traffickers; same can be said for the imposition to have no social contacts apart

⁴⁵ Another point is the ignorance of the worth of foreign money or the total impossibility to read and understand clearly the employment contract, because in a language different from the one of migrants.

⁴⁶ Of course, not all cases could be compared to those, as sometimes women are well aware of the sexual nature of work in the European country. Often, indeed women choose consciously of the risks, to depart. If the displacement succeeds and the irregular migrant manages to arrive in Europe and pass border controls, they could on one hand be “invisible” in the chosen European country struggling to be undetected, or instead, for the reasons previously mentioned women enter in the asylum system

⁴⁷ Nevertheless, it is important to point out that the majority of interviewed victims employed in the sex industry, complain about working conditions and not the sex work itself. Social operators see victims who refuse to denounce their situation as a failure. Here, critics usually conclude that workers were afraid of reprisals, but it could just as well be that those had nothing to denounce.

from their clients, or the high surveillance, and little to no liberty, at which they are subjected⁴⁸.

Usually, women forced in the sex industry are hired as domestic workers, or vice-versa, as second labor or part of the first job; however, most of times, domestic workers as first job are not free to choose whether to undertake sexual performance as well. In those cases, they were given false information about the work they will have to do in the country of arrival, which usually is domestic, and the migrant realizes the sexual nature of the job only at the destination country. In case of sexually exploited women, those are so psychologically abused that they feel forced to perform the required services even though they could be physically able to escape, and of course this complicate even more the identification of victims of the sex industry.

Just in some cases, victims do not know what the job offer is about: women choose consciously to enter in the sex trafficking and give their consensus to carry out the sexual performance. The discourse of consensus could be connected to the system of vulnerability and the gender dimension. In fact, women seem just to be the vulnerable subjects which fall into exploitative situations, just because they pertain to the *weak gender*. Women in context of migration and trafficking seem to have no possibility to choose and have the dignity.

In the same pathway, for the illegality of the practice itself, migrant women who sell sex have been neglected in studies about migration and diaspora; but instead, they are deeply studied in feminists' theories⁴⁹. Nonetheless, there are no, trustworthy data on the numbers of migrants selling sex, as statistics are no criteria of study⁵⁰. Also, studies become even more unreliable as some migrants pertain to the cycle of “migrant

⁴⁸ In some cases, however, in the sex industry, women are able to achieve a large amount of money in little time, succeeding in paying the debt bondage, and then, they can decide if they would continue in that employment.

⁴⁹ Of course, if women who sell sex disappear from migration studies, for males, transexuals, and transgender migrants, the situation is even worse, with the only difference that they do not reappear in other statics. Still, estimates report that one in every three-sex worker is transexual (Agustín, 2006).

⁵⁰ The demand for sexual services is enormous all over the world and pushes thousands of migrants to enter this circle, as falling into this industry turns possible to gain enough money to make a living out of it, and many times the income is greater than several jobs. Indeed, selling sex is lucrative, and often women do not pay rent as they live in some kind of structure provided by traffickers, in which is also safer to stay if they do not possesses working papers or health assistance.

prostitution”, those that, in order to being foreshadowed, keep moving from one place to the other, through Europe.

For what concern the legal framework connected to the gender dimension, currently, no convention, whether International, at the European or Italian level, mentions gender or sex, as the main reason for the recognition of international protection due to increased vulnerability. Feminist’s theories demonstrate how the gender dimension, and the race dimension is profoundly connected to violence and trafficking, in a way that could be defined intersectional; women are victims of violence and trafficking; being a black woman is an aggravation. The intersection of those two aspects shapes the social, and political structure of violence against migrant black women⁵¹. Also, women who suffer from violence and abuse often are poor, unemployed, and undereducated; these specificities could represent another factor of intersectionality. As said, in the European context, gender is not mentioned as one of the five main excuses for persecution⁵², however migrant women are, all along “exploited” in those defined “feminized sectors”, mainly the sexual, care and domestic work sectors⁵³.

Also, women as migrants and trafficking victims, are not just *more* vulnerable because of their gender, but also because of their past experiences, that could have increased their vulnerability. Thereby, it is true that women would be more exposed to gender violence and to fall into trafficking situations, forced marriage, domestic violence, and drop into situations of sexual abuses or forced labor.

As a matter of fact, during the migration process, the person does not migrate just for him/herself, but also for the pride of their countries, their groups, and their families, in order to generate income; further, for women, as explained by professor Enrica Rigo in the article “Genere, migrazioni e diritto” (Giovanetti and Zorzella 2020, 211) migration is not only a case of production, but also and foremost of “reproduction” not just in the

⁵¹ The image of the “woman of color” has always been sexualized, back to European invasion of Americas, or even before, with travels to African territories; the black woman has been portrayed as sensual, earthy, and oriented to the gratification of men (Crenshaw, 1991 p.1271)

⁵² Which are, namely: race, religion, nationality, membership of a particular social group and political opinion.

⁵³ (L. Palumbo, A. Sciurba, 2018) data on women migration are disaggregated, demonstrating the need to develop more gendered based studies for the identification of women victims of human trafficking, exploitation, and abuses.

mere biological sense of procreation, but also for the society on a whole, among intra-generation⁵⁴. So, it is clear that gender migration is seen as a string for the prescribed destinations to origin societies⁵⁵.

As said, apart from the ethnic category, female gender pertains to a group strongly discriminated against, even in today's societies and in the most advanced ones⁵⁶. The labor market is gendered, and in some way exclusive to one niche; women, have fewer options in the labor market, and even more in what concern entrepreneurship possibilities; based on this if we talk about migrant women, the options are almost equal to zero. The creation of niches into niches results in the development of work possibilities just in a few spheres, such as domestic work, childcare, and caregivers. The existence of niches results in a greater social closure, turning into the exclusion and control of migrant women, which produces and perpetuates inequalities and social hierarchies (Tilly 1998). However, it is important to clarify that, ethnicity has been recognized as a key factor in explaining niching, but the extent to which the gender category is connected to this concept, has currently no clear evidence (Schrover *et al* 2007). Anyhow, it is clear that ethnicity and gender niches are connected by some similarities. Firstly, both ethnic minorities (migrants in this case) and women are inserted in those workplaces which belong to the so said vacancy chain, when the workforce supply is not enough to outweigh the demand.

Secondly, Inequalities perpetrate in the work sector, as the two niches are not able or strong enough to face the system of discrimination; moreover, they receive systematic discrimination, based on the niche to which the person belongs. Society sees the workplace of both migrants and women as a temporary job, as the first will probably

⁵⁴ Some feminists' works refer to this as "social reproduction", which is basically the necessity for migrants to satisfy physical needs, and social needs, as the aim of women is to provide social interaction and create new connections and opportunities in the society of arrival. Besides, domestic work and social reproduction in the private space is considered a natural obligation for women but is also deemed irrelevant in the legislation to obtain the residence permit; also, and even more worrying it turns the women, totally dependent from the man as he incorporates the entire financial base of the household and provides the necessary financial support to the whole family.

⁵⁵ Furthermore, has been shown that the emancipation of local women in more developed countries is a modern process that is increasingly weighing on migrants, as women from the societies of arrival are able to "climb" the social ladder because another woman, in this case, the migrant from undeveloped countries, takes her spot in the society.

⁵⁶ For what concerns women victims of traffic, victims struggle to be detected also because of general discrimination by local communities, against migrants.

emigrate somewhere else or will be sent back home, and women have the main task to be mothers and hold together the family. Consequently, both belong to the category of waged workers: migrants because the idea of the nowadays society is that they could stand to lower life conditions; in women's case, instead, those are not the ones in charge of the economy of the family. Lastly, both are perceived as unskilled, by society⁵⁷.

Within all, the exploitation of women is difficult to incorporate into one category, taking account of vulnerabilities (as said niching), as many cases of abuse encompass every mere static classification and spillover in different types of violation: from sexual, physical, and psychological abuse to segregation. Also, and even more, trafficking is complicated to be detected and, above all, adequately treated by a system that sometimes finds itself unprepared to deal with the personal fragility and the social distress caused by continuous abuses. Indeed, to give a more concrete example, in some cases female victims are, simultaneously, those being exploited but also the ones convicted, being helpers of traffickers. Also, as data reports, women sometimes develop some sort of emotional attachment towards their traffickers, turning the exploitation even more blurred and difficult to be detected.⁵⁸

A reflection over women rights, who are victims of human trafficking, is not enough, and the focal point is the challenge to get access to the protection system. In fact, though studies on women's migrations are relatively fresh, and the relevance of the gender sphere has not yet been properly defined, gender surely has some sort of relevance in migration, and on the social conditions of women in the society of arrival. In fact, the migration of women is a completely different process from one of the men, because it turns up an issue of discrimination gender-based, in which the law should be able to smooth over any disparity between women and men but, in fact, it generates even more discrimination, even in the country of destination.

Therefore, it is clear the importance of including new areas of research in the broad category of "migrants", in which women⁵⁹, deserve to appear in proper statics about

⁵⁷ See domestic workers or caregivers, explained above.

⁵⁸ Reports show that women develop interpersonal relationships with the trafficker in 20 percent of cases; similarly, 20 percent of women trafficked have dysfunctional families. (Crenshaw, 1991)

⁵⁹ But also, people pertaining to LGBTQI+ category, and even males.

trafficking. Publication of new demographics and research about “those who sell sex” in a massive variety of ways would extensively contribute to how society, at large, considers these people and would facilitate acceptance of Western societies to its own desire to purchase so much sex (Agustín, 2006). Also, new areas of research on trafficked women who ask for international protection; as well as the system of the expedients used by traffickers, and the reasons that push women to make the choice to sell sex, are needed, if not to change the pattern, maybe to save one more life.

3. The Protection of Victims of Trafficking in the International, European and Italian Legal and Policy Frameworks

This chapter will deal with the legislation concerning human trafficking, from the international, to the European and Italian legal and policy framework, as mechanisms of protection for the victims of human trafficking. The aim is to put on place some definitions, firstly, who is pointed as trafficked person, and secondly, how the system is protecting those people; the first step will be an overview of the relevant legal framework at the international, European, and Italian levels.

Then a focus will be on the right of victims of human trafficking to ask for asylum and, also, to be recognized using the *Referral System* as eligible of International Protection⁶⁰. Finally, the chapter will focus on the coordination between the Italian anti-trafficking system and the asylum system and, at large, the issues encountered in it, also in accordance with the recent CoV-SARS-2 pandemic.

Indeed, human trafficking has been, since long, an issue of global concern⁶¹, mainly in the field of migration; in this context, the development of the system, has proven to be, apart from at the level of the legal framework, also on border control and the *referral mechanism* for international protection, implemented by the Territorial Commissions. As a matter of fact, as previously said, the more strictly the laws of immigration, the more sophisticated forms of criminality are used in human trafficking⁶².

⁶⁰ The National Referral Mechanism (NRM) is a framework for identifying and referring potential victims of modern slavery and ensuring they receive the appropriate support.

⁶¹ Trafficking in human beings develop a ton of global problems. On the economic side, could be cited the costs of prevention programs, treatments and support for the victims, or the costs for the prosecution of offenders, or the ones for the loss of human resources, and reduction in tax ravenous. But also, some issues connected to global security, as the growth of criminal groups and activities, as well as legitimization of the criminal business or a huge concern for i migration. Finally, trafficking undermines international law and national jurisdictions.

⁶² A point is worth clarifying; nowadays in fact trafficking is becoming potentially more profitable than smuggling as the convicts detain the profit of the victim. The closing borders exponentially increase the

3.1 The Palermo Protocol Convention on Trafficking

For what concerns the international legislation for people in distress who suffer (or have suffered) from human trafficking, the main legal approach, is the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons*⁶³, also known as the Palermo Protocol on Trafficking. This was adopted in November 2000, as a part of the *United Nations Convention against Transnational Organized Crime, for a comprehensive strategic approach, at a global level*. This in order to (a) prevent and combat human trafficking, (b) protect and assist the victims, and (c) promote cooperation among States⁶⁴.

The Protocol itself gives the definition Trafficking in human beings (THB), clarifying:

- a. “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”

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

necessity for migrants to rely on traffickers to cross borders and this inadvertently creates a lucrative market for criminal activities. Also, given the increase in female migration through the years is likely that the crossing was done using informal and irregular channels, enhancing their vulnerability to traffic.

⁶³ The *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (15th November 2000)*: <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>. (Last accessed on 23rd January 2023)

⁶⁴ The full Protocol is available at the link: https://www.unodc.org/res/human-trafficking/2021the-protocol-tip_html/TIP.pdf (Last accessed on 23rd January 2023)

Overall, the definition lacks to clarify some points, and some stages of the process for the prevention and protection of the victims, but it made a fundamental change on the notion of trafficking, by focusing on the “phenomenon” of trafficking, encompassing various types of exploitations. Moreover, the definition aimed attention at the notion of trafficking connected to vulnerability, as a fundamental part of the coercive process. Further, the same provides an explanation over the irrelevancy of consent, clarifying that “(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;” (Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime 2000).

Nonetheless, the Palermo Protocol is “merely” a legal instrument for criminal justice remedies, insufficient to combat exploitation; in fact, the assistance of victims lacks clear steps that should be taken by States Parties, without a definite procedure for reallocation of discourses about anti-trafficking, and operational steps in law enforcement, for an effective protection of victims and their identification. More, even if some provisions for the assistance and protection of victims have been included in the Protocol, there is no clause for the mandatory implementation by State Parties. Apart from this, the Palermo Protocol lacks some definitional circumscription, and in specific it does not take into consideration the gender dimension of human trafficking, which we have seen, is a fundamental interpretation in terms of vulnerability issues⁶⁵.

However, the Protocol was the first, and only, global tool on human trafficking, and as it is showed on the initial page of the treaty, the actual status in 2022 is that the UN Protocol has 117 signatories and 180 parties, which is almost 93 percent of the globe.

In general, the UN Protocol clearly defined the initial step for the implementation on a Regional or National level, of legislations that specifically deal with the issue of human

⁶⁵ Statistics of the 2020 Global Report show that, for every 5 migrant women (refugee or asylum seeker) at least one has been sexually abused, and for the specificity of women migration, and as data clearly prove levels of vulnerabilities of women is extremely higher than vulnerability of men, both before, during, and after the migration process.

trafficking⁶⁶. As a matter of fact, recent reports show that in 2020, over the 181 countries studied in the UNODC, 169 criminalize trafficking in persons, fully or partially, according to the United Nations Trafficking in Persons Protocol; on the other hand, in 12 of the 193 UN Member States, the legislation over human trafficking is unknown to the UNODC. In Europe, the most advanced continent in this sense, data showed that by 2008 most countries subscribed to some legislation in line with the UN Protocol on Trafficking in Persons. And, additionally, from 2012 to 2020 data reported an increase in 39 percent, over the studied countries, on the national implementation of the specific protocol on Trafficking in Persons (TiP), mainly for what concern the offense criminalization (UNODC 2020, 62). Also, since 2012 figures report an increase in global convictions, both in European countries which, according to data, by August 2012 have all introduced legislation in line with the Palermo Protocol, and those with a more recent implementation, probably, as a consequence of the law implementation⁶⁷.

The International Organization for Migration (IOM) in September 2002 adopted the Brussels Declaration on Preventing and Combating Trafficking in Human Beings, accompanied by a set of recommendations on standards and best practices (United Nations Office on Drugs and Crime 2008)⁶⁸.

For what concerns legislation, men and women, being asylum seekers or both asylum seekers and victims of trafficking, as said, comply with the same law, even though some steps forward have been done.

As said, the legal framework on human trafficking has been implemented at Regional and National level, mainly based on the definition of trafficking contained in the Palermo Protocol: in some ways adjusting the gaps of the Protocol itself.

Moreover, some Regional intergovernmental Organizations such as the Association of Southeast Asian Nations (ASEAN), the Economic Community of West African States

⁶⁶ Even though the first Convention that dealt with the issue was the 1949 *Convention for the Suppression of the Trafficking in Persons and of the Exploitation of the Prostitution of Others*.

⁶⁷ Nonetheless, studies indicate that, while European countries record the highest conviction rates on a global scale, their trend is currently stable, or even decreasing, in some cases. Against this backdrop, it is difficult to assess whether this is the result of a saturation of law enforcement capacity, a lower prioritization of the fight against trafficking, or a reduction in trafficking activity (UNODC, Global Report on Trafficking in Persons, 2020 p. 64).

⁶⁸ The complete report is available at: https://www.unodc.org/documents/about-unodc/AR08_WEB.pdf. (Last accessed on 23rd January 2023)

(ECOWAS) and the Organization for Security and Cooperation in Europe (OSCE) have adopted either declarations against trafficking or more action-oriented plans to improve the Member States' cooperation and coordination in order to implement efforts to stop trafficking.

UN Member States, according to the Palermo Protocol, have thus established various institutions specialized to some efficient response in case of trafficking in persons. Sometime those institutions are defined in a specific anti-trafficking legislation of the States, while sometimes those are defined separately. These institutions are wide in means, including inter-ministerial and inter-agency bodies for coordination in response of trafficking in persons and mechanisms used. One of this is called *Referral mechanism* and will be studied more in specific later on, but the tool comprehend also some enforcement units for laws on trafficking and specialized prosecutors. National law enforcement also includes the monitoring of national results on trafficking with specific reports⁶⁹.

Those mechanisms for coordination are fundamental in order to specify the roles and responsibilities of different actors involved in the anti-trafficking system⁷⁰.

Finally, an effective cooperation among the international actors, coupled with agreements at regional or national level (which could be bilateral or multilateral), or arrangements to develop the referral mechanism and the various tools, are showed to be essential to ensure the appropriate development of a legal framework against the proliferation of human trafficking. Also, apart from the efficiency of international, regional, and national cooperation in what concern legal foundation, the practical experience has shown that this is not enough. Indeed, well-trained personnel, together with appropriate resources, also in terms of monetary funds, have to be in place in order to overcome practical problems that could arise from slowness in legal proceedings or deficiencies system based. Moreover, working and including representative of criminal

⁶⁹ Data from the 2008 Global Report by the UNODC reports that in case Member States lacked national structure to coordinate anti-trafficking initiatives or a national plan to fight against human trafficking, or more, the national action plan is inadequate, concrete response against human trafficking has been slower, and the implementation more difficult.

⁷⁰ Also has been showed as those tools are efficient in cases when the victims require a take-over by different agencies for various forms of assistance.

justice system will enhance the communities' awareness, and support an exchange of ideas with other realities, in addition to increasing consciousness of the problem, could help to have a multidisciplinary approach and facilitate cooperation.

3.2 The Council of Europe Convention on Action Against Trafficking: the Warsaw Convention

In this part, the aim is to present in chronological order the legal framework for what concern the European legal and policy framework. Indeed, as previously said, the UN Protocol and the subsequent implementations were, almost entirely implemented at the European level. Also, special attention will be on the assistance and protection of the victims focusing on their human rights.

The first legislation in what concern human trafficking, immediately subsequent to the UN Protocol of 2000, is the *Convention on Action Against Trafficking in Human Beings and its Explanatory Report*⁷¹, ratified in Warsaw on 16th May 2005, which, based and related to the UN Protocol, established the first European guidelines for the prevention and cooperation among states, focusing in its third chapter on a more gendered approach, and it focus firstly on the importance of guarantee a “renewable residence permit to victims” (see Art. 14). Apart from this, the European Council established, according to the Palermo Protocol, and implementing the deficiency in this latter, for a definitive strategy, a monitoring mechanism, the so-called *Group of Experts on Action Against Trafficking in Human Being (GRETA)*⁷², pronounced in article 36 as being the responsible for the motion of the situation of human trafficking among the parties of the Convention. More, the Convention stressed the importance of cooperation among different realities, and a multidisciplinary approach among ONG and civil society (see Art. 35). The Convention supplemented the Palermo Protocol adding value to the legal

⁷¹ The Warsaw Convention is available at: <https://www.europarl.europa.eu/document/activities/cont/201006/20100607ATT75644/20100607ATT75644EN.pdf>. (Last accessed on 23rd January 2023)

⁷² For more information about the GRETA Composition, or the General Reports on activities: <https://www.coe.int/en/web/anti-human-trafficking/greta>. (Last accessed on 23rd January 2023)

context, establishing at the European level a “proper balance between matters concerning human rights and prosecution”, stating in Article 5

Each Party shall promote a Human Rights-based approach and shall use gender mainstreaming and a child-sensitive approach in the development, implementation and assessment of all the policies and programmes referred to in paragraph 2⁷³.

(Warsaw Protocol 2005, Article 5, Par. 3)

This focus on protection of victims below the *human-rights approach*, defying that “human trafficking is ‘a violation of human rights and an offence to the dignity and the integrity of the human being’.” (Palumbo 2018). Also, the Warsaw Convention promoted a *gender-based approach*, seeking a more gender equality in the prevention and protection of victims, as well as the fight against human trafficking.

Another point of interest stressed in the Warsaw Convention is the notion of abuse of a position of vulnerability as whichever situation where the victim has no real possibility to submit to the abuse, stated in the Article 5:

Each Party shall establish and/or strengthen effective policies and programmes to prevent trafficking in human beings, by such means as: research, information, awareness raising and education campaigns, social and economic initiatives and training programmes, in particular for persons vulnerable to trafficking and for professionals concerned with trafficking in human beings⁷⁴.

In the European context, is also worth to be mentioned the *Convention on preventing and combating violence against women and domestic violence*⁷⁵, signed in Istanbul during 2011 which, in its articles 59 and 60, focus on migration and asylum, according to the Warsaw Convention cited above. Moreover, article 60 promotes a gender-sensitive

⁷³ Warsaw Protocol 2005, Article 5, Par. 3

⁷⁴ Warsaw Protocol 2005, Article 5, Par. 2

⁷⁵ The Istanbul Convention is available at: <https://rm.coe.int/168008482e>. (Last accessed on 23rd January 2023)

approach to case studies who are allegedly victims of human trafficking, according to the Warsaw Convention.

(2) “Parties shall ensure that a gender-sensitive interpretation is given to each of the Convention grounds and that where it is established that the persecution feared is for one or more of these grounds, applicants shall be granted refugee status according to the applicable relevant instruments.”

(Istanbul Convention 2011, Article 60 par.3)

(3) “Parties shall take the necessary legislative or other measures to develop gender-sensitive reception procedures and support services for asylum-seekers as well as gender guidelines and gender-sensitive asylum procedures, including refugee status determination and application for international protection.”

(Istanbul Convention 2011, Article 60 par.3)

3.3 The EU legal and policy instruments on trafficking

The legal framework of the European Union is undoubtedly rich and one of the most cutting edges at regional level. Indeed, in accordance with the Palermo Protocol, the European Union adopted in the Council Framework, the *Decision 2002/629/JHA* of 19 July 2002⁷⁶ on combat trafficking in human beings. The Decision represented a significant step forward in the fight against human trafficking, extending the scope of the European Union’s activities with regard to the different forms of exploitation not expressly provided for in the previous *Joint Action 97/154 JHA*⁷⁷ of 24 February 1997, which essentially focused on combating the sexual exploitation of women and children.

Consequently, in December 2004, a group composed by 20 experts, established by the European Commission, issued a report making 132 recommendations for further measures to be taken by EU member States. Additionally in 2004, the Council of the

⁷⁶ The EUR-Lex Decision 2002/629/JHA is available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32002F0629>. (Last accessed on 23rd January 2023)

⁷⁷ The Joint Action 97/154/JHA is available at: <https://op.europa.eu/en/publication-detail/-/publication/8cc29fdb-4d74-4199-8236-142ed82116ba/language-en>. (Last accessed on 23rd January 2023)

European Union adopted the *Council Directive 2004/81/EC*⁷⁸, regarding the right of residence permit to nationals of third countries who are victims of human trafficking or have been subject of some action to facilitate their irregular entrance in the European Union. The action is centered on the ones who cooperated with the competent authorities and has the aim to suppress irregular immigration in the EU soil, and not to specifically protect victims.

In order to comply with the 2004/81/EC, the EU Parliament and the Council of Europe deployed the *Directive 2009/52/EC*⁷⁹ providing for *minimum standards on sanctions and measures against employers of illegally staying third-country nationals*, focus on the eradication of irregular immigration.

Nonetheless, at the European level, the overlapping between the system of trafficking and international protection is an issue that, until the 2011 Directive was not central, and as we have highlighted, the focus was put on sanctions and measures against convicts. Indeed, victims were not explicitly treated as one needed of special protection, and suffering from higher vulnerability, but instead, people were only able to obtain protection only if they have cooperated with the competent authorities⁸⁰. Instead, just at the dawn of the migration crisis, the victims of trafficking are for the first time, with *Directive 2011/95/EU*⁸¹, targeted as persons with special needs and in the right to receive international protection.

Follow the *Directive 2011/36/EU*⁸² on *preventing and combating trafficking in human beings and protecting its victims*, replaced the Council Framework Decision 2002/629/JHA. This focuses attention on a more gender-based approach, in its articles 9 and 10, integrating a more human-right based method, basing its approach on the abuse

⁷⁸ The Council Directive 2004/81/EC is available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32004L0081>. (Last accessed on 23rd January 2023)

⁷⁹ The Directive 2009/52/EC is available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32009L0052>. (Last accessed on 23rd January 2023)

⁸⁰ Cfr. Directive 2004/83/CE or 2005/857CE or more 2003/09/CE, above explained.

⁸¹ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast): <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0095>. (Last accessed on 23rd January 2023)

⁸² EUR-Lex of the Directive: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32011L0036>. (Last accessed on 23rd January 2023)

of a position of vulnerability, in accordance with the Palermo Protocol and the European Council Directive. It also defines the vulnerability as the “situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved” (Article 1c). The definition, apart from its vagueness, is notably fundamental because it highlights the necessity to consider circumstances and structural factors that could lead a person into a situation of vulnerability and fall into trafficking or exploitation; though, due to its vagueness, the Directive could be wrongly applied.

The Directive 2011/36/EU also stresses the importance in adopting a more gender-sensitive approach based on the fact that men, women and transgender people experience a different level of vulnerability and that the assistance and support of victims should follow the gender-specific needs (Degani 2020).

However, the Directive seemed to lack some provisions for what concern the principle of unconditional assistance; indeed, the 2011 Directive implementing this notion inflicts with the EU 2004 Directive, almost nullifying the notion itself. Assistance is, in fact, still subordinated to some requirements, including the intention to cooperate with the competent authorities (in accordance with the 2004/81/EC Directive)⁸³. Also, the Directive is contentious in its meaning and does not specify how those notions should be applied in practice.

Following in the direction of a more human rights-based approach, and sensitive to gender, it is also important to consider the *EU Directive 2012/29/EU*, also defined *Victims' Directive*⁸⁴, earmarked by the European Parliament and the Council, which establish a *minimum standard on the rights, support, and protection of victims of crime*⁸⁵, and replace the Council Framework Directive 2001/220/JHA.

⁸³ See the article Giammarinaro M. G (2021 a), *Revising EU Directive on human trafficking? For bad or good reasons?*. Available at: <https://giammarinaro.net/en/revising-eu-directive-on-human-trafficking-for-bad-or-good-reasons/>. (Last accessed on 25th January 2023)

⁸⁴ EUR-Lex of the Directive: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32012L0029>. (Last accessed on 23rd January 2023)

⁸⁵ The European Commission in accordance to the Directive of 2012 and to support the Directive 2011/36/EU promulgated the EU Strategy towards the Eradication of Trafficking in Human Beings 2012 – 2016 which are sets of five priorities to address human trafficking. The full Report is available at: https://www.lastradainternational.org/wp-content/uploads/2020/10/eu_strategy_towards_the_eradication_of_trafficking_in_human_beings_2012-2016_1.pdf. (Last accessed on 23rd January 2023)

Nevertheless, the subsequent *Directive 2013/32/EU*⁸⁶ which tried to establish *common procedures for granting and withdrawing international protection* in the territories of the European Union, in accordance with the Directive of December 2005 on minimum standards in the procedures to grant to migrants the refugee status, debates on the definition of “safe third countries”, whether of origin and/or transit.

In particular, the Directive clarifies that applications are defined as inadmissible if the applicant passes through or is coming from a non-Member State that “is considered as a safe third country for the applicant”, following the principles⁸⁷ contained in article 38 of the same Directive. On this base, a Member State of the European Union may decide to reject the application for asylum, as manifestly unfounded or inadmissible, by means of an accelerated assessment procedure. This could increase the risk of *refoulement*⁸⁸, and could violate the so-called principle of non-discrimination and the previously cited approach based on human rights. Despite it, special attention is posed on the gender dimension of migrants even those coming from a “safe third country”; in fact, “The complexity of gender-related claims should be properly taken into account in procedures based on the concept of safe third country, the concept of safe country of origin or the notion of subsequent applications.” (Directive 2013/32/EU 2013, 32).

In 2021 European Commission launched the *EU Strategy on combatting Trafficking in Human Being*, a program that will last until 2025, and the *EU Strategy to Tackle Organized Crime*. Both of them focus on prevention measures of human trafficking and strategies for the assistance of victims. These develop actions for the fight against human trafficking, though those are not always addressed with some concrete actions for the

⁸⁶ Link to the complete EUR-Lex of the Directive 2013/32/EU is available at: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=celex%3A32013L0032>. (Last accessed on 23rd January 2023)

⁸⁷ Which establishes:

- (a) life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion;
- (b) there is no risk of serious harm as defined in Directive 2011/95/EU;
- (c) the principle of non-refoulement in accordance with the Geneva Convention is respected;
- (d) the prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected; and
- (e) the possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Geneva Convention.

⁸⁸ In accordance with the Oxford dictionary, it is defined as “the practice of forcing refugees to return to a country in which they are at risk of harm”

unconditional support of the victims; positively, both strategies develop a new approach, not just linked to criminal procedures, but based on personal grounds of the victims (La Strada International 2021)⁸⁹. Moreover, the Strategy seems to criminalize sex workers and clients, putting victims in more danger. Finally, however, the Strategy calls for the due diligence of the Commission and the EU Member States, and some proposals of awareness campaigns and data recording.

Further, the *2021 Report*⁹⁰ on the implementation of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims puts a focus on the situation in the post-Covid pandemic which enhanced the vulnerability of one's victim of THB (Trafficking in Human Beings) and the actual situation of the European Member States concerning trafficking in human beings, reporting the phenomenology, and highlighting the gender dimension of the crime. The report also named migration and asylum process as key factors that could increase vulnerability of migrants to fall in trafficking, emphasizing that

“Criminal organizations have been misusing migration routes for trafficking victims into the EU, with humanitarian crises exacerbating the exposure of migrants, refugees and asylum seekers to traffickers; points out that there has been a sharp increase in recent years concerning the number of women and girls trafficked through the Central Mediterranean route for sexual exploitation in the EU” (par. 30)

The latest update concerning the EU directives, is the proposal for the revision of the EU Directive 2011/76, of December 2022. This certainly offers some interesting proposals regarding undetected victims, also considering the developments of online trafficking in recent years. The proposal also aims the formalization of the *National Referral Mechanism* and data collection on trafficking; further, it aspires to add forced marriage and illegal adoption as forms of exploitation.

⁸⁹ La Strada International (2021), *New EU Strategy on Combatting Trafficking in Human Beings*, available at: <https://www.lastradainternational.org/news/new-eu-strategy-on-combatting-trafficking-in-human-beings/>. (Last Accessed on January 25th 2023)

⁹⁰ Link to the Report – A9-0011/2021 is available at: https://www.europarl.europa.eu/doceo/document/A-9-2021-0011_EN.html. (Last accessed on 23rd January 2023)

Yet, the proposal has some worrying implications: the criminalization of clients in the prostitution sector, based on the Nordic Model. The Nordic Model appears to be a great solution in order to end the illegal prostitution, but instead, it has some limitations, the main one, surely is the criminalization of clients; indeed, criminalizing clients means shifting the focus from women empowerment (the main victims) and failing to consider some basic rights, included the sexual auto-determination of women (Giammarino 2021 b); in the same way, the criminalization flatter the figure of women to mere victims, without any agency, thing that we saw, being not totally true in many cases of human trafficking for the purpose of sexual exploitation. Also, the criminalization risks the aggravation of an already high stigmatization of prostitution, both from the side of workers and the one of clients; besides, intervention of competent authorities could become highly superficial: shifting the focus to the criminalization of customers in fact would risk not focusing on large criminal networks working with human trafficking. Lastly, criminalization does not offer to workers any accessible perspective to better working condition and an effective social inclusion, but instead it provides to classify any kind of sex work as illegal activity, worsening the already fragile situation of many women (Giammarino M.G. 2021 b).

3.4 The Italian legal framework on trafficking

Italy signed the international legislation of the Council of Europe, and is bound by the EU Directives, having the obligation to give effect to the provisions introduced in those legal frameworks, through territorial measures and the so-called decrees, within specific national plans on anti-trafficking.

*Law No. 228/2003*⁹¹ on the *Measures Against Trafficking in Persons*, for example, instituted harsher penalties in the area of trafficking, in line with the Palermo Convention and its subsequent protocols.

⁹¹ Law No. 228/2003 in English version is available at: <https://www.warnathgroup.com/wp-content/uploads/2015/03/italy-tip-law-2003.pdf>. (Last accessed on 23rd January 2023)

Further, *Law No. 108/2010*⁹² on the *Ratification and implementation of the Council of Europe Convention on Combating Trafficking in Human Beings*, , as well as the *rules for the adaptation of the internal legal system*, implemented the Italian legal framework coordinating this to the European one, in line with the Warsaw Convention. Indeed, the ratification of the Warsaw Convention by Italian government started the parliamentary process in the Senate in March 2010, with the presentation of a specific bill, approved about a month later, which will be officially dismissed in June of that year. This law consists of only four articles, the first two of which are devoted to the ratification of the Warsaw Convention itself, and its execution. The third, on the other hand, draws attention to criminal cases involving trafficking in human beings, recalling that the sanctions in the field have been in force since 2003, with the entry into force of the aforementioned Law 228/2003, which amended Articles 600, 601 and 602 of the Penal Code.

However, in the Italian peninsula, the system for the prevention of human trafficking is active since the late 90s, through the *Article 18 of the Consolidate Act on Immigration*, which permitted the effective emersion of thousands of cases, including hundreds of people in program for assistance and reintegration of victims; indeed, estimates show around 2000 people detected as victims of human trafficking in 2018, according to the UN Global Report⁹³.

Actually, the Italian system of anti-trafficking has been internationally recognized for the effective work in the field, not just in terms of legal framework, but also for the combined work of territorial agencies and social community, for example associations, and the services active on the territory, namely the emergency line. As a matter of fact, the system for the prevention comprehends a joint work between Territorial Commissions for international protection and local Tribunals, firstly for the emersion of the trafficking cases and exploitation, and then for the effective recognition of the International Protection. The legal background on the Italian territory seeks the development of forms of collaboration and connection with the social services of local authorities, in particular with Anti-violence Centers (CAV); it also focuses on the dialogue, and the understanding

⁹² Law No 108/2010 in Italian version is available at: <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2010;108>. (Last accessed on 23rd January 2023)

⁹³ <https://www.donne.it/tratta-e-sfruttamento-donne-italia/>. (Last accessed on 23rd January 2023)

within the territorial actors such as prefectures, police authorities, provincial commands of the *Carabinieri* and the *Guardia di Finanza*, local health companies, prosecutors and juvenile courts training agencies, labor inspectorates, trade associations, ONGs and the third sector in general.

Projects, developed at regional level, but replicable at national level, are generally required to implement legal mechanisms; These programs, are entrusted to public or private social sector bodies, and financed by the Department for Equal Opportunities (DPO).

3.4.1. Article 18 of the Consolidated Act on Immigration

The first device in terms of human trafficking, adopted by the Italian Government, is certainly the above-mentioned Article 18 of the *Consolidated Act on Immigration*⁹⁴ (*D.lgs 268/1998*), in force since 1998 aiming to activate programs for the fight against human trafficking, and implement mechanisms for the assistance, and social integration, of victims.

The Italian standard of the Article 18 anticipated, in terms of time and the offered guarantees, the EU legislation on minimum standards for the issue of residence permits for victims of trafficking. It is applicable only to third-country nationals who have reached 18 years of age and have been victims of crimes related to trafficking or were directly trafficked, in agreement with article 3. Moreover, Article 18 guarantees to victims of trafficking, residence permission for "humanitarian reasons", favoring "a unique program of emergence, assistance and social integration that guarantees, on a transitional basis, adequate conditions of accommodation, food and health care" (Art. 18 par 3-bis). The implementation of the paragraph 3-bis⁹⁵ was the latest update on the 1998 TUI, amended by the *Legislative Decree 24/2014*⁹⁶ in order to implement the European Directive

⁹⁴ The original article 18 is available at: <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:1998-07-25;286>. (Last accessed on 23rd January 2023)

⁹⁵ The art. 18 with the implementation of paragraph 3.- bis is available at: <https://www.altalex.com/documents/news/2014/04/08/testo-unico-sull-immigrazione-titolo-ii#titolo2>. (Last accessed on 23rd January 2023)

⁹⁶ Italian version of the Directive 24/2014 is available at: <https://www.gazzettaufficiale.it/eli/id/2014/03/13/14G00035/sg>. (Last accessed on 23rd January 2023)

2011/36, on victims of trafficking. The same Directive, in its Article 9 implemented the necessity for social inclusion of the victims, stating:

"a single welfare and social integration program ensuring, on a transitional basis, adequate housing, food and health care conditions, in accordance with Article 13 of Law No. 228 of 2003 and, thereafter, the continuation of assistance and social integration, pursuant to paragraph 1 of this Article."

Also, the D.lgs 24/ 2014 identified in the Department of Equal Opportunities (DPO) the body responsible for the coordination, the monitoring, and the evaluation of the outcomes of the policies for prevention, contrast, and social protection of victims of trafficking. This gives the body itself a central role in anti-trafficking policies on Italian soil. Moreover, the Decree in question provides for a systemic structure for the assistance of victims of trafficking, consisting of three fundamental pillars: firstly, the emergence, then the first assists and finally the reception of victims and their social inclusion.

This tool has proved to be very useful in encouraging effective cooperation between the victim and the competent authorities, implementing a complex Victim Support System, in order to build a relationship of trust, as well as providing assistance and protection to victims, with particular attention also to ones who are asylum seekers. This measure is certainly aimed at ensuring certain measures of emergence, assistance and protection that are necessary for people in great vulnerability and who have experienced situations of serious exploitation or trafficking.

The issuance of a residence permit, in accordance with art. 18 granted to victims of trafficking the residence permit for reasons of "social protection" and to reach social integration; this happens for part of the decision of the Quaestor, also on a proposal of the Prosecutor of the Republic, or the competent authorities. In fact, it is up to these authorities to define "if" and "when" the residence permit can be issued, in accordance with the same article 18, evaluating the problems and circumstances described by the immigrant. The residence permit has a minimum duration of six months and may be renewed for a maximum duration of one year, or for "the greatest period required for reasons of justice" (par. 4).

The law has introduced an innovative element, namely the dual path, judicial and social, each independent from the other. In fact, the issue of a residence permit for reasons of social protection is in no way subordinate to the obligation of the victim to report the traffickers, as we have seen few lines above in the EU legal framework. Article 18 is in fact a striking example of a device that fits into a criminal law with a dissuasive effect for convicts, which links criminal law with human rights and makes the criminal law a useful instrument to ensure deterrent effects on serious and important rights violations.

Article 18 provides two fundamental elements: the first is guaranteeing a special residence permit (the aforementioned) which immediately allows the victim to work and is convertible into a permit for work or study if the conditions for conversion are met. This represents an effective and concrete possibility for the victim to be regular on the territory, and radically changes the living conditions of trafficked person; Secondly, the victim is encouraged to participate in a specific assistance program geared towards a full social integration.

In addition, the residence permit for the social protection is issued in situations of serious exploitation or violence, and to ones on vulnerable conditions trying to escape the constrain of criminal activity, as a result of statements made during the preliminary investigation, or during the trial itself. The two preconditions are violence/exploitation and danger, and they must be seen together; the element of danger, in particular, is an indispensable prerequisite; it shall be a real and present danger and may also affect the safety of family members in the countries of origin. The residence permit can be granted through two distinct paths: the first is the judicial process, subject to the complaint by the victim of its exploiters; in this case the permit is issued on the basis of the opinion or proposal of the competent territorial Prosecutor; the second is the social path; the permit is issued even in the absence of a complaint from the victim, based on a proposal from a local authority or an association accredited for the management of social assistance and integration programs.

The other cornerstone of Article 18, together with the residence permit, is the path of promotion and protection of the dignity and rights of the victim. The Program, implemented through projects at territorial level (within regions), aimed at ensuring, on a

transitional basis, adequate conditions of housing, food and health care and, subsequently, the continuation of care and their social integration, as said before.

The actions of the Article 18 Program are classically divided into four phases:

1. contact, disclosure and identification of victims;
2. the first reception, preparatory to the processes of social inclusion;
3. second reception, aimed at vocational training and employment;
4. autonomy, aimed at consolidating social and work inclusion processes as well as achieving housing autonomy.

Article 18, together with the above processes, develops actions and/or activities of immediate protection also in the situation emergency, for example first aid, or immediate health care and legal advices, as well as sheltered residential accommodation; activities aimed at linking and coordinating the victim to the system for the protection of applicants, including the activation of integrated paths of protection between the two Systems, namely the anti-trafficking system and the legal system for international protection; the usage for a proactive action multi-agency for the identification of the condition of victim, also in the context of the trial made by the Territorial Commissions for the recognition of international protection is a pillar in the process for the protection of the victims; the effective implementation of the provision, for victims of trafficking or serious exploitation, of social, health, and/or psychological support services, as well as services of social and legal assistance, for the purpose of obtaining the residence permit referred to in Article 18, is a key cornerstone of the framework.

As previously said, the Italian regulatory framework, in the context of trafficking in human beings, composes an intricate system of relations between the territorial and the international legislative system. Often, in fact, fundamental for the repression of crimes related to trafficking in human beings, referred in Article 18 are: article 600 of the penal code, on the reduction or maintenance in slavery or servitude, article 601 on trafficking in persons, and article 602 on aggravating circumstances, with all the “on case” implementations.

Furthermore, *Legislative Decree 142/2015*⁹⁷, also known as Reception Decree, implement the above-mentioned Article 18, citing, in its Article 17, the list of procedures established at the level of the European Union, and expanding in some way its meaning, adding violence related to sexual orientation and the gender identity as indicators of vulnerability, absent in the European directive. (Marchetti e Palumbo 2021).

3.4.2. National legal instruments addressing labour exploitation

As it has been seen above, the Italian agri-food sector welcomes hundreds of migrants, gambling on their vulnerabilities or the necessity to earn profit; however, the Italian legal and policy framework proclaimed extensively for the protection of irregular seasonal workers and for combatting working exploitation.

Firstly, the *D.lgs. No 109 of 16 July 2012*⁹⁸, on the implementation of Directive 2009/52/EC, introducing minimum rules on sanctions and measures against employers hiring irregular third-country nationals, in particular by seeking to supplement the provisions of Article 22 TUI, which affect some surroundings that could act as aggravating factors on hiring migrants irregularly.

Furthermore, it is useful to recall here that the assistance program for victims of trafficking and serious exploitation was renewed in May 2016, with the Decree of the Presidency of the Council of Ministers, completed by *Law 29 October 2016, No 199*⁹⁹ on *Provisions on combating the phenomena of undeclared work, the exploitation of work in agriculture and the realignment of pay in the agricultural sector*, rewriting the crime of *Caporalato*, introducing a specific aggravating circumstance in the case of child victims, and extending the possibility that victims of trafficking may also benefit from the “Fund for Victims of Trafficking”. The law is an important tool for the fight against labor

⁹⁷ Legislative Decree 142/2015 is available at: <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2015;142>. (Last accessed on 23rd January 2023)

⁹⁸ *D.lgs. No 109 of 16 July 2012* available at: <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2012;109>. (Last accessed on 23rd January 2023)

⁹⁹ *Law 29 October 2016, No 199* is available at: <https://www.gazzettaufficiale.it/eli/id/2016/11/3/16G00213/sg>. (Last accessed on 23rd January 2023)

exploitation, strengthened by the *Law No 148 of September 2011*¹⁰⁰, that introduced in Italy the crime of illicit mediation and labor exploitation (art. 603-bis of the Penal Code).

Unfortunately, Italy is one country where irregular workers mainly in agri-food sector, and exploited victims of trafficking, lured by criminal groups, mostly *Mafia* and *Caporalato*, find an easy way to enter and remain in the shadow of the territorial labor market. Those victims hide at the margins of society, and because of their irregularity, experience high prospect of vulnerability; during and after the COVID pandemic, the situation worsened, exacerbating exponentially the vulnerabilities of migrants.

For this reason, the Italian government has promoted in 2020 a viable solution for the regularization of irregular migrant workers; the regularization of the trafficked and exploited workforce has been put on both the regularization of documentation, but also for the health care field, in which the migrant had the possibility to request an STP (Straniero Temporaneamente Presente¹⁰¹) card. This card for health care, has issued to migrants in order to receive medical loans comparable to any Italian citizen. This decision came with the aim to allow an efficient inclusion and regularization of working migrants and victims of traffic which suffered the most for the problems that the covid pandemic generated. The effectively regularization of migrants helped for a better access to the health care system, in order also to offer effective treatment to victims of trafficking, completely excluded from the SSN (Sistema Sanitario Nazionale).

This *Legislative Decree*, promulgated in 2020, through Article 103, strives for the regularization of the migrants in question, but it presents great limitations, already stringent for workers who are regular on the territory, and almost impossible in the case of victims of trafficking, employed in situations of serious labor exploitation.

Finally, the latest update on the subject is *Security Decree 130/2020*¹⁰², which adds the special protection permit to safeguard the private and family life of foreigners.

¹⁰⁰ *Law No 148 of September 2011* is available at: <https://www.gazzettaufficiale.it/eli/id/2011/09/16/11A12346/sg>. (Last accessed on 23rd January 2023)

¹⁰¹ The card is issued to migrants with the status of “temporary migrants”

¹⁰² The Law 130/2020 is available at: <https://www.gazzettaufficiale.it/eli/id/2020/10/21/20G00154/sg>. (Last accessed on 23rd January 2023)

To resume, the Italian legal and policy framework is vast and brings, to a lesser or greater extent, the gender issues, and the vulnerabilities of the victims of human trafficking, into the system. Nevertheless, as it likely to be seen next on, the mechanisms and the implementation of these legislative instruments, such as the referral mechanism, used by the Territorial Commissions, or the structures necessary for the integration of the victims in a protected context, are sometimes subjected to a slide.

3.5 The Italian system for the protection of asylum seekers who are victims of trafficking

If, therefore, as we have seen, the legislative landscape is wide on the Italian territory, the mechanisms that put into practice the aforementioned legislations, are many. Nonetheless, the projects that implement the program contained in the former article 18, Legislative Decree 132/2018, sometimes lacks an effective recognition system able to protect victims, which on Italian soil are increasingly diverse¹⁰³, apart from nationalities and stories, also from the perspective of forms of exploitation, often overlapping within them.

First of all, the Territorial Commissions for international protection, which through joint decisions are also and, above all, taking into account national and supranational legislation on trafficking in human beings, calculating it as a serious violation of fundamental human rights, in accordance with Article 4 of the European Convention. Recent experiences show how the Court of Cassation, always part of the system of Territorial Commissions, has matured over the years from the migration crisis to the post-pandemic situation, an increasingly pertinent jurisprudence on the recognition of refugee status, in agreement with the parameters of assessment, necessary for the recognition of the title (Anna Brambilla *et al.* 2022).

Nevertheless, the echo of the changes introduced by the 2018 Salvini Decree¹⁰⁴, still has some aftermath and is likely to have important consequences on victims of

¹⁰³ There has been a change of nationality, today the victims are increasingly coming from Bangladesh, Ivory Coast and Pakistan. Although most of the victims are women of African origin, especially Nigerian.

¹⁰⁴ The D.lgs 113/18, also called Security Decree, or Salvini Decree, states in its article 12 that Migrants who will have access to the SIPROIMI Service are the holders of international protection and unaccompanied foreign minors, as well as persons holding certain residence permits, including those issued

trafficking¹⁰⁵, mainly for what concern the access to accelerated examination of their cases, which could lead to erroneous considerations regarding the identification of vulnerable persons as such, thereby denying the possibility of a suitable procedure.

In fact, the current regulatory system provides that, in agreement with *Legislative Decree 173/2020*¹⁰⁶, also called "Lamorgese Decree," asylum applications submitted by persons defined as "vulnerable" cannot be routed as necessary for accelerated examination¹⁰⁷. This Decree, in fact, in the event of an identification of a victim of trafficking at risk, or even of a woman at risk of gender violence, does not allow access to an instant procedure for repatriation, demonstrating accordingly the great effort made by Italian legislation to provide "special care" for (alleged) victims of trafficking (Giovanetti e Zorzella 2020).

It is, therefore, fundamental also in accordance with the Lamorgese Decree, the effective and prompt identification of victims of trafficking, which also in accordance with international legislation, appears to be a legal obligation to which States must comply, through the effective implementation of referral measures. This is even more true in terms of gender-based violence and the vulnerability of trafficked women.

The Anti Trafficking system is the body that on the Italian territory has mostly contributed on a practical level, to coordinate with greater effort the bodies dealing with migration, to obtain the International Protection for victims of trafficking.

Nevertheless, as it has demonstrated, since recent years, there has been a great synergy between the anti-trafficking system and the international protection system, which have interacted to take charge of potential victims (alleged victims) or actual victims of trafficking, having noted the steady growth of women from sub-Saharan Africa

pursuant to art. 18 and 22 c. 12 c TU. It is the same Article 12 which creates two separate reception circuits on the basis of the status of beneficiaries.

¹⁰⁵ In accordance with Articles 3 and 9 of Legislative Decree 113/18 respectively, detention and accelerated procedures for refusing international protection are intended to restrict the granting of rights to asylum seekers, and special attention shall be paid to vulnerable persons, if not identified at an early stage. In the same way, the fact that some repeated requests can be judged inadmissible and arranged by the reception centers to be related and reintegrated into the return centers, have no access to an interview with qualified personnel and are therefore in a vulnerable situation that could lead to their being trafficked again.

¹⁰⁶ *Legislative Decree 173/2020 is available at: <https://www.gazzettaufficiale.it/eli/id/2020/12/19/20G00195/sg>.* (Last accessed on 23rd January 2023)

¹⁰⁷ The D.Lgs n. 130/2020 has modified the art 28 bis, introducing to the sixth paragraph the forecast the exception of vulnerable groups for the application of the accelerated procedure, within 5 days.

during the migration crisis who were identified as victims. Indeed, the need for an effective system of victim recognition, since the moment of disembarkation, was appointed as fundamental; offering teams of trafficking experts, linguistic and cultural mediators, legal operators, and staff of international organizations, such as UNHCR, IOM, Red Cross, Amnesty International, and the support of more "specific" organizations such as CEDAW, Doctors Without Borders, Doctors with Africa etc. has been a decisive solution in order to recognize the highest possible number of victims. In fact, the effective and prompt recognition of trafficked persons directly at the borders, makes the “take charge” of victims much easier for services on the national territory.

Unfortunately, perhaps due to the highly emergency context of hotspots and border conditions, recognition activities have been very limited, and partial. The risk was in fact that, as it has already been experienced during the migration crisis, the overlap between the national reception system and that of victims of trafficking, was not so efficient and make the issue recognition even more complicated for the designed agencies. This due to complexity of the victims’ recognition for general operators, but also the difficulty to come into contact with documentation attesting to the past of victims, and the general distrust of potential victims of trafficking, and not least the complexity of the bureaucratic system, with long delays as regards to bureaucratic procedures, and perhaps even longer when it comes to social inclusion; and finally, the difficult relationship with territorial institutions and services, wary of migrants.

Likewise, victims of human trafficking who are not effectively reported by the agencies, in this case, Centri di Accoglienza Straordinaria (CAS) and Sistema Accoglienza Integrazione (SAI) which, for lack of resources, (organic and financial) do not report vulnerable cases, risk to unable migrants to be identified as victims, and so minimize their possibility to receive International Protection. If, in fact, it is likely that Italian legislation in terms of the identification and protection of victims, or alleged victims of trafficking, has made enormous progress (and Italian territory is one of the most advanced in the field) the concern regards, above all, the inadequacy of the services predisposed for the correct identification of the victims and the agencies able to interface

with the vulnerability of the same, so as to guarantee adequate protection and an effective support¹⁰⁸.

The specific considerations that can be made regarding the collaboration between the Anti-Trafficking Services, in particular the Anti-Violence Centers (CAV) and the Reception Systems for Asylum Seekers (CAS) and the centers for ones who obtained International Protection (SAI) focus, above all, on the well-founded problem of identification, including at borders, and the emergence of victims, with particular reference to women (mainly Nigerian nationals) victims of trafficking. (Degani, 2020).

In fact, and as a consequence of the adoption of Decree 2014/24, a plurality of situations of serious exploitation and trafficking have emerged on Italian soil, which, as seen, have been put on charge of the Department of Equal Opportunities (DPO), which put the CAS, and the Territorial Prefectures under great pressure for the huge quantity of victims found in the centers.

For this reason, the cooperation between agencies is fundamental; the collaborations are carried out on multiple levels, but mainly have the purpose of allowing the anti-trafficking services to come into contact with the victims or, before that, to identify cases of possible exploitation, even before it takes hold. In addition, the services include a space for (in)formation to victims of trafficking, carried out with the help of linguistic and cultural mediators, in order to raise awareness of the alleged victims of trafficking, as regards the debt for the journey to which they are subjected; or more, on the risks for prostitution on the Italian territory, especially as said, to Nigerian women; those work for the effective recognition of any possible victim, and give concrete support to the victims. The whole is promoted by the *Toll-Free Number*¹⁰⁹, that in case it finds some indicator

¹⁰⁸ The new Outline of Procurement Specifications for Reception Services, introduced by the Ministerial Decree of 20 November 2018, includes basic services of food, accommodation and essential goods and services, with a per capita share per day of 26,35€ for collective reception centers up to 50 seats, and 25.25€ for Centers from 51 to 300 seats. While for the widespread welcome the amount is further reduced up to 21.35€. On the other hand, bodies that are able to deal correctly with the vulnerabilities of victims of trafficking, SIPROIMI, presupposes the prompt identification of victims of trafficking in asylum applications, which should be in line with existing projects promoted by the Department of Equal Opportunities (DPO), which already have specialized staff and services to address the vulnerabilities of victims of trafficking, in order to ensure the effective protection and security of beneficiaries.

¹⁰⁹ At the following link you can find the number, the operating hours, and the purposes of operation of the services. The number works with the consent of the data subject and respecting anonymity:

for a situation of possible trafficking or exploitation, is in charge to report to the Territorial Commissions and to the Regional Anti-Trafficking service the case, in such a way as to set in motion an effective and prompt take charge. The freephone number therefore endeavors to suspend requests for international protection, so as to enable the anti-trafficking system to assess whether or not there are indicators that could suggest a situation of serious exploitation, thus giving the possibility to the agencies to work with a specialized staff that can predict the difficulties of the victim and ensuring all the information necessary for assistance; this also taking into consideration the psychological vulnerability of the victim sometimes traumatized, and the fact that many times victims are wary of the authorities, for fear of being sent back to their country.

3.5.1 The Referral Mechanism between anti-trafficking and asylum systems

In this regard, since 2016, United Nations High Commissioner for Refugees (UNHCR), in association with the National Court for the Right of Asylum (CNDA), has defined some guidelines within the project “Meccanismi di Coordinamento per le Vittime di Tratta”¹¹⁰, for the effective identification of victims of trafficking for the migrants who pursuit international protection, and the referral procedures.

Those guidelines seek to establish a common national standard for the protection of (alleged) victims of trafficking, referring to Article 10 of Legislative Decree 24/2014, in such a way as to allow coordination between the systems of international protection and those dedicated to anti-trafficking. This project aims to set some guidelines for the early identification of victims of trafficking, even in border areas, through standard guidelines and operating procedures. Indicators are also replicable models in other contexts, not only in the situation of cross borders, as the indicators are a useful tool for identification but also and above all to define effective reporting procedures to the Territorial Commissions and Anti-trafficking bodies. The project itself is also a starting point for the reports by the

<https://www.osservatoriointerventitratta.it/il-numero-verde-800-290-290-2/>. (Last accessed on 23rd January 2023)

¹¹⁰ “Meccanismi di Coordinamento per le Vittime di Tratta” in its more recent version, edited by Francesca Nicodemi for the European Commission: https://www.unhcr.org/it/wp-content/uploads/sites/97/2021/01/Linee-Guida-per-le-Commissioni-Territoriali_identificazione-vittime-di-tratta.pdf. (Last accessed on 23rd January 2023)

CAS, which presented a fairly important percentage, in the total number of reports. In the context of the first territorial reception, the early and effective recognition of victims of trafficking is even more fundamental, in such a way that it can be redirected to the project most appropriate to the highly vulnerable condition in which a victim finds himself, so as to provide the services necessary to their personal needs (from health care to psychological) but also linked to referral processes, so as to ensure an effective procedure for obtaining the title.

The Referral Mechanism between anti-trafficking and asylum systems are, as said, a set of recommendations and measures to guide the various actors during the stages necessary for the recognition of victims of trafficking and the protection and social reintegration of the same. Those steps are divided into five phases: 1. identification; 2. primary care and protection; 3. long-term care and social inclusion; 4. return and social inclusion; 5. criminal and civil proceedings. Each of these stages develops through the request of a series of questions; WHAT is the step for, WHEN is the step eligible to be adopted, WHO has to deal with adoption, HOW is the step to be applied. Each of these steps must be implemented and adopted with the victim's specificity in mind.

One of the key players in this context is the Territorial Commission (TC); indeed, the "*Guidelines on Identification of victims of trafficking among applicants for international protection and referral procedures*" addressed to the Territorial Commissions, constitutes an important coordination mechanism between the systems of international protection and social protection. The mechanism envisages the implementation of the Italian protection system by encouraging the early identification of victims of trafficking among persons applying for international protection, and by ensuring the appropriate reporting of suspected victims of trafficking to the qualified personnel for the assistance and protection of victims of trafficking with the scope to provide the appropriate assistance. The identification measures are carried out on the basis of a preliminary analysis of the victims, with a prior risk assessment; all of this takes place with respect for the gender perspective, and with special care of respecting human rights. The aim is to provide victims with the necessary information, in order to make a conscious choice for their inclusion in an *Individual Assistance Project*. The assistance program is developing both in the short term, granting a place in a protected structures on the Italian territory, access

to medical and psychological assistance, and in the long term, through projects of social inclusion, employment and/or training to support the victim, including offering alternatives such as repatriation.

In conclusion, the program of referral has not only the purpose of mere protection of the victim, but as we have seen, a fundamental step is mated out to the reintegration of the victims of human trafficking; previously acting on the physical and psychological support of the victim, and then from the social and working point of view. When, finally, the Anti Trafficking mechanism succeeds, through the Referral mechanism to provide the complete assessment of the case, the information provided is used by the Territorial Commissions to request a new summons to the court; in fact, the other scope of the Referral Mechanism is to provide victims with the necessary documentation of International Protection, which is intended to return legal and social guarantees to the latter, in order to be able to access all the necessary services on Italian soil, encouraging in this way their social integration.

4. A System Generating Vulnerabilities. The Role and Limits of the Italian Protection System

This last chapter is mainly based on personal experience almost triennial, as operator and cultural mediator in an Extraordinary Reception Center (CAS) for asylum seekers. The fundamental objective is to explain the roles and the limits of the international protection system in Italy, which welcomes hundreds of victims of trafficking, addressing the risk factors of the system, based on the difficulty in recognition of vulnerabilities. The explanation will be done keeping in mind the specific approaches on Italian soil and taking into account the exponential growth of women victims of trafficking included in asylum projects, for the recognition of international protection in Italy. This approach will be used regardless the reasons why women enter the asylum system: whether those are victims of trafficking from the moment they leave their country of origin, during the journey, or if they are identified as victims of trafficking in human beings when they enter the international protection system; whether they are "helped" by the various criminal organizations to enter the system of international protection; or, after a more or less long period of trafficking, those identify themselves as victims, or instead, those are recognized as victims through the referral mechanism; whether they present a very high degree of vulnerability, and consequently a higher probability of falling victim to re-trafficking, or instead they took up the possibility to become victims of human trafficking as a viable solution for whatever reason.

A digression will be made on the specific approaches implemented in Italy, first of all to understand how the centers that deal with violence (gender, in most cases) come into contact with the victims: first of all, taking into account the risk factors that increase the possibility of falling victim to trafficking. The focus will then be on the identification of victims of trafficking, taking into account specific referral mechanism, through an

analysis of the weaknesses of the Referral Mechanism between anti-trafficking and the asylum systems.

Moreover, there will be explained the different approaches of the so-called "vulnerability" system, mainly based on the *gender perspective*, the *intersectional approach* and the one that focuses on the victim according to the *human-rights* values. Indeed, those approaches are certainly fundamental, but those risk on the other to compromise the proper identification of the victim, generating a sort of *crystallized character*.

In the panorama of trafficking and exploitation on the Italian territory we focus on the different agencies dedicated to the protection of victims, starting primarily from the different agencies dedicated precisely to violence, gender, and trafficking, specifically, such as the Anti-Violence Centers (CAV); through the introduction of the areas in which these projects take place, as well as the assumptions over which they are based, and how they include people in specific programs, we try to understand if these organizations can be suitable specifically for victims of human trafficking who ask for international protection.

Then the work of the reception centers for asylum seekers and holders of international protection (CAS and SAI, Ex-SPRAR) will be presented, providing attention to the first contact with victims of trafficking, their recognition, and the development of projects for the reintegration of victims in the social substrate; the appropriateness of the methods for the protection of victims in non-specialized organizations. Finally, it will be presented the main proposals dedicated to the programs of antitrafficking on Italian soil, and the importance of research in this regard, together with training and information on the topics covered.

As a last point, and always starting from personal experience, will be presented the limits and the gaps of the system for asylum when dealing with specific cases of human trafficking in the Italian framework. The aim is to understand whether interventions for the recognition, and protection of asylum seekers are efficient in the reception centers for applicants, as victims of trafficking; what is the role of operators in the centers, and the effectiveness of a multidisciplinary team in identifying and protecting victims of trafficking. The limits of widespread reception are set, also in the context of reception

through "Housing Units" intended for homogeneous groups. In addition, guidelines for the cooperation are defined through projects that also work outside the migration framework, so as to operate effectively.

Going into specific, some activities on the national territory, usually have the main objective to get in touch with potential victims of trafficking or serious exploitation, aiming at dealing with the needs of the victim itself, paying particular attention to persons seeking asylum, or holders of international protection. The recognition of victims is carried out through the cooperation between public and private, also with the use of referral mechanism by the Territorial Commissions, for the recognition of international protection. Once the victim has been identified, the agencies involved work for the immediate protection of the victim, through prompt reception, health care, and legal protection, in accordance with the legislation for the protection of victims of trafficking.

In addition, the integration of victims of trafficking into society is sought through training activities, such as literacy in Italian, or orientation to work; through support paths to the victim, and the work multi-agency, agencies seek to integrate the system of international protection with that of protection of victims of trafficking.

Starting from 2016 in Italy, after the activation of the First National Plan against Trafficking and Serious Exploitation, it has been seen an exponential growth of funds made available by the Italian government for projects aimed at fighting trafficking: if in fact until 2015 the funds were 8 million, those grew to 15 million in 2016, becoming 22.5 in 2017 and currently reaching the 24 million. The number of projects has also been increasing over time, and since December 2017, 21 anti-trafficking Projects have been running in Italy, managed by the third social sector, in collaboration with public and private agencies, as well as local authorities. The regional Anti-trafficking agencies have the task of effectively coordinating the project, and in collaboration with the territorial network, are responsible for carrying out the project and achieving the objective(s).

Currently, as reported, on the national territory the system of interventions in support of victims of trafficking is developed and managed thanks to multi-agency actions, mainly on a regional basis; the only mechanism at national level that carries out the task of sending back to the competent territorial authority, as well as providing initial support to victims, and providing information, is, as seen, the Anti-trafficking National Hotline,

which aims to pulling the strings of the national situation and coordinates, in the three areas of contact with victims: emergence, assistance and social (re)integration.

If therefore on the Italian territory the interventions in favor of the victims of trafficking are often effective, and the relevant legislation, but also the dedicated bodies, continuously undergoes a process of implementation and improvement, some concerns have been growing since the early stages of the pandemic; in fact, social inequalities and situations of serious exploitation, as well as the danger of falling into trafficking, especially for foreign people, increased disproportionately, due to the labor emergency crisis, as well as the health emergency crisis.

If in fact the increase in border controls, as a result of the restrictive measures on entrance, has drastically reduced the number of regular migrants on our territory, the main concern is the emergence of people in social and economic distress, trying to reach the Italian soil through irregular means; moreover, those who were in a situation of serious exploitation even before the start of the pandemic, and who are afraid of losing their jobs because of the serious instability in which they find themselves; or people who are victims of trafficking and serious exploitation, because of their situation irregularity, who face health issues in receiving appropriate treatment for the prevention of infection, and basic care, exacerbating their already fragile situation of vulnerability.

In terms of working exploitation, main in agri-food sector, the security decree, as previously said, has not achieved its goal. In fact, recent estimates show that not even a quarter of all the requests received has flowed into the regularization of people, being accepted by the Territorial Questors, the bodies predisposed to the verification of applications. The Decree was ineffective not only in regularizing the high number of undeclared workers, but it also increased the already high precariousness of those, frightened by the repercussions that could have had (Gonnelli 2021). Apart from this, the inappropriate measures of the reception system, and for the effective inclusion of migrants, create through the years a condition of high precarity, enhancing their vulnerability, and exposing them to labor exploitation. Indeed, in my experience I came in contact with many asylum seekers exploited in the field of agriculture, which used the seasonal works in order to earn money for them and their families, not having the possibility to work because of the dilated times of the system for the reception system.

Also, the problematic connected to learning a new language and the lack of an effective support system enhance the possibility to subject themselves to undeclared works, increasing the chance of exploitative situations and trafficking.

4.1 Critical issues in the first contact with the victims

The paradigm of the 4ps against human trafficking is currently the most widely used orientation at the operational level, in line with the UNHCR orientation. The four steps include:

Prevention of trafficking, both from the point of view of criminal activities and victims. *Prosecution*, of criminal organizations dealing with trafficking, *Protection* of victims, and finally *Partnerships* between actors dealing with the issue. This first part will specifically focus on the protection of victims of trafficking, through the first contact with victims, and the risk factors related to the vulnerability system.

In this case, protection means the realization of pathways for the (re)integration of victims, which will be discussed later, but even before that, the identification of the latter. All this, bearing in mind that the four paths cannot be separated from each other, and it is essential, for proper protection, that also the implementation of programs aimed at preventing trafficking and the prosecution of criminal organizations that deal with it, are needed, and will be further developed; and which, last but not least, the system is based on the correct and fruitful coordination between the bodies dealing with human trafficking.

Nevertheless, it is clear that the problem faced by the operators of the reception centers, but not only, also for ones working in the hubs, is certainly the first contact with the victims, and their recognition as victims of trafficking. The identification of victims of trafficking who have survived violence and abuse is complicated in many respects; firstly, because the victims are distrustful of the operators of the facilities, and also because there is a high probability of victims being under shock after surviving the journey to reach the Italian coast, or because of their situation of exploration, and therefore the traumatic experience, to which they are subjected during the period of trafficking, and the passage through particularly hard countries, such as Libya or other countries, along the route.

The seriousness of the abuses suffered, and the complexity of the cases, put in difficulty the reception centers, which are working in an emergency situation, with limited specific skills and a huge number of people.

Moreover, in many cases the victims are constantly controlled, even in CAS, especially by *madams*, so that it is sometimes difficult to establish an honest and transparent contact with them. It may also be that the victims themselves are not necessarily in a vulnerable situation, but choose to enter the world of trafficking, for various reasons, previously explained.

However, the first contact with a victim can happen even before the landing on the Italian coast, starting from the identification of the same directly on board the boats dedicated to the rescue in the national seas; this is obviously the most profitable situation, which would ensure a prompt, and certainly, more effective handling of people once ashore, but also to ensure immediate medical interventions to victims, directly on ships. Obviously, however, the limited time on the ships does not allow in many cases to discover instantly the victims and to establish, by the operators, a relationship of trust with them; also of the limited resources on the boats, not only in economic terms, but also of spaces, made the identification a serious issue.

The identification of vulnerabilities starting from the very first approach with the staff of NGOs is therefore extremely difficult, but of fundamental importance, being able to facilitate the handling of victims of trafficking. It has been seen in fact as the organizations, and the rescue ships offer, in some cases a pre-landing report, in which they are indicated some basic information of the people on board, and in case, the situations of specific vulnerabilities. Surely the report in this case is useful for the purpose of taking charge of the victims on land.

Regarding the identification offshore, in some Italian ports the approach "hotspot" was implemented from the European agenda of 2015, for the identification of the people in arrival in Italy. According to the same, in fact, the moment of disembarkation is defined as a fundamental point for the identification of specific vulnerabilities of migrants, and therefore the early identification of victims of trafficking, and survivors of violence, or potential victims. The post-landing phase is also critical because it is at high risk of (re)trafficking for the most fragile subjects and should therefore provide for all the

services necessary in support of the victims. The use of the "hotspot" procedure allows people to stay longer at the landing points, so as to provide a longer support in time. Nevertheless, this approach was initially strongly criticized for the lack of respect for certain fundamental rights, due to the large number of people in these centers. In addition, many non-governmental organizations complain the failure in respect to some guarantees, hygienic for example, the non-respect of women's rights, or situations of forced detention; but also for the expulsion of migrants without a proper follow-up of procedures, lack of minors protection, and inappropriate legal information, given in a language which was not mastered by users, that therefore did not allow migrants to understand all the necessary information, or allowed a partial disclosure.

Moreover, like the recognition on the rescue boats, critical issues in the recognition of the victims are to be searched in the reduced time of permanence inside of the hotspot (even if greater than some years ago) but also, and above all, to the distrust of trafficked girls and the high unawareness of their situation of serious exploitation. In fact, as already reported, the girls are influenced by the families to collaborate with the traffickers, who also convince them to declare themselves adults to be placed in reception centers for adults, so that they can act undisturbed, as these are less protected than those of minors.

Moreover, as for recognition at sea, the hotspot lacks a systematic and formal procedure that allows the assessment of cases of specific vulnerabilities of people. In fact, few hotspots follow shared indicators for identifying victims of trafficking (Pasquero e Palladino 2017).

The recognition of victims at sea or in hotspots does not necessarily ensure that they are taken care of in specific facilities for survivors of violence or trafficking, but these can be held in hotspots or sent to CAS or other temporary facilities, therefore not suitable for the handling of victims of trafficking. All this can be mainly due to the lack of places in sheltered facilities and special facilities for the reception of vulnerable people.

The first contact with the victims in structures such as the Extraordinary Reception Centers, or in the SAIs, does not have a systematic procedure, but is mostly due to the singularity of the reception center team, which based on the personal sensitivity of the operators, and the support of psychologists and social workers can, more or less

effectively, find situations of vulnerability, trafficking, or situations of serious exploitation.

4.1.1. Limits of the Referral Mechanism between anti-trafficking and asylum systems

As previously said, the *Referral Mechanism between anti-trafficking and asylum systems* is a set of guidelines for the recognition of victims of human trafficking put on place by the Territorial Commissions. Generally, those are assumed to recognize alleged victims of trafficking at the hearing for international protection. However, the system of referral presents some limitations and inadequacies when it comes to practice. We can, surely define three main drawbacks in this sense.

Firstly, the system of referral is a set of recommendation that envisage the recognition of a victim of human trafficking during the commission, or the appeal, without a specific declaration of the victim, only on the basis of the indicators of trafficking. Nevertheless, many times in the territorial commission the competent authorities, the judges, or even the cultural mediators in charge of listening to the "motives" of the victims, seem to be unwilling to use these guidelines effectively. This strong lack of preparation, of a specific type on vulnerabilities, turns out to be a great limit in the effective use of the referral system.

Secondly, the *Referral Mechanism between anti-trafficking and asylum systems* has no national implementation, as far as Italy is concerned, but only the aforementioned UNHCR reference. This means that the system is used in a different way at regional level, which has been subject to considerable disparities in implementation. A definition at national level would therefore allow the creation of a single reference model, defining the roles and functions of all the services that, more or less, have a mandate to take charge of victims of trafficking, or presumed such.

The third and final limitation of referral mechanism is that territorial commissions and anti-trafficking organizations are not the only actors that come into contact with victims. In fact, a large part of the third sector, such as the aforementioned CAS and SAI, deals with this category of asylum seekers almost daily. Not only that, but also service agencies could come into contact with alleged victims. However, cooperation for the effective implementation of the mechanism is certainly not properly implemented, and even if

victims are identified before appearing in civil court, I do not know that they have received the relevant information about their rights and the possibility of undertaking a protection path due to their vulnerability. It is therefore necessary that the territorial commissions implement the referral mechanism also at the level of the territorial institutions, such as hospitals, for example, and of the bodies dealing with migration, so that all actors involved in the process can work simultaneously and increase the possibility of early recognition of victims of trafficking and also act in the field of specialized assistance according to the specific needs of victims. The implementation of referral mechanism to all actors that could potentially come into contact with victims of trafficking (many of the rest), would allow to define procedures and specific roles.

4.1.2. Risk factors in a system based just on specific vulnerabilities

The specificity of system for the identification of the victim is based, in terms of policies, but also in the field of academic studies, on the level of the migrant in terms of vulnerability. Studies distinguish between the studies three main levels of approach, which are based on specific vulnerabilities; those, in the contest of victims of human trafficking and migration, increase the already high level of vulnerability. Those approaches are, primarily gender vulnerability, based mainly on the specific vulnerability of foreign women, who fall victim to trafficking, in most cases in the sex industry; in second place the studies on victims of trafficking through a human rights based approach, defying the terms of policies and the guarantees of a legal, health and social inclusion that are guaranteed to this category of migrants; and finally the intersectional approach, namely multi-agency work, identifying victims of trafficking and referring them back to the service that best matches the vulnerabilities of the victims.

And if it has been confirmed, in practical terms, that these approaches are certainly fundamental to the success of taking charge of the victim of trafficking, it is good, however, to reflect on the effectiveness of the implementation of this system, so that the figure of migrant women should not be flattened into a mere victim of violence, but instead to carry out a specific analysis of the case, without categorizing the vulnerability as watertight compartments, never intersecting. On the contrary, a thorough analysis is

essential, avoiding the risk of alienating all the other victims from asking for help, for a superficial understand of the case, because they are categorized as “not enough vulnerable”.

Moreover, the erroneous and extremely superficial choice to focus attention on trafficking always as forced prostitution, rather than as a situation of serious exploitation of the person, in whatever field this exploitation may be carried out, it favors the segment of the female population in question, and consequently disadvantages all other categories of victims. Women are not always unaware of their situation, and do not always want to escape from the situation of prostitution, because sometimes they benefit from it, in terms of protection, having a home, the coverage of organizations for documents, and in some cases, because of the financial advantage to earn a large amount of money, in a short time, having an activity that allows it.

Consequently, it goes without saying that the gender perspective, as we have seen, is certainly an important element of vulnerability, and should be considered as such, but it is good to proceed with caution, not to fall into the error of setting it up as a category for the exclusion of other types of vulnerability, or in cases where there seems to be no reason to believe in a specific vulnerability of the subject.

With regard to the human rights paradigm, in recent years, the study based on the guarantee of human rights, has focused on the identification of victims as an administrative protection, for the purposes of "census", unfortunately without focusing on paths of social reintegration of victims, or "long-term" support. Furthermore, the human rights paradigm, in a sense, requires that victims be granted a protection status, certified by an international protection document. It appears, however, that the paths of inclusion are not built with the aim of long-term protection through the implementation, with migrants themselves, of *ad hoc* paths, in order to promote the dignity and independence of victims.

Moreover, to define the category of vulnerability as a group bound to exercise human rights, is in itself an erroneous categorization, since human rights are considered "inalienable human rights" that must be recognized to every person, and are therefore, universal. Trafficking, by exclusion, violates these rights, and is not only detectable in the vulnerability of the subjects, but is developed and based on a much more complex

phenomenology, which is based on many shaded, including racial, religious, nationality, political and social categories; as mentioned above, the victim is not always able to identify himself as a person suffering serious exploitation, and vulnerability is not always a determining factor in falling victim to trafficking. Crystallizing vulnerability entails an exclusive categorization, which does not allow to guarantee human rights without distinctions.

Finally, the intersectional approach is based on multi-agency work, through practices that allow the development of multi-sector and active (or proactive) monitoring activities. Actors aim to obtain better knowledge of the specificities in the phenomenon of trafficking in the territory of reference, as well as taking emergency actions for the identification and, possibly, taking charge, and social (re)integration of as many victims as possible. However, although these practices, with the protocols of understanding between agencies, are fundamental, sometimes, they are to be considered fallacious. It is known that the fight against trafficking in human beings, as mentioned earlier, sometimes is not focusing enough on the reintegration of the victim and the construction of targeted paths, in order to avoid the so-called re-trafficking phenomenon, but instead it focuses on the fight against the criminal activity itself. And even if it is clear that the aspects of prevention and penal repression for traffickers are fundamental, these cannot be separated from the recognition of the rights of victims of trafficking and the guarantee of protection for the victims, required in a correct multiagency approach. In fact, attention must be paid to the ability of these agencies to develop a "chain reaction" that allows a dignified path to the victim who identifies with a situation of trafficking and/or serious exploitation, and just then, an approach to identify those responsible for the criminal act.

As explained, however, by Paola Degani and Paolo de Stefani, this multi-agency perspective can only work as a palliative in the fight against human trafficking, without having the possibility of affecting the phenomenon of trafficking, but only as "harm reduction". Policy measures on migration flows can, however, effectively influence the system.

Furthermore, the intersectionality of multi-agency work with the field of asylum seekers and holders of international protection, which do not deal specifically with trafficking, and do not have specific preparation in this regard, risks first of all hindering

the correct identification of victims, which we have seen to be fundamental, and secondly to obstruct the paths of social inclusion linked to the good practices of specialized centers. This, according to field studies, and to the workers of the anti-violence centers, mainly because of the lack of a unique "national language", which makes the exchange of good practices and information between the realities of migration and human trafficking, extremely complicated. Moreover, the very complex bureaucracy of the system, which generates very long waiting times, combined with institutions that do not collaborate, make the work of operators in the anti-trafficking system highly frustrating.

Eventually, we must therefore ask ourselves how excluded from the initial (or ongoing) categorization as vulnerable, can be discriminating for an effective management as a victim of trafficking; and the answer is, certainly a lot. Indeed, not falling into the categories legally listed as vulnerable, does not mutually exclude a migrant from being a victim of trafficking, or from suffering violence, whether in the country of origin, or during the migration path, or even in the country of "landing". As a result, typing as vulnerable is somewhat exclusionary, and all refugees have the right to receive the same attention, so as not to fall into the category of the "invisible" and not aggravate a situation of personal and social fragility that comes to be determined, in the reception system, without any acclaimed vulnerability is present, so that everyone can get effective protection.

The typing of the vulnerability as a sealed category and the suitability of the current Italian reception system are questions to be asked in order to make an effective improvement of the system, in such a way as to recognize the vulnerability from personal experience of the person, examined on a case-by-case basis, so that we can achieve an equal approach, truly based on human rights.

In conclusion, the criterion of vulnerability in trafficking is really the key to identify and develop targeted routes for victims of trafficking, and must be used as a criterion of due diligence in respect of human rights, and the above categories; this aiming for the identification of cases of trafficking, in order to prevent or reduce the vulnerability of the individual. The vulnerability criterion must therefore have a response not only at the international, national, but also practical level, in the Italian anti-trafficking system,

putting into practice the three aforementioned paradigms diligently, without undermining the meaning that the notion of vulnerability expresses (Giovanetti and Zorzella 2020).

4.2 Limits and good practices of the agencies dealing specifically with gender-based violence

It should be made clear that the services dealing specifically with victims of trafficking on Italian soil are many, especially those dedicated to violence. Various social cooperatives can be identified in this context, with many bodies of third sector that deal with violence (especially gender violence, therefore against women). These, in most cases, fall into a single category, the Anti-Violence Center (CAV). Specifically, the aim of those centers is to support victims, mainly women and children, in order to get out of a situation of violence, when the victim identifies himself as such, or if victims are recognized by other bodies. The structures also deal, through several projects, to secure the victims, hiding them anonymously, in protected facilities. Nevertheless, although they are experienced in the field of gender-based violence, they sometimes find it difficult to take care of victims of trafficking because they are unable to take into account the cultural factor and the background of the participants, whether is language or the migration process of women. This severely limits the effectiveness of the participants' pathway, as those facilities are often not *ad hoc* for the migrant victim, who has not necessarily only survived gender-based violence but presents much higher risk factors and vulnerabilities and an articulated range of traumatic experiences; in some cases, these centers do not have the necessary intercultural mediators, to overpass those issues. In addition, CAV sometimes do not deal with the actual taking over of women, because of lack of places in the structures or for other reasons, but are only responsible for providing information, at most of a legal nature, and to report of the same to the social services in the territories of competence.

It is good, however, to specify that the handling of anti-violence centers is not uniform throughout Italy, and that a growing number of these services are specializing in the field of anti-trafficking, throughout Italian soil. Through the help of intercultural mediators, they help victims to become aware of their status as victims of gender-based violence, or

of the conditions of abuse in which they find themselves, in order to build a path of social reintegration along with the victim, in order to achieve the objectives set by the association: this, starting from the personal skills of women, such as the degree of education, and according to the cultural and economic background, in such a way as to give the victim the tools to rise the victim's awareness and deal with the violence suffered.

This culturally based adaptation of pathways to the different intercultural profiles of women in charge, has been seen to be fruitful.

Actually, anti-trafficking services have moved, in recent years, for a "elbow to elbow" cooperation with the Territorial Commissions, in order to support the latter in the recognition and certification of possible victims of trafficking or serious exploitation, facilitating early identification, thanks to the expertise in the field. These associations carry out, in some cases, (in)formation paths to the same Territorial Commissions, on the identification of victims of trafficking, in order to generate a greater awareness of the phenomenon of trafficking and gender-based violence.

In addition to the CAV structures, other bodies dealing specifically with victims of trafficking are the so-called Bridge Structures for Victims of Trafficking. These, unlike the CAV, have a shorter-term mandate, as they give a time limit of two months to generate and increase awareness of alleged victims of trafficking, through the support of psychologists, cultural mediators and ethnopsychologists, who conduct group and individual sessions with the alleged victims, with respect to the risk factors involving them. These entities cooperate with third sector organizations such as the CAV, but also health and legal care services, specialized on vulnerable individuals; this intersection between different services has been found to be beneficial and to postpone a positive impact on the recognition of victims of trafficking, or on people at risk in order to act on the prevention front, allowing the harmonious development of victim protection practices. These structures act considering the specific vulnerabilities of victims, drawing on a gender-based approach, based not only on respect for the rights of victims, but also and above all on human rights, including the importance of the transcultural approach (Pasquero e Palladino 2017).

In addition to the bodies that deal specifically with the route, you can also recognize, in the panorama, the great work done by the Toll-Free Number based in Venice, who

deals as mentioned above with the communication of victims or alleged victims with the specific services, but also to give people who come into contact with information and circumstantial support in case of emergency.

In addition, we note the importance of networking between agencies, even those that do not deal specifically with trafficking, with law enforcement, or as mentioned some lines higher, the Territorial Commissions, the Public Prosecutor's Office on the territory, and the municipal social services. Of fundamental importance, due to the large number of victims of trafficking requiring international protection, is the work done in the First Reception Centres (CAS), and the new Reception and Integration Systems (SAI), ex-SPRAR and ex-SIPROIMI, dedicated to the paths of second reception.

Other associations, including LGBTQIA+ Organizations, are concerned with raising awareness among victims of trafficking or serious exploitation, but also among CAS, or SAI operators, to work on greater inclusion, and protection of these groups, who often live in conditions that do not suit their personal situation. In this context, attention is drawn to the importance of awareness-raising on the vulnerability of transsexual women (male to female), as they are more exposed to stigma; the associations concerned are important, for example, to spread awareness on the non-binary classification of services, on the separation of dormitories between transsexual women and men.

In addition, the work in the network of coordination between Mobile Road Units, the Drop-in Counters, and the aforementioned associations, which deal with spreading awareness, sensibilization, and offering support in cases of vulnerabilities are configured as approaches of extreme importance to offer a "well-rounded" support of (alleged) victims of trafficking, facilitating the natural transfer of skills and experience needed to address the complexity of current migration flows, especially when services operate on multiple fronts at the same time.

4.3 Victims of trafficking in First Reception Centers: the trap of the system and the worsening of vulnerabilities

As has been defined several times, currently the First Reception Centers (CAS), receive daily dozens of people, and it has been seen, as the victims of trafficking are increasing

dramatically in these centers, because the victims themselves apply for international protection in order to receive refugee status. The victims, it was clear, do not always disengage the role of the victim, but sometimes those are perfectly aware they are accepting the trafficking, for example, in the sex industry. In the CAS system, the beneficiaries belong to different areas, but apart from family units, and single-parent families, many beneficiaries live in larger or smaller centers, among different ethnic groups and religions.

The CAS system includes large centers, mixed (female and male) or single sex; these centers have more than one flaw in the system, which is exacerbated if beneficiaries are vulnerable, and therefore make them more likely to fall victim of trafficking or any other exploitation.

In the first instance, reception centers do not have 24-hour surveillance; this makes the centers easily attacked by traffickers, and the beneficiaries freer to "bypass" the control systems of the centers themselves. For this reason, many criminal networks, and the victims themselves choose, even consciously to enter the CAS as asylum seekers: the centers have a very limited control discipline, compared to the CAV centers, for example, and this makes it easier for traffickers to act, and beneficiaries to circumvent controls. It also happens that, in the case of women, mostly Nigerian, they enter the CAS accompanied by the so-called *madams*, which therefore have greater holds to keep them under control, on a daily basis. In addition, always because of the false controls, many girls, already knowing about this, declare they are above 18, even if they are actually underage, making their protection even more difficult.

Moreover, despite the countless decrees and recommendations for the protection of vulnerable subjects on Italian territory, support for the path of social inclusion, which would be very useful to all asylum seekers, and especially to those who have more or less obvious vulnerabilities, is reserved only for unaccompanied foreign minors, and who has already recognized protection, while for asylum seekers there are only basic reception and assistance services (defined in the new CAS specifications). These include services relating to food, accommodation and the provision of essential goods and services, such as the right to receive healthcare and legal assistance. Italian language, orientation on the territory and hours of psychological support those in need are excluded from the essential

services provided. The hours of social assistance and cultural mediation, instead, remained in place; however, the hours provided are certainly not enough, as these do not definitely allow to cover the great need of the great number of asylum seekers in these CAS, and some happens to be excluded from these services.

Moreover, because of the typically “emergency nature” of the First Reception Centers, the "all-round" taking charge of asylum seekers is extremely complicated to be put in practice, even more if migrants present some sort of vulnerability.

Again because of the emergency and very operational nature of the centers, operators lack the necessary qualifications, not only for taking charge of the most vulnerable people, but also only for the recognition of the same as subjects in requiring of special assistance. This obviously does not allow effective interventions to support people in a state of distress, such as women victims of abuses, or at risk of trafficking, or already in a trafficking situation.

Moreover, the new contract of the Prefecture required a throw again of the necessary daily budget for the management of the centers. This has allowed, and still allows large cooperatives to grab the competition without proposing the necessary paths to asylum seekers guests, but on the contrary providing only basic goods and services, so as to "fall into costs", also because of the large number of guests of the centers. In fact, by call, for each guest, are daily proposed (including all the necessary goods and services, food, assistance, and fixed expenses such as bills) 26,35 euro for collective reception centers up to 50 users, and 25,35 from 51 to 300 asylum seekers. These cuts compared to previous years lead to a drastic decrease in personal services.

To conclude, it is clear that the first reception facilities for adults on Italian soil are not prepared for the management of vulnerable cases of asylum seekers, especially in the case of victims at risk of trafficking or exploitation. In fact, the emergency optics of the centers, combined with the low specific preparation of the operators of the centers, risks letting go undisturbed a situation of discomfort of the host, allowing the spread of the situation of vulnerability and the worsening of the state of exploitation of the victim of trafficking, even if this has "full" awareness. The lack of proper time and funds in the reception centers only worsens the situation, generating a system that only exacerbates the specific vulnerabilities of asylum seekers, and especially victims of trafficking, creating an engine

that more than acting as a First Reception System, becomes a trap for the guests themselves, trapped for many years in a CAS that is not able to offer perspectives of social inclusion or support, in most cases.

4.4 Specific actions for the recognition of victims

4.4.1. The importance of a common language in transferring information

From the reception of asylum seekers on rescue boats, to the initial reception of victims in extraordinary centers, but also in second reception centers, practices can be defined which, generally, have proved useful especially in the recognition of victims of trafficking. Below will be listed and explained those practices, in their entirety, taking into account that this would be the best path for the recognition and taking charge of victims; but that obviously nowadays, are almost impossible to put into practice, because of the aforementioned reasons. As a result, the system presented is an idealization of a system that could be described as all-encompassing, which would expose the majority of trafficking cases, but which cannot, nowadays, be feasible.

First of all, what does not allow the recognition system to be totally effective is certainly the failure to adopt a common language between the bodies, starting from the landing, or even before the taking charge of the ships, until the reception in the CAS. Furthermore, the inability to pass on information between institutions and services dealing with asylum seekers is a strong limitation, because it does not allow the taking over and continuation of the pathways for the most vulnerable guests in reception centers; In fact, although some saving-boats take care to register all the people and to identify the specific vulnerability of the subjects, the information is lost on arrival in the hotspots, or in the CAS. This, as said, is probably due to the emergency situation in which this reality operates, and it also seems to be attributable in some cases to the lack of preparation of the authorities; those have, more than anything else, a legal census perspective, rather than an approach based on human rights and the vulnerability of victims. We therefore refer to the importance of sending vulnerability reports, addressed for example to the IOM

and social services, urging the transfer the most vulnerable subjects in protected structures, requiring a specific psychological and social support.

In this regard, also the use of "*liaison*" figures that identify and inform the authorities, acting as a "word of mouth" between the different bodies dealing with trafficking, would certainly be a winning approach to cope with the loss of information during the passage of beneficiaries between the different reception facilities.

4.4.2. The importance of cooperation between relevant institutional actors

However, the effective provision of information on persons identified as vulnerable is not the only action necessary for the effective recognition of alleged victims of trafficking. It is also essential to ensure a number of suitable places in the protected structures, which has been found to be totally inadequate for the increasing number of victims on Italian territory. However, due to the great disparity between victims of trafficking and the number of places available in the CAV, the fundamental role of reception centers (CAS or SAI) should be taken into account; primary is so, the creation of a common language to which to adhere, which is shared between the different entities. The coordination between structures and services dealing specifically with victims of trafficking and/or serious exploitation, and the CAS, which deal in general with migration, is definitely a winning move. Cooperation with psychosocial non-governmental organizations makes it possible to bridge the gap of many centers in terms of providing psychosocial support. In addition, cooperation with anti-trafficking organizations enables CAS and SAI to provide not only legal (in)formation to guests about the phenomenon of trafficking, but also to provide psychological support for victims, or presumed such, in order to activate paths of help and protection, as well as social inclusion programs. It is also clear that reception centers with limited numbers of guests are able to offer a more protective environment than larger centers, thus reducing the risk of criminal networks hooking up. In addition, due to the lack of necessary places in the CAV structures, it would be appropriate to provide for the opening of "bridge structures" or "decantation structures", where people with greater vulnerability, and possible victims, would be placed, so as to facilitate the emergence, and allowing more specialized operators to carry out more in-depth

investigations on the vulnerabilities of the subjects, without falling into the emergency situation of the First Reception Centers.

Moreover, organizations dealing with asylum seekers and irregular migrants have a limited possibility of coping with the vulnerability of victims, also due to the total lack of monetary resources; to provide, in particular for services dealing with the protection of victims of trafficking and violence, all the necessary resources to overcome the lack of individualized planning logic; in fact, favoring a vision based on the provision of genuine services focused on the person, would be the most fruitful situation.

Finally, providing for a transfer of skills and promoting a specific training period by the centers specialized in the phenomenon of trafficking in human beings, and violence, both for non-specialized centers, for the authorities on the Italian territory (also and especially those in hotspots) and the Territorial Commissions, could be a winning move to effectively cope with both the lack of places in protected centers, and the lack of funds promoted by the region for the training courses.

4.4.3. The importance of good practice for recognition of vulnerability

As for the role and, in general, the skills of the operators, the situation is much more complex. Operators on boats, hotspots and first-aid centers, as mentioned, work under a highly emergency regime; the lack of time, and funding for many organizations is an insurmountable limit, which greatly reduces the chances of recognition and taking charge of victims. Nevertheless, it is possible to identify practices that can be used concretely by operators for the recognition of people with vulnerabilities, and that can be configured as possible victims of trafficking.

In the first place, operators must try to create an atmosphere of humanity, empathy, and a "friendly" approach with the alleged victims of trafficking, and in general with all migrants and asylum seekers guested in the facilities. In fact, it is of fundamental importance having a clear form of communication with the latter, since the beginning; It is also important to guarantee to those migrants on ships, hotspots, CAS and SAI, that they are in a safe place and that the objective of operators is to ensure the protection of guests. This allows to build a bond of trust with the members of the staff operating in the sector, in order to convey security to guests.

In addition, it is crucial for the working team to pay attention to the “alarm bells” that could detect a situation of vulnerability, even if not acclaimed; for example, having the family in economic difficulty in the country of origin, be the eldest daughter, the statement of not having paid anything for the trip, combined with the low level of education. Pay attention to the psychological state of asylum seekers, for example in case of intrusive thoughts, difficulties in social inclusion, but also the physical state of the same, as visible signs of violence or torture.

In this regard, it is important for the staff to implement common guidelines for identifying the vulnerability of asylum seekers, especially women and minors. These lines will aim to identify possible victims of trafficking, and set in motion the referral systems, in a systematic, safe, and effective manner, so as to facilitate coordination between services, provide a good handover between entities, and ensure the continuation of take-over.

In the context of establishing effective and common guidelines, the baseline can be for example, the 2016 UNHCR guidelines, but bearing in mind that it is good not to remain anchored in the narrow meaning of the guidelines, and the procedures described therein; much more it is significant, to make use of this scheme, only to draw a systematic mapping on the recognition of the vulnerabilities of victims of trafficking. This, in order not to fall into the trap of generalization; in fact, although accurate, these vulnerability mappings, can never encompass every single case of trafficking, as each case is different, specific, and independent¹¹¹. It is therefore necessary to go beyond the so-called "trafficking indicators", and being able to grasp, as a whole, the elements that may indicate that the beneficiary in question may present a kind of vulnerability, and potentially be victim of trafficking.

For the staff of the reception centers, as well as institutions that deal with migration, it is essential to activate training and continuous (in)formation programs. These must

¹¹¹ I refer in this context to a case of the Court of Bari in which an appeal was rejected because it did not faithfully respect the UNHCR guides, and the victim could not be recognized as having the right to international protection, because it did not constitute a victim of trafficking for the purpose of sexual exploitation but was instead favored prostitution for an economic vulnerability.

include a phase of monitoring and final evaluation of the paths activated for the protection of victims, so as to have a reference to the training processes and the work of operators.

Moreover, the importance of spreading and using a gender based and Minority based approach in the first reception facilities, by the operators and staff working in these centers, is proven.

For this reason, the accommodation of women (including children) and minorities (such as LGBTQIA+) in special structures, separated from those of men, allows them to feel more secure, but also to make closer contact, and create a climate of trust with them. Facilities that take measures to ensure the security and privacy of guests belonging to gender minorities are a virtuous example of an adequate response to vulnerabilities specific needs that these subjects may present. The reception facilities, managed according to a gender and transcultural approach, place the well-being and the protagonism of women at the center of the reception project through a liberating path of sharing and access to rights.

Also in this context, the presence of female staff in the reception facilities, was seen to be more profitable in the recognition, and taking charge of the specific vulnerabilities of female victims in such a way as to facilitate, as much as possible, the sharing of information with the operators of the center.

The team of the centers must provide, from the first reception, or perhaps even before the landing, as far as possible, to give information on the telephone numbers to call in case of need, from the Antitrafficking Hotline, but also first aid numbers, and competent authorities on Italian territory. In addition, it is important to disseminate territorial and/or national maps of bodies dealing with specific protection and support services to vulnerable persons. These mappings must be developed through the coordination among the agencies, like tables of cooperation, technical platforms, and reunions for coordination, with the objective of being supporting to the centers of reception and the subjects who need it.

In addition, set up mechanisms to provide information to the beneficiaries of the centers on issues that may be relevant for the protection of persons (primarily women) who are vulnerable, such as health information or regarding termination of pregnancy, gender-based violence, and prostitution.

Provide spaces for sharing and support of (alleged) victims and provide for group activities and/ or individual discussion on issues such as sexuality, gender and sexual violence is therefore recommended to facilitate the recognition of behavioral indicators that can designate any type of vulnerability. In addition, proper legal information, supported by the competent authorities, can facilitate the identification of people with specific needs, making a targeted assessment. This informative and open approach to dialogue, cut out on an intercultural and gender approach, allows women to share the experience of trafficking more easily, but is also useful to act on the curiosity of the victims about issues, which can sometimes lead to an awareness of women themselves.

Finally, the effectiveness of the recognition of vulnerable persons by operators, while fundamental, is not enough in terms of the socio-economic independence of victims. It therefore appears that the operators of the centers must, in cooperation with the guests, especially those identified as vulnerable, create a path of social and economic integration, in order to give an alternative from the situation of exploitation they are fund. to vulnerable persons, mainly women. First of all, the learning of the Italian language is central; secondly, the activation of training paths that can lead to greater professionalism, and to undertake a job that is a real and positive alternative, in such a way as to work on the empowerment of vulnerable people, has proven to be a fundamental element for the exit from the relationship of subjection of victims of trafficking, and their (re)insertion in the social substrate.

4.4.4. Strengthening and supporting specialized operators and services addressing vulnerabilities

In addition to the more "operational" team of reception centers, it is important, in order to deal with the vulnerability of victims, to work with specialized operators; these include legal operators, operators of healthcare are, which focus on providing information on the respective areas for asylum seekers, and on paying special attention to people with more or less obvious vulnerability, and other specific issues. Moreover, the importance of having a multidisciplinary team, in which each operator (or more than one) specializes in an area and takes responsibility for the follow-up of applicants in that area, is a solution that has been found to be effective in the context of reception centers for asylum seekers;

a group of generic operators is not enough, as this does not allow to identify the vulnerabilities of the subjects. The specialized team, apart from the aforementioned includes the support figures of psychologists, social workers, and cultural mediators, and in specific cases, also medical figures, especially on ships and in hotspots.

Upon arrival at the hotspot, all people, but especially those identified as vulnerable, should be offered a specific and detailed legal information on the reception measures in Italy, and the paths to follow; these may be granted individually to beneficiaries, or to small groups. Moreover, in addition to the legal information, for vulnerable subjects, and identified as possible victims of trafficking, it is important to open channels, also from a legal point of view, in order to promptly communicate to the Prefectures the opening of referral systems.

The figure of the psychologist is certainly fundamental in identifying vulnerabilities among irregular migrants arriving in hubs on Italian soil, as well as in reception centers.

The psychologist, especially if female to ensure greater trust and openness on the possible victims of trafficking, obviously has the task of offering psychological support to people identified as vulnerable, but also to identify the possible hidden vulnerabilities of the victims, through in-depth interviews. The figure of the psychologist has the proactive function of supporting general practitioners, mediators, and medical personnel. Obviously, even better if the same figures are ethnopsychologists, and have therefore deepened ethnic studies, as well as psychological.

The intervention of medical personnel is also fundamental, starting obviously from the rescue ships, but also in the hotspots; as for first and second reception centers, asylum seekers have access to the National Health System (NHS), both through the attribution of STP Code (Foreigner Temporarily present in the Territory), and through the attribution of the Tax Code, like an Italian citizen.

Nevertheless, the guarantee of informative sessions on the sexual and reproductive health of women, especially by experienced, and female staff, has been seen to be very useful in encouraging the gradual move towards more in-depth discussions on gender and sexual violence. In addition to the provision of private spaces where guests have the opportunity to carry out these sessions, it is also important to ensure the opportunity for all migrants to make a first medical check-up and, if necessary, arrange for further visits,

in order to facilitate the sharing of experiences of violence and the interpretation, by medical personnel, of clinical and behavioral indicators, regarding past violence. It has been seen how the offer of HIV tests and screening of pregnant women facilitates the identification of survivors to violence.

In addition, the production of certifications by medical personnel on the violence suffered, is of help during legal proceedings, as the same are used by the Territorial Commissions, in the judgments, for the issuance of the international protection.

It is evident that health professionals, whether they are psychologists (including ethno-psychologists), or doctors, are fundamental for the recognition and identification of vulnerable subjects, and who have passed some type of violence, in order to mitigate the physical and psychological impact regarding the violence suffered¹¹². The provision of this type of sessions facilitates the emergence of cases of violence, if carried out quickly, and followed by a detailed report, and in case of sending a medical alert to centers such as the USMAF, in case of particular medical needs; or, in the case of recognized vulnerabilities, the transmitting of these reports to services such as Save the Children, in the case of minors, UNHCR, CEDAW or any other group that may interface with the entities concerned, especially upon arrival at the port. In the case of transfer to reception centers, however, the same relationships must be taken over, together with the subjects, by the social workers of the municipalities to which they belong. In the case of minors, however, the assignment of a voluntary tutor, following the model, for example, of the CESVI¹¹³ and Accoglirete Project¹¹⁴ in Syracuse, allows to offer greater protection to unaccompanied foreign minors, reducing their exposure to risks.

Finally, another figure of fundamental importance is that of the mediator, or intercultural mediators. First of all, these figures can communicate in the languages of

¹¹² The lack of use of inter-cultural mediators and mediators of various origins and with competence in the English, French, Arabic, Tigrigna, Amharic, and Nigerian and sub-Saharan dialects makes it possible to establish adequate cultural contact with guests, which, in addition to facilitating the sharing of past violence, facilitate the linguistic and social integration of guests.

It happens very often that cultural mediators are themselves survivors of trafficking, and that sometimes they volunteer to help victims neutralize the magical rituals they believe they have been enslaved to, especially in the case of Nigerian victims.

¹¹³ The official link to the CESVI page is available at: <https://www.cesvi.org/>.

¹¹⁴ The official link to the Project AccoglieRete is available at: <http://accoglirete.org/index.php/it/>.

origin of migrants, in order to act as a link between the institutions, or other figures of specific interest (such as psychologists and medical personnel).

The mediators must be figures with different linguistic skills and multiple origins, especially, given the majority of victims of African origin, it would be appropriate to focus on mediators with sub-Saharan origins. In addition, given the high number of female victims, it is essential to have mediators who are properly trained and informed about violence and gender issues, so that we can work on the anti-trafficking and victim protection front.

In this regard, it is essential to finalize the register of cultural mediators, so as to protect this profession and allow associations to have a complete list of necessary figures, divided by linguistic and nationality and/ or ethnicity¹¹⁵.

The proper establishment of trust between cultural mediators and guests allows for a climate of sharing, and also allows mediators to make their way through the complex mentality of victims, that sometimes suffer the stigma of subjection to voodoo rites, so that the same are so much plagiarized that they do not trust operators, nor specialized personnel¹¹⁶. The specialized figure is responsible for establishing a dialogue, both in an informal way, dialoguing freely with the alleged victims of trafficking, but also through specialized talks with the help of (ethnic)psychologists, to establish a relationship of trust with the alleged victims and allow the beneficiaries of the services to identify a reassuring figure in order to facilitate an open dialogue.

The figure of the mediators, besides being of fundamental importance for the guests, are also important for the operators of the centers and the competent authorities; in fact, non-verbal language is not always used in the same way, universally¹¹⁷; Moreover, sometimes the victims, in addition to being reluctant to declare themselves as such, do

¹¹⁵ The lack of use of inter-cultural mediators and mediators of various origins and with competence in the English, French, Arabic, Tigrigna, Amharic and Nigerian and sub-Saharan dialects makes it possible to establish adequate cultural contact with guests, which, in addition to facilitating the sharing of past violence, facilitate the linguistic and social integration of guests.

¹¹⁶ It happens very often that cultural mediators are themselves survivors of trafficking, and that sometimes they volunteer to help victims neutralize the magical rituals they believe they have been enslaved to, especially in the case of Nigerian victims.

¹¹⁷ Not always, in fact, the figures working with asylum seekers, as well as the authorities and the Territorial Commissions, can read paraverbal language. It refers, for example, to the meaning of avoiding eye contact with people is a sign of great respect for many cultures, while in Italy it is seen as if the subject was lying.

not believe that they are victims. In these cases, only a properly trained person can recognize the fine line that divides victims of trafficking or exploitation, and those who are not.

4.5 Complementary actions in the recognition of victims of trafficking

In order to facilitate the identification of victims of trafficking and to reduce the number of victims, other actions can be identified as necessary by bodies dealing with trafficking and migration and will be briefly explained below.

First of all, it is important to rely on preventing trafficking in itself, even before vulnerability is recognized.

First, at the governmental level, the extension of the legal entrance for reaching European nations, and specifically Italy, would allow many more migrants to enter Europe regularly, without having to incur the interception of smugglers, with the risk of entering in contact with criminal entities involved in trafficking in human beings, during the journey or before departure.

Similarly, in order to prevent situations of trafficking and serious exploitation, it is good to work on raising awareness of the populations and communities in the countries of origin, informing on the activities of criminal networks and the methods of solicitation of victims. It is useful to provide, always for the reduction of risk factors, to invest in prevention and information activities in the territories of origin of these migrants; prevention, including the creation of tools that allow communities to create activities that generate profit in the regions of origin¹¹⁸. However, nowadays this practice is very complicated to put into practice, both from a social point of view, but also and above all from a point of view of funds. Moreover, the climate of political instability and obstructionism in some countries of the world makes it very difficult to develop this practice.

¹¹⁸ The Promotion of income-generating activities in areas where people are trafficked, including microcredit, job creation and professional advice has been very profitable in some refills of the world. In addition, the focus is on Training, especially of women, on Topics of Sexual Education, Prevention in Sex and Education on Topics related to trafficking.

It has been seen that repatriation is not the best option, under any circumstances, either for the victims themselves or for those who have managed to escape trafficking; this is because returning to the country of origin would exacerbate the vulnerability of people in a situation of trafficking and serious exploitation, both economically and psychologically, as well as socially; indeed returning home can, and is seen, by the families and inhabitants in the developing countries, as a grave shame for the community¹¹⁹.

In addition, prevention and (in)formation is also essential to increase awareness of the subject. Training and information can, in addition to being important for (alleged) victims of trafficking or subjects presenting a vulnerability, also, as we have seen for the operators of the reception centers and the competent authorities; moreover, the (in)formation passes, and also develops through communities where reception facilities for asylum seekers are located; provide for information and communication sessions at public level on phenomena such as trafficking in human beings, and situations of serious exploitation, also in agri-food sector, is central to allow a strong awareness of the communities where the facilities for asylum seekers are located, and perhaps, greater participation in case of vulnerability detection.

Other information transfer tools, in this case accessible to all, is the platform of JUMAMAP - SERVICES FOR REFUGEES¹²⁰.

This platform represents a continuously updated national mapping of all services aimed at asylum seekers and holders of international protection, but which can also be used by institutions at the regional level in order to build a network of services based on coordination and the transfer of skills, so as to increase the effectiveness of taking charge of people with vulnerabilities. The project has the fundamental objective of creating and updating a platform that can "show", to whom in need, all the services offered at provincial level, in the various regions of Italy. This mapping divides services into

¹¹⁹ In this context we can cite examples of women who instead of interfacing with the stigma of returning home and being seen as a criminal or a prostitute, have resorted to suicide. Or again, of women who do not see the return home as a solution, as this would complicate the reintegration into a society to which they do not belong. The return would mean for them to submit to conditions of abuse and violence worse than prostitution in the country of arrival.

¹²⁰ The link to the website is available at <https://www.jumamap.it/it/>. On the platform it is possible to divide into thematic areas and change the language. The mapping was coordinated by UNHCR, with the collaboration of ARCI Nazionale. (Last accessed on 23rd January 2023)

thematic areas, including health and anti-violence services. This allows, to those who need it, to find the dedicated service, and useful contacts in order to get in touch with the institutions concerned. Jumamap is available in 15 written languages and 4 oral languages.

Finally, as regards the training and information of individuals, the role of research in the context of asylum seekers who are victims of trafficking is also crucial, focusing specifically on issues relating to the vulnerability factors of alleged victims, the purpose of trafficking in human beings and the change in the phenomenon of trafficking over the years; in addition, the studies themselves also focus on the nature of the phenomenon, the categories of migrants involved, sharing accurate statistics on nationalities, the age, the background of the victims etc., but also the ways of solicitation and motivations that can push a woman to enter the world of trafficking in a conscious way. The studies and reports update the phenomenology of trafficking and give guidelines for the improvement of the system of identification of victims, but also on taking charge of them; also those allow recognition of limits and good practices putted into practice by national and international bodies that deal not only with trafficking, but also with gender-based violence and migration.

Finally, with regard to the training and information of individuals, it is essential to clarify that currently academic research in this context focuses mainly on the criminal aspect of trafficking; mainly on the criminalization of this practice and the rules for protection of victims, and on the human rights they benefit from in legislative terms; It appears, however, that an improvement in the field of research must focus on a shift in the geographical importance of trajectories for the identification of victims; or, on final instance, on the new situation of migration policies, and how these leave less and less room for regular entries which nowadays push hundreds of thousands of migrants to choose irregular ways to enter in Italy falling into the hands of criminal networks.

5. Conclusions

This thesis concentrated on the situation of human trafficking in first instance, showing that the complex situation of people trafficked for the purpose of exploitation is undergoing a process of changing.

What is the impact of changes in the phenomenon of human trafficking on the system of international protection?

Today, the phenomenon of human trafficking has changed, in numbers and nationalities of the victims; what remained constant was the huge gap between the number of male and female: female for sure lead the statistics.

As showed in the first chapter, the system of trafficking is built upon the idea of vulnerabilities, is this the economic deprivation, and lack of financial stability increase the vulnerability of the subject. Apart from this, belonging to some specific groups or categories exacerbate even more the vulnerability of the category of migrants, which is di per sè, marginalized and suffer from high degree of vulnerability.

However, what is striking, surely is the huge increase in migrants, victims of human trafficking, who asks for international protection. The rise in requests mas mainly due to the restrictions of the legal entrance of people in the European Union, and specifically in Italy, with a special mention of the Security Decree 113/18, the so-called Salvini Decree. Apart from this, the changes have surely been affected by the SARS-CoV-2 Pandemic, with the sanitary restrictions at the frontiers. For this, migrants' resort to the only solution of trafficking in order to have the chance to change their situation.

In this, the category of women is the most structurally disadvantaged, suffering from psychological and physical abuses at every stage of the process of human trafficking, threatened by traffickers, *madams* and sometimes even by their relatives.

However, the category of women victims of human trafficking encompasses different situations and an impressive range of shades; in fact, studies on women migration has been a branch relatively fresh, and the gender-approach has not been properly defined. After all, women have the capacity of their sexual and personal determination, and enclosing the complex studies around the definition of women as mere victims has been demonstrated to be a reductive definition, which does not take into account the complexity

of the gender approach of women victims of trafficking, mainly used in the prostitution industry.

The change in the phenomenon of victims of trafficking is inextricably linked to the legal and policy framework on the protection of victims of trafficking. In the second chapter, are presented the various forms of protection for victims of trafficking, starting from the International legal framework, since its inception with the Palermo Protocol in 2000. This is an instrument of criminal justice, which therefore does not focus on the protection of victims as its main mandate. Despite this, the Protocol is an essential part for the development of the approach based on vulnerability, including the one of gender, of victims, especially as regards the system of international protection. We have underlined how the Warsaw Convention of the Council of Europe, and EU legal instruments, such as the Directive 2011/36/EU on trafficking, have focused more attention on human rights and gender dimension, and the protection of victims. The recent proposal for a revision of Directive 2011/36/EU on trafficking presents positive aspects, but on the other it also contains some weaknesses, mainly for what regards being inspired on the Nordic Model, which criminalize prostitution on all fronts.

Finally, focusing on the Italian system of international protection for victims of trafficking, with all the decrees that follow, have made it possible to clarify how the change in the phenomenon of trafficking has brought an implementation of the legal and policies framework; also, it made clear how the changes have impacted the system for international protection, with the creation of a synergy between the system for the protection of victims, and the bodies that deal with the management of migrants at national, but especially regional level. The innovative instruments of the Italian legal and policy framework for the protection of victims of trafficking in Italy include Article 18 of the Consolidated Act on Immigration, as well as the implementation of referral mechanism, in conjunction with the 2017 UNHCR directives.

Which are the vulnerabilities produced by Italian system, and what are the possible solutions?

To answer this question, the consideration was made over the specific approach used in the Italian context for victims of trafficking in the international protection system. The Italian scenario has seen, since 2015, huge increase in anti-trafficking projects, reaching

the number of 21, and also a growing amount of funds used for the implementation of those projects, that today achieved 24 million euro. These projects focus primarily on the identification of victims, and secondly on protection in the short, medium, and long term. Nevertheless, it is clear that the system itself is permeated with shortcomings, which risk blocking the system itself and not allowing the victims of trafficking to be taken over effectively, in their totality.

We start by talking about the paradigm established at the operational level, in line with the orientations of UNHCR: prevention, protection, partnership, prosecution. Clearly, one cannot be separated from the other.

The focus, however, is to clarify how the system that interfaces with migrants, in particular asylum seekers, is struggling to manage the system of vulnerabilities in the context of victims of trafficking. We will try to clarify how the identification of victims is not only borne by the centers that deal specifically with victims of trafficking, but also and above all by the many entities that, since recovery in national waters, deal with asylum seekers. Some steps over the *hotspot approach*, and of the CAS, are clarified, such as the emergency character of the system that does not allow to guarantee an efficient approach for the identification of the victims.

In addition, are explained the limits of referral mechanism in the current Italian approach, some limits based on the *human-rights approach*, the *gender-based approach* and the *intersectional approach*, based on multi-agency intervention.

Finally, of great importance is the discourse linked to the First Reception Centers, which host, in recent years, victims of trafficking in increasing numbers, and the dissertation of specific actions for the recognition, and protection of victims. First of all, the importance of a common language that allows the passage of information in the aforementioned inter-national approach, in order to allow effective cooperation between the different services dealing with trafficking, migration but also with services to the person. Then, are presented the limits of the system regarding the taking over of specific figures that can recognize the vulnerabilities of the subject and take care of victims of trafficking effectively. Those are psychologists, ethnopsychologists, social workers, and cultural mediators, but also such figures as doctors and midwives. It will be clarified the vulnerability of a system that does not have a gender-based approach, and the importance

of a team that includes a considerable number of female figures that can facilitate the emersion of a traumatic past or situations of abuse of women victims of trafficking.

It concludes with actions complementary to the recognition of victims of trafficking, such as prevention in developing countries through the (in)formation of women and the communities raising their awareness on some grooming tactics, but also on exploitation and prostitution, mainly for increase the empowerment of women. The reopening of borders to legal migration, through effective government provisions, excluding repatriation from possible options for women and vulnerable people. The use of effective tools to "network" through the coordination of bodies, in order to draw up territorial maps that can serve all those who need information on trafficking issues, and protection. But also, in conclusion, the importance of studies on issues such as immigration, trafficking and the recent intersectionality of these two worlds, so as not to incur in gross errors of identification and work with the aim of *doing good, done well*.

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Bibliography

Agustín L. (2006), *The Disappearing of a Migration Category: Migrants Who Sell Sex*, University of Loughborough, *Journal of Ethnic and Migration Studies*, 32:1, 29-47 - <http://dx.doi.org/10.1080/13691830500335325>.

Baer K. (2015), *The Trafficking Protocol and the Anti-Trafficking Framework: Insufficient to address exploitation*, *Anti-Trafficking Review*, issue 4, 2015, pp. 167-172 - www.antitraffickingreview.org.

Biondi Dal Monte F. (2020), “Le politiche di integrazione”, in Giovannetti M. (eds), *Ius Migrandi Trent'anni di politiche e legislazione sull'immigrazione in Italia*, FrancoAngeli s.r.l, Milano, Italy, pp. 367-389.

Boiano I., Cecchini C. L. (2020), “Le frontiere del diritto: gli artt. 18 bis TU 286/98 in una prospettiva di genere e femminista”, in Giovannetti M. (ed), *Ius Migrandi Trent'anni di politiche e legislazione sull'immigrazione in Italia*, FrancoAngeli s.r.l, Milano, Italy, pp. 662-685.

Busi B., Pietrobelli M. and Toffanin A. M. (2021), *La metodologia dei centri antiviolenza e delle case rifugio femministe come «politica sociale di genere»*.

Carnassale D., Palumbo L., Ricard-Guay A. and Buonaguidi A. (2020), *Vulnerability in the Asylum and Protection System in Italy: Legal and Policy Framework and Implementing Practices*, Marchetti S. e Palumbo L. (eds.), Ca' Foscari University of Venice.

Cirillo C., Nicodemi F. (2022), “Donne E Protezione Internazionale: La Tutela Dei Diritti E La Risposta Ai Bisogni”, Brambilla A., Degani P., Paggi M., Zorzella N. (eds), *Donne straniere, diritti umani, questioni di genere Riflessioni su legislazione e prassi*, Centro di Ateneo per I Diritti Umani “Antonio Papisca” – Università degli Studi Padova, ASGI – Associazione Studi Giuridici per l'Immigrazione, pp. 287-306. *concern. PLoS Med* 14(11): e1002437 - <https://doi.org/10.1371/journal.pmed.1002437>.

Crenshaw K. (1991) *Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color*, *Stanford Law Review*, Vol. 43, No. 6 (Jul., 1991), pp. 1241-1299 - <https://www.jstor.org/stable/1229039>.

Corrado A., Palumbo L. (2020), *Chapter 8 Essential Farmworkers and the Pandemic*

Crisis: Migrant Labour Conditions, and Legal and Political Responses in Italy and Spain, A. Triandafyllidou (ed.), Migration and Pandemics, IMISCOE Research Series, https://doi.org/10.1007/978-3-030-81210-2_8.

De Masi F. and Coresi F. (2018), *Mondi connessi La migrazione femminile dalla Nigeria all'Italia e la sorte delle donne rimpatriate*, ActionAid Realizza il Cambiamento.

Degani P. (ed) (2021), *Lotta alla tratta di persone e diritti umani. Un'analisi del sistema degli interventi a sostegno delle vittime alla luce dei fenomeni di grave sfruttamento in Italia*, Centro di Ateneo per I Diritti Umani "Antonio Papisca", Università degli Studi di Padova e Comune di Venezia.

Fachile S. e Lopez Curzi O. (2022) "Sulla Non Punibilità Delle Persone Sopravvissute A Tratta Per Le Attività Illecite Commesse A Causa E Nell'ambito Della Vicenda Di Trafficking Esperita: Spunti E Riflessioni Sull'applicazione Del Principio Nell'ordinamento Italiano", Brambilla A., Degani P., Paggi M. and Zorzella N. (eds), *Donne straniere, diritti umani, questioni di genere Riflessioni su legislazione e prassi*, Centro di Ateneo per I Diritti Umani "Antonio Papisca" – Università degli Studi Padova, ASGI – Associazione Studi Giuridici per l'Immigrazione, pp. 271-286.

Giammarinaro M. G., Bianchini T., Carchedi F., Castelli V., Covre P., Degani P., Della Valle G., Manchini D., Mannu D., Morniroli A., Mossino A., Nicodemi F., Saliceti F., Santoro Emilio., Serughetti G., Sorgoni F., Trucco L. and Virgilio M. (2021), *Proposte Per La Prevenzione E Il Contrasto Dello Sfruttamento E Della Tratta, E Per L'empowerment Delle Persone Sfruttate*.

Giovanetti M. and Zorzella N. (2022), "Donne Straniere e Vulnerabilità. Una Possibile Lettura Critica", Brambilla A., Degani P., Paggi M. and Zorzella N. (eds), *Donne straniere, diritti umani, questioni di genere Riflessioni su legislazione e prassi*, Centro di Ateneo per I Diritti Umani "Antonio Papisca" – Università degli Studi Padova, ASGI – Associazione Studi Giuridici per l'Immigrazione, pp. 25-50.

Giammarinaro M. G. (2021 a), *Revising EU Directive on human trafficking? For bad or good reasons?*, Diritti delle donne - <https://giammarinaro.net/en/revising-eu-directive-on-human-trafficking-for-bad-or-good-reasons/>. (Last accessed on January 25th, 2023)

Giammarinaro M. G. (2021 b), *5 ragioni per rifiutare il "modello nordico" sulla prostituzione, da una prospettiva femminista*, Diritti delle donne -

<https://giammarinaro.net/5-ragioni-per-rifiutare-il-modello-nordico-sulla-prostituzione-da-una-prospettiva-femminista/>. (Last accessed on January 25th, 2023)

Giovannetti M. and Zorzella N. (2020) “Presentazione”, in Giovannetti M. (ed), *Ius Migrandi Trent’anni di politiche e legislazione sull’immigrazione in Italia*, FrancoAngeli s.r.l, Milano, Italy, pp. 11-16. Gonnelli E. (2021), *La regolarizzazione dei lavoratori migranti come intervento straordinario per far fronte all’emergenza sanitaria da Covid-19*, Università di Firenze, vol. 7, no. 1.

Kleemans, E.R. and Smit M. (2014), “Human smuggling, human trafficking, and exploitation in the sex industry.” In L. Paoli (ed.), *Oxford Handbook on Organized Crime*. Oxford: Oxford University Press.

La Strada International (2021), *New EU Strategy on Combatting Trafficking in Human Beings* - <https://www.lastradainternational.org/news/new-eu-strategy-on-combatting-trafficking-in-human-beings/>.

Marchetti S and Palumbo L. (2020), *Vulnerability in the Asylum and Protection System in Italy: Legal and Policy Framework and Implementing Practices*, Marchetti S. e Palumbo L. (eds.), Ca’ Foscari University of Venice.

Nicodemi F. (2017), “Le Vittime Della Tratta Di Persone Nel Contesto Della Procedura Di Riconoscimento Della Protezione Internazionale. Quali Misure Per Un Efficace Coordinamento Tra I Sistemi Di Protezione E Di Assistenza?”, in *Diritto, Immigrazione e Cittadinanza*, vol. 1/2017, pp. 1-29.

Nicodemi F. (2020), “Il Sistema anti-tratta compie venti anni. L’evoluzione delle misure legislative e di assistenza per le vittime e le interconnessioni con il Sistema della protezione internazionale”, in Giovannetti M. (eds), *Ius Migrandi Trent’anni di politiche e legislazione sull’immigrazione in Italia*, FrancoAngeli s.r.l, Milano, Italy, pp. 703-728.

Nicodemi F. (2021), *L’identificazione delle vittime di tratta e i confini per il riconoscimento delle diverse forme di protezione. Note a margine dell’ordinanza della Corte di Cassazione n. 30402/21*, in *Questione di Giustizia* - <https://www.questionegiustizia.it/articolo/l-identificazione-delle-vittime-di-tratta>.

Palumbo L. (2023), *Agri-food systems, migrant labour and exploitation in Southern and Northern Europe*, Canada Excellence research Chair in Migration & Integration, Toronto Metropolitan University

Palumbo L. and Romano S. (2022) *Evoluzione e limiti del sistema anti-tratta italiano e le connessioni con il Sistema della protezione internazionale*.

Palumbo L. e Sciarba A. (2018), *The vulnerability to exploitation of women migrant workers in agriculture in the EU: the need for a Human Rights and Gender based approach*, Policy Department for Citizens' Rights and Constitutional, Affairs Directorate General for Internal Policies of the Union at European Parliament, Brussels - <http://www.europarl.europa.eu/supporting-analyses>.

Pasquero L. and Palladino R. (2017), *Progetto Samira. Per Un'accoglienza Competente E Tempestiva Di Donne E Ragazze Straniere In Situazione Di Violenza E Di Tratta In Arrivo In Italia*, Cuam University Press, Tipografare S.r.l - https://www.direcontrolaviolenza.it/wp-content/uploads/2018/04/Report-Samira_web_ridotto.pdf.

Rigo E. (2020), "Genere, migrazioni, diritto", in Giovannetti M. (ed), *Ius Migrandi Trent'anni di politiche e legislazione sull'immigrazione in Italia*, FrancoAngeli s.r.l, Milano, Italy, pp. 210-228.

Schrover M., Van der Leun J. and Quispel C. (2007), *Niches, Labour Market Segregation, Ethnicity and Gender*, Journal of Ethnic and Migration Studies, 33:4, 529 – 540 - <http://dx.doi.org/10.1080/13691830701265404>.

Serughetti G. (2020), "Donne Vulnerabili, Soggetti Resilienti:Le Vittime Di Tratta Richiedenti Asilo, Tra Bisogni Di Protezione E Domande Di Riconoscimento", in Cortés I. F. and Ferrari D. (eds), *I soggetti vulnerabili nei processi migratori*, Giappichelli, pp.17.

UNODC (2008), *An Introduction to Human Trafficking: Vulnerability, Impact and Action*, United Nations, New York. UNODC (2018), *Global Report on Trafficking in Persons 2018*, Booklet 2: Trafficking in persons in the context of armed conflict, United Nations publication, Sales No. E.19.IV.2, United Nations, New York.

UNODC (2018), *Global Report on Trafficking in Persons 2018*, United Nations publication, Sales No. E.19.IV.2, United Nations Office on Drugs and Crime, New York. UNODC (2020), *Global Report on Trafficking in Persons 2020*, United Nations publication, Sales No. E.20.IV.3, United Nations office on Drugs and Crime, New York. Zimmerman C. and Kiss L. (2017), *Human trafficking and exploitation: A global health concern* - <https://doi.org/10.1371/journal.pmed.1002437>.

U.S. Mission Italy (2022), *Rapporto 2022 sulla Tratta di Esseri Umani*, Embassy of the United States of America in Italy - <https://it.usembassy.gov/it/rapporto-2022-tratta-esseri-umani/>.

Vijeyarasa R. (2015), *Sex, Slavery and the Trafficked Women: Myths and Misconceptions about Trafficking and its Victims*, University of New South Wales, Australia, Routledge (2016).