# These recommendations are provided by the team of the “Leaving violence. Living safe” project, implemented by the Italian civil society organization D.i.Re Donne in rete contro la violenza (Women’s network against violence), a network of 81 women’s organizations managing anti-violence centres and shelters, in partnership with UNHCR.

# “Laving violence. Living safe” is a project meant to increase access to D.i.Re anti-violence centres and shelters by migrant asylum seeking and refugee women and girls, including women and girls victims of trafficking and sexual exploitation.

# Thanks for this opportunity,

# *The Leaving violence. Living safe project team*

# KEY CONCERNS & RECOMMENDATIONS

## THE OVERARCHING FRAMEWORK REGARDING ‘DISCOURAGING THE DEMAND THAT FOSTERS EXPLOITATION LEADING TO TRAFFICKING’

**Requested change (deletion):**

Section IV, e “Root causes of trafficking in women and girls ~~and discouraging the demand that~~ ~~fosters their exploitation through trafficking”~~

## Reason:

“Demand” is a root cause of trafficking[[1]](#footnote-1) (see, for example, Recommended Principles and Guidelines, Guideline 7, p. 9, “Strategies aimed at preventing trafficking should take into account demand as a root cause.”) and should be subsumed within root causes, not placed alongside them.

**Section IV, e,** “Root causes of trafficking in women and girls and discouraging the demand that fosters their exploitation through trafficking”, **para 19**

**Requested change**: After paragraph 19 add a new paragraph

**19 bis** Restrictive migration and visa policies are among the root causes of trafficking, where the lack of opportunities to undertake safe and legal journeys compels migrants, many of them women and girls, to rely on traffickers and smugglers, thus exposing migrant women and girls to serious risks of violence and different forms of exploitation on route and in the country of destination.

**Reason:**

Restrictive migration and visa policies are exposing thousands of people, including women and girls, to harsh violation of their basic human rights and freedoms, both true violence and coercion, including torture and sexual exploitation, while in the hands of traffickers, and by border police and other state authorities, while attempting to cross borders.

**Section IV, e,** “Root causes of trafficking in women and girls and discouraging the demand that fosters their exploitation through trafficking”, **para 27 (b):**

## Requested change (deletion):

* + ~~Where applicable, instituting penal legislation to sanction the users of goods and services that result from trafficking in persons~~

## Reason:

This clause is overbroad and could have problematic outcomes for sex workers. It is a focus solely on buyers of sex work and push for the introduction of the Nordic Model that has immense adverse human rights impacts on sex workers. This position is also incongruous with the CEDAW Committee’s existing body of work on Article 6 that so far, rightly, does not indicate an equivocal espousal of client criminalization strategies as an effective method to ‘discourage demand’. The CEDAW Concluding Observations on Article 6 have included recognizing the adverse human rights impact of client criminalization on sex workers [2](#_bookmark1) and recommending implementation of labour frameworks to *“prevent and combat other exploitative practices assimilated to trafficking”*[*3*](#_bookmark2)*.*

**Section IV, e,** “Root causes of trafficking in women and girls and discouraging the demand that fosters their exploitation through trafficking”, **para 27 (d):**

## Requested change (deletion):

* Investigating, prosecuting and convicting all perpetrators involved in the trafficking of persons~~, including those on the demand side~~.

## Reason:

The phrase ‘including those on the demand side’ is liable to be misinterpreted and/ or misapplied to target sex workers.

**Section IV, f,** “Forcibly displaced women and girls face a higher risk of being trafficked”, **para 42, “**Address the root causes of women’s and girls’ vulnerability to trafficking, in the context of forced displacement[[2]](#footnote-2), with specific attention given to asylum seekers, refugees, internally displaced and stateless women:”

**Requested change:** Addition in point i) :

i) **Adopt a policy and legislative framework to provide comprehensive protection and assistance to displaced women at risk of trafficking, including provisions for meaningful comprehension and informed consent by trafficked women and girls prior to their inclusion in protection programs;**[[3]](#footnote-3)

**Reason:**

Often women are included in protection and assistance programs without being adequately informed about the conditions of these programs and what will be demanded from them in order to comply with the programs’ protection measures.

**Requested change:** Include point k)

k) Advocate for the removal of restrictive migration and visa policies that compel migrants, in particular women and girls, to rely on trafficking networks for leaving their countries of origin.

**Reason**:

Restrictive migration and visa policies are among the root causes for trafficking, as migrants, including women and girls, have no alternative to resort to human traffickers and smugglers to leave their country of origin.

**Section IV, f,** “Forcibly displaced women and girls face a higher risk of being trafficked”, **para 45**, “Ensure access to asylum procedures”:

**Requested change:** Addition under point a):

1. **Establish mechanisms for the identification of victims of trafficking within the asylum procedure as well as referral mechanisms based on meaningful information and voluntary consent by the trafficked women and girls to ensure that asylum claims are assessed in an age and gender-sensitive procedure in order to respond to the specific protection needs of trafficked women and girls, and avoid that women and girls are compelled to identify themselves as victims of trafficking and/or exploited sex workers as the only possibility to access international protection;**[[4]](#footnote-4)

**Reason:**

While, according to International Treaties and Conventions and the General Recommendations there to, adequate protection should be guaranteed to all migrant women and girls who are victim of violence, stereotyped assumptions about women and girls of specific nationalities, such as Nigerian and Ivory Coast women and girls in Italy, continue to result in their accessing protection only if they identify as sexually exploited victims in the framework of trafficking, thus negatively impacting on their gender identity and future integration in the social context of the recipient country.

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**Requested change:** Addition under point c):

1. **Beside classifying victims of trafficking under the “social group” ground in the refugee definition in line with the UNHCR “Guidelines on international protection: the application of article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked” [guideline No. 7 (HCR/GIP/06/07)**[[5]](#footnote-5)**] consider recognizing to trafficked women and girls refugee status under the “political opinion” ground, as** **implicit political opinion underpins refugee women's claims based on their resistance to male hegemony and oppression when it represents a culturally accepted and institutionalized discrimination and dominance in society;**

**Reason:**

Women's claims based on political opinion ground still do not receive the necessary consideration because of a persistent lack of recognition of the “personal” as “political”, let alone women's claims which are not specifically based on gender, such as trafficking.

## THE RECOGNITION OF THE ADVERSE COLLATERAL EFFECTS OF ANTI-TRAFFICKING EFFORTS

Section VI, a, **para 92** ‘Adverse collateral effects of anti-trafficking efforts’:

## Requested changes (additions and deletion):

* + Clause b): “Ensure that raids conducted by law enforcement authorities with a view to dismantling trafficking networks do not justify or result in criminal prosecution or other coercive measures, including gender-based violence, abuse and harassment, against any group of women, particularly sex workers, including migrants who are most often subject to such coercive measures;”
  + Clause c): “Ensure that no group of women, is targeted for investigation or prosecution, discrimination, stigmatisation, or ~~suffers from the lack of rights and protections~~ is subjected to other human rights violations, as part of anti-trafficking initiatives or under the guise of combatting trafficking, including violations of their rights to liberty, movement, assembly, health and safety, to dignity and livelihood. This must include sex workers, who are at particular risk of being negatively affected by such measures. In particular, ensure that women and girls who are identified as victims of trafficking are not forced or induced to report their traffickers to local authorities in exchange for protection and legal recognition. Forcing or inducing to report to police is a violation of human rights and human liberties and a form of institutional violence, disguised in an effort to fight trafficking. States should cease such targeting and ensure that anti-trafficking measures are not used to, or otherwise result in, harm to these groups of women, and ensure that effective measures are put in place to monitor and evaluate any negative human rights impacts of anti-trafficking measures;”

**Reason:**

In most countries, victims of human trafficking, many of them women and girls, are entitled to be granted a residence permit and social protection only after reporting their traffickers and exploiters to local authorities.

In those countries where reporting to police is not compulsory in order to access protection programs, such as Italy, local authorities may apply a restrictive interpretation of the law and deny a residence permit, that women and girls victims of trafficking and sexual exploitation are intitled to also if not reporting their traffickers to police, if the victim refuses to do so.

The lack of the possibility to freely and meaningfully access protection programs after giving informed consent may induce victims to give up on the possibility to seek support, or implicitly or explicitly be induced to report traffickers to police in exchange of legal recognition and protection.

1. Office of the High Commissioner for Human Rights, Recommended Principles and Guidelines on Human Rights and Human Trafficking, Guideline 7, p. 9, E/2002/68/Add.1, 2002 [↑](#footnote-ref-1)
2. para. 28(c), CEDAW/C/PHL/CO/7-8. [↑](#footnote-ref-2)
3. para. 45(c), CEDAW/C/HND/CO/7-8; para. 9(c), CEDAW/C/ERI/CO/5; para. 38, CEDAW/C/SVN/CO/5-6. [↑](#footnote-ref-3)
4. para. R(b), CEDAW/C/LIE/CO/4. [↑](#footnote-ref-4)
5. General recommendation No. 32 (2014) (CEDAW/C/GC/32), fn 11. [↑](#footnote-ref-5)