11th International Metropolis Conference *Paths and Crossroads: Moving People, Changing Places* Gender and migration workshop - 3rd of October, Lisbon, Portugal

THE PROTECTION OF THE VICTIMS OF HUMAN TRAFFICKING

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Brief discussion on gender and migration issues

First of all, I think we all understand the need to address trafficking in persons from a gender and rights based development perspective: women's rights must therefore lie at the core of any credible anti-trafficking strategy, for violations of human rights are both a cause and a violation of trafficking in persons. (As stated in UNHCHR, *Recommended Principles and Guidelines on Human Rights and Human Trafficking. Report of the UN High Commissioner for Human Rights to the Economic and Social Council* E/2002/68/ADDI).

The trafficking of women and children must be analysed in the broader context of labour migration and the movement of people from poor areas, conflict zones and crisis situations. Labour migration is now characterised by increasing numbers of women and girls, the so-called "feminisation" of migration (UNIFEM, *Combating Trafficking in Women and Children: A gender and Human Rights Framework* – Plenary Address, Noeleen Heyzer.).

We have assisted in the last decades to the feminization of poverty, to gender inequality and discrimination at every level (national and global, in families and communities), to family violence etc.; all these act as root causes for migration (**push factors**). Gender inequality and discrimination in many countries signify that the burden of poverty and the impact of armed conflict and violence influence disproportionately on women, causing a growing migration of women from poor/less developed countries and conflict areas.

Among the **pull factors** for migration we can mention: economic growth, relative prosperity and peace in industrialised and newly industrialising countries. Industrialised economies increased the demand for imported labour, as their citizens refuse low-paid or "humiliating" jobs (such as old persons assistance, domestic service etc.). Young women are particularly requested for this kind of work, plus they are considered obedient and less likely to rebel to bad working conditions than men.

Many of these women and girls are particularly vulnerable and end up being trafficked; as a consequence, the vast majority of victims of human trafficking are women and young girls.

Furthermore, it must be underlined that more and more victims of human trafficking are now minors, men and transsexuals, a sector that needs further and deeper research. Even if, regrettably, one of the major types of exploitation of human trafficking worldwide and across Europe is sexual exploitation and that is probably because cases of trafficking involving sexual exploitation have captured the attention of the media repeatedly, we must not forget that victims of trafficking are not sexually exploited only. Human trafficking encompasses other types of exploitation: forced labour (which includes domestic servitude), begging and other petty crime, even trafficking for the removal of organs or the trade of children for international adoptions.

As acknowledged by the international community, the right approach to human trafficking is a gender-responsive approach, which is also a rights-based approach, since gender discrimination is now recognised as a fundamental denial of human rights. The Italian social protection system of trafficked victims is based on a human rights, gender based and culture-based approach since it is based non only on the judiciary approach. The Italian integrated and multidisciplinary approach has inspired the recent *Council of Europe Convention on Action against Trafficking in Human*

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Beings (2005) and the Report of the Groups of Experts on Human Trafficking of the European Commission (2005). On the Road has directly contributed to the realisation of the last document through the professional figure of Isabella Orfano, one of the members in the Group of experts.

Keeping these in mind, I will continue my presentation with the work done by *On the Road* for the protection of victims of trafficking, within the Italian protection system.

Short description of the *On the Road* Association: Mission and Services

The On the Road Association has been operating since 1990 through intervention in prostitution and the trafficking of human beings for the purpose of sexual exploitation, with a particular focus on street prostitution of migrant women and minors, often victims of trafficking organised and managed by criminal organisations.

ON THE ROAD intervenes in cases of discomfort and/or cases of risk stemming from prostitution, and therefore also addresses issues faced by Italian prostitutes (including drug addicts) and Italian and foreign transvestites and transsexuals. The association has also widened its fields of action to other and new issues such as forms of trafficking other than for the purpose of sexual exploitation, marginalization and poverty.

ON THE ROAD develops structured activities and services directly addressed to the people affected by such forms of exclusion, with an approach based on the promotion and protection of individuals' rights in the Italian regions Marche, Abruzzo and Molise, on the Adriatic coast.

Simultaneously, *ON THE ROAD*, from a local, national and trans-national perspective, contributes to the promotion of the policies in the field, to the elaboration of models of intervention, of professional profiles and of training curricula; it carries out research-intervention projects and issues a variety of publications.

ON THE ROAD works directly with prostitutes to lower risks and to reduce the discomfort connected with prostitution and to increase prostitutes' possibilities for self-protection, liberation from various forms of violence and exploitation, and to offer programs of social and job insertion, of autonomy and self-determination to all victims of trafficking.

Towards this end, stable and structured services managed by trained professionals have been established: outreach units; Drop-in Centres; various types of shelters; information sessions, orientation, counselling and training regarding sanitary, legal, educational, and psychological issues; vocational guidance and vocational training courses, "Practical Training in Enterprise" and job insertion programs are also offered.

Great effort has been invested in the following activities: networking, awareness raising, territorial and institutional involvement, promotion of the policies in the sector, training, research, and publications.

ON THE ROAD has, in fact, committed itself to promoting policies, strategies and interventions in the fields of prostitution and to fight against trafficking at the local, national and trans-national level.

In order to achieve this goal, the Association has contributed to developing a strong network throughout the areas where it works.

The activity at the national and transnational levels are intense in addition to participation in the *Inter-ministerial Committee on Trafficking*, with the promotion of national networks such as the *National Coordination Table on Prostitution and Trafficking* and the *Ad hoc Group of the C.N.C.A. on Prostitution and Trafficking*, with projects of research, intervention and training (in Italy, Europe, countries of origin...), with the publication of books and reports, and with the organisation of conferences and various exchanges.

Furthermore, the work of elaboration is particularly relevant in the circular relationship practice-theory-practice regarding the various models of intervention in the field and the

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professionals involved: street workers, shelter operators, intercultural mediators, legal consultants, job insertion mediators, and so on.

This has made *ON THE ROAD* to be a point of reference at the national level, not only for its networking, research and training activities, but also for its activities of technical support and scientific counselling for different institutions and projects in Italy.

Such activities are carried out with the co-participation of European institutions, such as the Council of Europe and the European Commission, various Ministries (in particular, the Department for Equal Opportunities and the Ministry of Labour, the Ministry of Social Policies, the Ministry of Justice and the Ministry of Interior), Abruzzo Region, Marche Region and Molise Region, 10 Italian Provinces, a wide network of over 100 Municipalities, the Prefectures, the Customs, the Police, the N.G.O.s', enterprises, a vast group of partners of European countries, countries of origin and transit of the victims of trafficking of human beings for the purpose of sexual exploitation.

The social protection system of trafficking victims in Italy – art. 18/ L.D. 286/1998 (from "The Italian system of assistance and integration of victims of trafficking in human beings" by Isabella Orfano and Marco Bufo)

I will illustrate the protection and assistance system and its main characteristics form the point of view of On the Road's work and experience.

- Welfare mix -
- **a.** Since 11th of August 2003 with law n. 228/2003, Italy as well has a specific offence of "trafficking in human beings" in its criminal code, as requested by the UN Trafficking Protocol. The new law is a great improvement over the existing system: it finally inserts the specific crime of trafficking in persons in the Penal Code and provides a new definition of reduction to slavery. It covers all forms of trafficking, slavery and servitude and contains elements of the crime violence, abuse of authority, profiting on a situation in which the other person is in a situation of physical or psychological inferiority, as well as internal and cross-border trafficking. The law provides the compulsory confiscation of profits deriving from trafficking and the set up of a "Fund for anti-trafficking measures", that will increase the funds allocated for the Programme of Social Protection and Assistance of victims of trafficking through the Legislative Decree no. 286/1998 (Immigration Consolidation Act). Art. 13 of Law n. 228/2003 foresees first assistance programmes for victims of trafficking and the first call for proposals has been just issued.
- **b.** However, it is not yet possible to assess the impact and evaluate the results of this anti-trafficking law. While waiting to assess the effectiveness of law 228/2003, we can state that the most effective tool implemented so far in Italy to fight human trafficking is doubtless the **art. 18 of the Legislative Decree no. 286 of 1998**. Such a law has proved to be an effective instrument to support victims of trafficking, investigate the phenomenon, and punish the traffickers. Most of all, it has acknowledged the status of victims of trafficking to thousands of migrant people women in particular and provide them with special assistance, protection and a stay permit for humanitarian reasons (in the first 4 calls, 3.784 art. 18 residence permits have been issued). See table 2

This law has provided for the implementation of the Programme of Social Assistance and Integration and a set of actions, all managed by the Interministerial Committee for the Implementation of Art. 18, the managing body of the Programme. The Committee is composed of representatives of the Department for Equal Opportunities, the Ministry of Justice, the Ministry of Welfare, and the Ministry of Interior. Its assignment is to propose policies, evaluate, fund and supervise the projects of social assistance and integration targeting victims of trafficking.

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Since its activation, the Programme has funded **448** projects throughout the country (It is important to underline that most projects have been funded in all six calls). The call for the submission of project proposals is launched yearly by the Department for Equal Opportunities, which technically and financially runs the Programme. It is important to underscore that the each grant – by law – is co-financed by the Department for the Equal Opportunities (70% of the eligible costs) and by a local authority (30%).

Accredited NGOs, associations and local authorities (Municipalities, Provinces and Regions) yearly submit their project proposal to the Department for Equal Opportunities. The NGOs applying for the funding must involve as project partner a local authority. In order to be eligible for the funding, the NGO or the association must be enrolled in the register of NGOs and bodies carrying out assistance to migrants set up by the Executory Regulation of the Legislative Decree no. 286/98 at the Presidency of the Council of Ministers.

The Article 18 permit applies to foreign citizens in situations of abuse or severe exploitation where their safety is seen to be endangered as a consequence of attempts to escape from the conditioning of a criminal organisation or as a result of pursuing criminal action against the traffickers. People granted the Article 18 permit have to participate in a social assistance and integration programme offered by various local NGOs and local public authorities funded by the above-mentioned Interministerial Committee. They are also afforded access to social services and educational institutions, enrolment with the State's employment bureau and are provided access to employment.

Two separate ways of obtaining the residence permit actually exist. The first one is a judicial procedure ("judicial path"), in which the Public Prosecutor has an important role to play, and the second one is a social procedure ("social path"), involving the local authorities, associations and NGOs as main reference points.

The "judicial path" implies that the victim will cooperate with the police and the prosecutor. She/he will be instrumental in bringing charges against the perpetrator by filing of a complaint.

The "social path" does not require the formal report to the *Questura* but the submission of a "statement" (containing provable key-information) by an accredited Article 18 agency or by the public social services of a City Council on the behalf of the victim. This is because some victims do not have relevant information about the criminal organisation; or the criminals have already been prosecuted; or "simply" because, at the beginning, they are too scared for their own or their relatives' safety to press charges. Nonetheless, these factors do not diminish their "victim status" and the need to receive help and support. In the Italian experience many women who began the *social path*, after having been reassured and having gained new trust in institutions and legality, came to the decision to file a complaint against their traffickers and/or exploiters.

It is possible that, due to the statutory obligation of accusation on the part of the *Questura* when a *notitia criminis* is found, also a person within the social path is asked to testify, but not at the very beginning.

Both in the "judicial path" and in the "social path", a victim or the prosecutor can also request a special evidence pre-trial hearing (*incidente probatorio*) when there are specific conditions that may jeopardize the trafficked person's safety or the evidence.

Both methods lead, in the end, to a residence permit for education or for work, allowing the foreigner to remain in Italy in conformity with the regulations governing the presence of non-European Community foreigners.

This is an important starting point, not only because it places the main emphasis on the protection of the victims and on providing a means of escape from exploitation, whether sexual or labour, but also because, from the point of view of fighting crime obtaining the trust of an exploited individual and providing him/her the opportunity to start a new life in Italy is the first step in overcoming fear, threats of vengeance by traffickers, distrust towards institutions and fear of deportation, which often prevent the victim from reporting his/her exploiters.

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The Article 18 permit is renewable, and it does not oblige the person to go back home once the programme is over. In fact, if the person has a regular job at the end of the programme, they can remain in Italy accordingly to their work contract's conditions and, eventually, they can also apply for permanent residency.

Victims of trafficking can directly access a programme of social assistance and integration or they can be referred to an agency running an Art. 18 project through several channels and/or the support of different actors such as: law enforcers, social services providers, voluntary organisations, acquaintances, friends, clients, partners, *Numero Verde Nazionale contro la Tratta*, outreach units, drop-in centres and so on.

Not every project necessarily provides all types of services directly. In several cases, in fact, the wide range of activities and services is assured by the projects' network. The projects function as reception centres and assistance providers that offer a so-called "individualised programme of social protection" tailored to the needs of the person sheltered and in compliance with the law.

Within each individual programme various activities and services are provided to the victim:

- co-elaboration of the "individualised scheme";
- shelter and protection;
- board and lodging;
- support for possible crime reporting;
- legal assistance;
- stay permit procedures;
- health and social services;
- psychological assistance;
- social activities;
- educational and training activities;
- Italian language classes;
- vocational guidance;
- iob insertion.

In some cases a person can be hosted in different phases of her/his individual programme by distinct projects throughout Italy (In seven calls **448** projects have been funded: 48 in the first call (2000-2001); 47 in the second call (2001-2002); 58 in the third call (2002-2003); 69 in the fourth call (2003-2004); 67 in the fifth call (2004-2005), 82 in the sixth call (2005-2006) and 77 in the last call. It is important to underscore that the budget allocated for this programme has slightly changed after each call; therefore, even if in the last call a higher number of projects has been funded, many of them were granted an undersized fund.). see Table 1.

In order to support the social and professional inclusion of the victims entered in the programme, vocational training classes can be provided either directly by the organisations or by local agencies. Several models of job insertion of this specific target have been tried out in the last few years. One of the most effective has proven to be the "Formazione Pratica in Impresa – FPI" (Practical Training within Enterprises), conceived by Associazione On the Road. There is also a segment of the target group that prefers to directly access the job market without attending vocational training classes or programmes such as FPI. In these cases, the persons are supported in their job hunting and in their process of job insertion.

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Finally, some interesting figures on art. 18 Projects in Italy:

Table 1: Art. 18 Projects funded

Project calls	Art. 18 projects founded
1st call (2000-2001)	48
2nd call (2001-2002)	47
3rd call (2002-2003)	58
4th call (2003-2004)	69
5th call (2004-2005)	67
6th call (2005-2006)	82
7th call (2006-2007)	77
Total	448

Source: Dpt. for Equal Opportunities, 2006

Table 2: Art. 18 Residence Permits

Calls	Art. 18 permits issued
1 st call	833
2 nd call	1.062
3 rd call	962
4 th call	927
5 th call	942
Total	4.726

Source: Dpt. for Equal Opportunities, 2006

Table 3: Judicial procedures

Tuble 5: Gualciai procedures		
September 2003 – December 2004		
Crime:	150 legal proceedings	
Trafficking in human beings	400 persons charged	
<u>Crime</u> :	50 legal proceedings	
Reduction to slavery	150 persons charged	

Source: Dpt. for Equal Opportunities, 2005

Other relevant THB policy measures

Toll-Free Hotline for victims of trafficking 800-290.290

Another important tool must be mentioned in this framework of governmental and non-governmental actions to combat trafficking in human beings: the *Numero Verde Nazionale contro la Tratta* 800-290.290 (Toll Free Number against Trafficking). This is a national hotline directed to victims of trafficking, clients, social and law enforcement agencies and the population at large. Financed by the Interministerial Committee for the Implementation of Art. 18, the *Numero Verde* is composed of a single central headquarter that functions as a filter for the calls and 14 territorial branches located in 14 different regional or interregional areas throughout Italy. In most cases, the

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territorial branches of the *Numero Verde* are managed by the same Ngos and public institutions responsible for the implementation of projects funded within the Art. 18 Programme. The types of information asked for concerned: *Numero Verde*, Programme of Social Protection and Assistance, legal advice, socio-sanitary services and addresses. Information is provided in the various languages spoken by the target group, including: English, Albanian, Russian, French, Spanish, Romanian, Bulgarian.

From August 2000 to March 2006, the Numero Verde received 494.372 calls: 47.118 victims of trafficking, 25.351 clients, 38.574 relatives, 333.287 citizens, 24.405 public security officials, 15.462 suspected persons, 10.175 persons exploited in prostitution.

Last, but not least, the Italian Ministry of Interior funds the "Voluntary Repatriation Programme" ran by the Italian branch office of the International Organisation for Migration (IOM) in collaboration with the Ministry of Interior.

- ° To conclude, let me briefly synthesise the actions done by *On the Road* for the protection of the victims of trafficking:
 - > First contact and identification of the victims of trafficking
 - > Intervention of the Outreach Unit (for *indoor prostitution* as well: prostitution that takes place in apartments On the Road has been the first association to deal with *indoor prostitution*)
 - > Art. 18 resident permit procedures and legal consultancy and assistance
 - > Social and assistance services
 - > Psychological counselling
 - > Vocational guidance, training, social and occupational integration
 - ➤ Voluntary assisted return to origin country
 - > Toll free number

Conclusions:

Considering the aims achieved at local and national level, the points of strength of the Article 18 Programme are:

- the global approach which implies the involvement of law enforcement agencies, judicial system, public authorities (Ministries, Regions, Provinces, Municipalities) and ngos at the local, regional and national level; and, therefore, the resulting development of an in/formal network of different agencies engaged in the fight against trafficking and in providing services to victims;
- an approach that conjugates the duty to protect victims with the need to fight against organised crime;
- a real chance for victims to escape trafficking, violence and exploitation and to access social and occupational insertion through specific programmes;

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- the issuance of a special residence permit (for "humanitarian reasons"), renewable, that can be converted on a permanent basis for study or work reasons and, thus, allowing victims to become regular migrants and fully-fledged citizens;
- the fact that the above-mentioned opportunities are not necessarily connected with the direct victim's co-operation with the law enforcement agencies since, along with the so-called *judicial* path, also a social path is foreseen.
- the considerable rise of arrests and sentences of traffickers and exploiters as a result of the collaboration of people (mainly women) inserted in the Programme, as it has often been pointed out also by the most important representatives of the law enforcement agencies and the Public Prosecutor's Offices:
- no instrumental use of Article 18 by migrants to legalize their irregular stay on the Italian soil has been detected due to the specific structure of the system in force, as both police sources and scientific studies indisputably have demonstrated.
- the diversified set of actions implemented by the Interministerial Commission;

There are of course some aspects that need to be taken in serious consideration by the Italian national and local institutions in order to ameliorate the system of social assistance and protection set up and to fill some gaps that still remain between the law on paper and its application:

- the Government should acknowledge the crucial function took on by the Art. 18 agencies as social services providers on behalf of the State. Allocating adequate funding to support the projects is therefore a priority that should be very high in the political agenda. The newly approved anti-trafficking law has provided a "Fund for anti-trafficking measures" that has increased the annually allocated budget, integrating the Article 18 Programme, nevertheless a more structured and definite provision will probably be more adequate to financially support the Programme; projects with a duration longer than one year are desirable;
- it is of utmost importance that the Interministerial Commission for the Implementation of Art. 18 establishes an annual public monitoring and evaluation system of the funded projects to assess the results both on the social and the judicial level, to identify the best practices to assist trafficked persons and, most of all, to set minimum standards required to agencies running the projects;
- the set-up of a more structured national network of the Art. 18 projects is still lacking. Its institution would greatly contribute to share methods and know-how on regular basis and, furthermore, it could supply a sort of national "resource database" to promptly respond to specific needs (accommodation availability, work placement, and so on);
- the application of the law is not fully and homogenously implemented throughout the territory. Some Police Headquarters (*Questure*) in fact apply only the "judicial path" and, in some cases, they do so only if it is "judicially useful", thus, on the one hand, not entirely respecting the law and, on the other one, significantly diminishing the effectiveness of the system but, most of all, not respecting the victims' rights and needs;
- the implementation of a repressive strategy through continuous police raids and forced repatriation do not favour the accomplishment of the aims set by the law. In many cases, in fact, when stopped or deported, victims are not informed of their right to access a social assistance and integration programme;
- the need to implement training activities directed to all professionals employed in the field to proper identify and assist victims of trafficking: social workers, law enforcers, public prosecutors, and so on;
- the legislation does not cover the protection of family members, who may run very substantial risks at home or in other countries. Therefore, changes to this rule are highly recommended to

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ensure an easier procedure to issue permits for family reunion, regardless of income or other requirements, at least for the victims' children;

- the Art. 18 Programme has been mainly applied to victims of trafficking for sexual exploitation in prostitution, even though it is directed to all forms of human traffic. It is therefore necessary to fully implement the programme providing services and schemes for victims of other types of trafficking and exploitation;
- multidisciplinary and multi-approach studies, with special regard to the new forms of trafficking and exploitation, are much needed. Furthermore, updated and significant investigations would help to develop efficient and *ad hoc* prevention measures on human traffic and, therefore, to better meet victims' needs.

The evaluation of Article 18 Programme underlines that it is essential that "the actions of public and private social agencies at local level be not only a sum of actions, but rather - together with any non symbolic/non demagogic work by local administrations and institutions - the core of an organic policy, capable of dealing with the various aspects of the phenomenon". The potential of the Art. 18 model could be still further enhanced at different levels, nevertheless, we are convinced it is an effective system to help victims of trafficking and to fight criminal organisations.

In order for all assistance, protection and inclusion measures to succeed, it is necessary that all actors work keeping in mind:

- a human rights and gender and cultural-based approach
- an integrated approach
- cooperation and coordination mechanisms (e.g. *National Referral Mechanisms*)
- respect and integration of functions and competences
- updated knowledge of the phenomenon: research, information and data exchange

On the Road's work: a comprehensive work with the progressive involvement of the institutions and the territorial networks, which testifies to the possibility of activating sensibility and synergies in a meaningful integration between public and private sectors, at the local, national and transnational level.