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Child Trafficking and National Protection Responses: the cases of Italy and the United Kingdom

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Abstract

La tratta di esseri umani rappresenta una delle più gravi violazioni dei diritti fondamentali, e i minori costituiscono il gruppo maggiormente vulnerabile a tale fenomeno. La presente tesi magistrale analizza in chiave comparativa i sistemi di protezione dei minori vittime di tratta in Italia e nel Regno Unito, con l'obiettivo di valutare punti di forza, criticità e possibili aree di miglioramento.

Il primo capitolo offre una ricostruzione teorica e giuridica del concetto di tratta, partendo dal Protocollo di Palermo del 2000 e dagli strumenti normativi internazionali e regionali, con attenzione particolare alla distinzione tra i fenomeni di trafficking e smuggling, alle implicazioni del problema della punibilità secondaria delle vittime e all'ambiguità del concetto di "exploitation".

Il secondo capitolo si concentra sul contesto italiano, approfondendo il quadro normativo, i programmi di protezione a breve e lungo termine, il ruolo della giurisprudenza e il contributo delle ONG. Emergono elementi di fragilità legati alla frammentarietà applicativa e all'uso talvolta restrittivo degli strumenti di tutela, come dimostrano alcune pronunce giudiziarie.

Il terzo capitolo analizza il sistema britannico, sviluppatosi in un contesto giuridico di common law e strutturato attorno al Modern Slavery Act 2015 e al National Referral Mechanism. Nonostante l'esistenza di tutele formali, come il Temporary Permission to Stay, la loro concreta applicazione risulta spesso limitata e in contrasto con il principio del "best interest of the child", con un ridotto accesso a permessi di soggiorno, servizi legali e percorsi di lungo periodo.

Il quarto capitolo, di carattere comparativo, mette a confronto i due ordinamenti, rilevando affinità e divergenze. Entrambi i sistemi mostrano lacune nell'effettiva centralità dell'interesse superiore del minore e nella capacità di garantire protezione duratura.

La ricerca dimostra come la piena attuazione degli standard internazionali richieda un cambio di prospettiva: dalla mera formalizzazione normativa a un approccio realmente child-centered, capace di coniugare prevenzione, protezione e integrazione sociale.

Abstract

Human trafficking constitutes one of the most severe violations of fundamental rights, with children representing the group most vulnerable to this phenomenon. This master's thesis undertakes a comparative analysis of the protection systems for child victims of trafficking in Italy and the United Kingdom, with the aim of assessing strengths, weaknesses, and potential areas for improvement.

The first chapter provides a theoretical and legal reconstruction of the concept of trafficking, beginning with the 2000 Palermo Protocol and subsequent international and regional instruments. Particular attention is devoted to the distinction between trafficking and smuggling, the issue of victims' secondary criminalisation, and the ambiguities surrounding the notion of "exploitation."

The second chapter focuses on the Italian context, examining the legislative framework, short- and long-term protection programmes, the role of case law, and the contribution of NGOs. Weaknesses emerge in connection with the fragmented implementation of measures and the at times restrictive application of protection tools, as illustrated by certain judicial decisions.

The third chapter analyses the British system, developed within a common law framework and structured around the Modern Slavery Act 2015 and the National Referral Mechanism. Despite the existence of formal safeguards, such as Temporary Permission to Stay, their practical application is often limited and inconsistent with the "best interests of the child" principle, resulting in reduced access to residence permits, legal assistance, and long-term support pathways.

The fourth, comparative chapter contrasts the two legal systems, highlighting both similarities and divergences. Both models reveal shortcomings in ensuring the effective centrality of the child's best interests and in providing durable protection.

The research demonstrates that the full implementation of international standards requires a shift in perspective: from the mere formalisation of legal frameworks to a genuinely child-centred approach, capable of integrating prevention, protection, and social inclusion.

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Chapter 1 – Human Trafficking: an Overview

1.1 – Human trafficking: definition and characteristics

A comprehensive definition of what trafficking in human beings constitutes is contained in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000)[1]: "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

The aforementioned one is one of the three additional protocols supplementing the general crime-fighting measures in the Convention against Transnational Organized Crime, signed by over eighty countries on the fifteenth of November 2000 by the United Nations General Assembly. The other two protocols aim to combat the smuggling of migrants and the illicit manufacture and trade in firearms. As trafficking in persons, especially women and children for forced labour or "sex slavery", becomes increasingly linked to transnational organized crime, Governments have decided that a separate legal instrument, the UN TIP Protocol, is needed to fight it.[2]

However, it should be acknowledged that the definition of "trafficking in person" may have completely different meanings, according to the country we are dealing with. This is because, in their attempt to tackle this crime, States speak to each other in different languages, not only in literal terms, but also figuratively, since national jurisdictions may often collide, leading to

[1] United Nations. *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,* 2000

2 Antonopoulos, Georgios A. "After Palermo: An Overview of What the Convention and Protocols Hope to Accomplish." Trends in Organized Crime 5(4), pp. 21–29, 2000.

different interpretations and perceptions of "trafficking". In fact, as Allain (2014)[3] points out, the mechanism meant to give voice to the suppression of such traffic is transnational rather than international in nature. As a result, once a State has decided to be bound by the provisions of the 2000 UN Palermo Protocol, it has the duty to choose both the extent to which they will incorporate those provisions meant to prevent, suppress, and punish trafficking in persons and what actually constitutes "trafficking in persons" within their own national jurisdiction. Unsurprisingly, very few States have transposed the Palermo definition verbatim into their legislation, while other ones have provided a unique reading of what constitutes the criminal offense of trafficking in persons. As a result, no generalization can be made when dealing with "trafficking in persons", since, at the domestic level, no two definitions of trafficking in persons are identical. Also Silver (2021)[4] calls for action as regards to the significant level of flexibility of the Palermo Protocol and the UNTOC by arguing that providing some degree of consensus-based standardization of concepts would not only support international law enforcement coordination but also improve protection and prevention efforts worldwide.

Therefore, Allain (2014) argues that the way in which the Palermo Protocol has been implemented into the legal framework of various countries might prove that the very regime of trafficking in persons is highly flawed.[5] This theory becomes particularly interesting when the Palermo Protocol and UN Convention against Transnational Organized Crime are interpreted together. By doing so, what emerges from the Protocol is that a person may be also trafficked solely within one state, therefore it is not exclusively applicable to trafficking events involving transportation or transfer of persons across an international border. Nevertheless, taking into consideration that the Protocol is part of the UNTOC, the crime is defined as "transnational in nature" if they represent "violations of law that involve more than one country in their planning, execution, or impact".[6]

A further interpretative challenge posed by the Palermo Protocol lies in its paradoxical balance between the transnational nature of trafficking in persons and the principle of State sovereignty. Article 4 of the UN Convention against Transnational Organized Crime, explicitly affirms that:

3 Jean Allain, No Effective Trafficking Definition Exists: Domestic Implementation Of The Palermo Protocol, 7 GLR, pp.112, 2014.
4 Soumya Silver, Twenty Years After the Passage of the Palermo Protocol: Identifying Common Flaws in Defining Trafficking through the First Global Study of Domestic Anti-Trafficking Laws, Yale Law & Policy Review, p. 374, 2021.
5 Jean Allain, No Effective Trafficking Definition Exists: Domestic Implementation Of The Palermo Protocol, 7 GLR, p.112, 2014.
6 United Nations Economic and Social Commission for Western Asia (UNESCWA). Transnational Organized Crime. Available at: https://archive.unescwa.org/transnational-crime

“nothing in this Convention entitles a State Party to undertake in the territory of another State the exercise of jurisdiction and performance of functions that are reserved exclusively for the authorities of that other State by its domestic law”.

So, despite the fact that the phenomenon of human trafficking frequently involves more than one State, the Convention claims that each State is allowed to act only within its own legal borders, unless a bilateral or multilateral treaty between those States exists. As a consequence, this clause may severally hinder cross-border cooperation and intervention, in terms of traffickers identification and victim assistance. However, as Allain (2014) highlights, In setting out its jurisdiction provisions, the UN Convention is quite clear in establishing that only States have the power to assert jurisdiction over offenses committed on their territory or on vessels flying that State’s flag. Beyond that, any jurisdictional basis for acting would require assistance of other States.[7]

The definition provided by the Palermo Protocol may thus be broken down into three core elements, the “action” (which refers to the act of recruitment and transportation of a victim), “means” (which refers to any form of exploitation suffered by a victim e.g. through abduction, force or deception), and “purpose” (which refers to the aim of such recruitment e.g. sexual and/or labour exploitation, organ trafficking, forced marriages, and so on).

By contrast, what the Palermo Protocol does not contain is a comprehensive set of definitions of these terms. As a matter of fact, is up to domestic legislators to decide, for instance, what type of exploitation a certain state would seek to suppress, since the very term “exploitation” was nowhere defined in the law. According to Silver (2021), some countries' legal frameworks fail to include the "means" element within the definition of trafficking, expanding the definition of trafficking to be inconsistent with the definition under international law. As of March 31, 2021, only twenty- two countries fail to include the “means” element within the definition of the base offense of trafficking under their domestic criminal law: Argentina, Belgium, Canada, Colombia, Cuba, El Salvador, Gabon, Guatemala, Israel, Kazakhstan, Luxembourg, Mozambique, Nepal, Nicaragua, Panama, Paraguay, Russia, Slovenia, Switzerland, Tonga, Uruguay, and Uzbekistan. While these countries do not include the “means” element within the definition of the base offense of trafficking, the vast majority consider the “means” as aggravating factors within their criminal provisions, which trigger higher penalties. The reason

7 Jean Allain, No Effective Trafficking Definition Exists: Domestic Implementation Of The Palermo Protocol, 7 GLR, p.118, 2014.

behind the choice to omit, even deliberately, the "means" is that it is widely regarded as a tricky element of the crime to be proven, especially when traffickers utilize more subtle means of coercion instead of overt force.[8]

Particular attention must be paid in order to properly distinguish the crime of human trafficking from the related phenomenon of smuggling of migrants. According to Ogboru and Kigbu (2015), who have provided for a deep explanation of how the two phenomena may be distinguished, they are two of the fastest growing transnational criminal activities and are thought to be the most lucrative form of organized crime after the drug trade.[9] In fact, although they share similar features and therefore they might be easily interchangeable, they are to be considered as separate crimes, since they differ in:

a) Intention: The intention of the smuggler and the trafficker for engaging in their different activities are obviously different and it is important to distinguish them especially for the purposes of law enforcement. In trafficking, the intention is to exploit the trafficked person and earn money from their exploitation. So the intention is exploitative. For smugglers, the intention is to secrete a migrant illegally into another country, not to exploit or control the migrant. This intention is facilitative.
b) Destination: as the United Nations Office on Drugs and Crime suggests[10], while human trafficking can take place both domestically and internationally, migrant smuggling is a crime that takes place only across borders. Many times the smuggler is expected to just move the person across the border from where the migrant is to find his way to his destination, at other times the smuggler transports the migrant beyond the border to countries closest to the migrant's destination.
c) Consent: the smuggling of persons may occur with an economic interest in organizing such a crime, for this reason it may occur with or without their consent; however, most of the times such people, who rarely have any opportunity to migrate by legal means, voluntarily look for smugglers who could take them across international borders in order to search for better living conditions.

8 Soumya Silver, Twenty Years After the Passage of the Palermo Protocol: Identifying Common Flaws in Defining Trafficking through the First Global Study of Domestic Anti-Trafficking Laws, Yale Law & Policy Review, p. 349, 2021.
9 Ogboru, Tolu, and Salome Kigbu, Human Trafficking and Human Smuggling: The Distinction and Legal Implications." Beijing Law Review 6 (4): p. 224, 2015
10 United Nations Office on Drugs and Crime (UNODC), Human Trafficking and Migrant Smuggling – Education for Justice Initiative.

d) Victimization: the majority of migrants give their consent to the smuggling venture, mostly due to the lack of regular ways to migrate, therefore they are not considered victims in absolute terms. On the other hand, being victims, authorities are more sympathetic with the plight of the trafficked person. For smuggled persons, the law enforcement agents are harsher and stricter unless the migrant is an asylum seeker. A smuggled person is normally in breach of the migrations laws and he is deported the moment that is detected and the actual victim is the country of destination, which had its immigration laws broken. However, smuggled migrants are often put in dangerous situations by smugglers (such as a hazardous sea crossings) and might therefore become victims of other crimes during the smuggling process, including severe human rights violations. Nevertheless, the smuggler's relationship with the smuggled migrant normally ends once the fee is paid and the illegal entry has been achieved.

e) Use of violence: Human Trafficking involves violence because most times, the trafficked persons have to be forced to comply with the orders of the traffickers. Human smuggling on the other hand, has no need of violence. Since it is in the form of a contract, as long as the smuggler and the smuggled person have fulfilled their obligation to each other, no violence need be involved. Violence will be introduced only where the smuggled person fails to make the agreed payment.[11]

Trafficking is a complex phenomenon that is often driven or influenced by social, economic, cultural and other factors. The OSCE Action Plan to Combat Trafficking in Human Beings identified those factors that may increase victims' vulnerability to human trafficking[12]. First of all, poverty and lack of economic opportunities are to be considered as major issues, since individuals with economically adverse backgrounds are highly likely to accept deceptive offers or engage in unsafe migration paths. Concerning the political dimension, areas affected by political instability and armed conflicts constitute a powerful incentive for traffickers to operate with less impediments; leading refugees, asylum seekers and displaced persons at risk. Finally, women and girls frequently face gender-based vulnerabilities and discrimination, as shown by the findings of the Inter-Agency Coordination Group against Trafficking in Persons (ICAT)[13]: indeed, women and girls account for 71% of all trafficked victims detected globally. Much of

11 Ogboru, Tolu, and Salome, Kigbu, Human Trafficking and Human Smuggling: The Distinction and Legal Implications." Beijing Law Review 6 (4): p. 227, 2015

12 United Nations Office on Drugs and Crime (UNODC), Toolkit to Combat Trafficking in Persons: Global Programme against Trafficking in Human Beings (New York: United Nations, 2008).

13 Inter-Agency Coordination Group against Trafficking in Persons (ICAT), Issue Brief 04: Non-Punishment of Victims of Trafficking (New York: United Nations, 2020)

this disproportion stems primarily from cultural norms that normalize such violence and make women more vulnerable to different forms of exploitation, mostly for sexual slavery (96%), while men are more often trafficked for forced labour.

Among the several significant sources of data that offer a comprehensive overview of the scope and characteristics of trafficking in persons, the Counter-Trafficking Data Collaborative (CTDC)[14] seems to play a pivotal role. Launched in November 2017, its main goal is to "break down information-sharing barriers and equip the counter-trafficking community with up to date, reliable data on human trafficking". In accordance with its Global Database, 238,619 cases in 69 different countries have been recorded in 20 years, from 2002 to 2022, with the most frequent individual's age group of victims being between 9 and 17 years old. Moreover, a great number of cases (51,818) have been characterized by the same means of control: psychological, physical, and/or sexual abuse. With regard to the European context, the Group of Experts on Action against Trafficking in Human Beings (GRETA)[15], the monitoring body of the Council of Europe Convention, is committed in the ongoing implementation of anti-trafficking measures across member states, as well as providing solutions to issues related to the identification and subsequent protection of victims of trafficking amongst asylum seekers, refugees and migrants.

1.2- Forms and purposes of trafficking

Human trafficking can assume various forms and may involve a wide range of exploitative practices. It may be appropriate to consider what in fact, and in law, exploitation actually is. Nowhere in the law related to trafficking in persons is "exploitation" defined. Instead, domestic legislation takes the lead of the Palermo Protocol in providing examples of what constitutes exploitation.[16]

In the Palermo Protocol, the main types are trafficking in human beings for purposes of sexual exploitation, labour exploitation, and for other purposes including sale of organs and forced criminality. However, as stated in Chapter 1.1, a significant number of States have provided various readings of exploitation by including various acts that are deemed exploitive in their domestic legal framework. As Allain (2014) points out in his research, a small portion of States have legislation which actually mirrors the definition as established in the Palermo Protocol

14 International Organization for Migration (IOM), Counter-Trafficking Data Collaborative (CTDC)
15 Council of Europe, GRETA – Group of Experts on Action against Trafficking in Human Beings
16 Jean Allain, No Effective Trafficking Definition Exists: Domestic Implementation Of The Palermo Protocol, 7 GLR, p. 129, 2014

and yet, even in this case, what constitutes trafficking is not guaranteed to be the same.[17] For instance, while the 2009 UN Model Law claims that: "sexual exploitation" shall mean the obtaining of financial or other benefits through the involvement of another person in prostitution, sexual servitude or other kinds of sexual services, including pornographic acts or the production of pornographic materials"[18], the 2008 Act of the Bahamas sets out a unique provision, by defining sexual exploitation as "compelling the participation of a person in prostitution, pornography, and any other sexual activity as a result of being subjected to threat, coercion, abduction, the effects of narcotic drugs, force, abuse of authority or fraud"[19]. In this case, an intriguing element is the criminalization of trafficking in persons for sexual exploitation as a result of being subjected to the effects of the narcotic drugs. While it is widely recognised as a means of establishing control over a person with the aim of sexual exploitation, Allain provides an example showing how the provision could be interpreted in a manner which expands the reach of its application much further: "as the 2008 Act deems that trafficking may transpire where a person assists another person engaged in transporting any person in the Bahamas, the marginal case of two people meeting at a bar, sharing a tablet of Ecstasy, and leaving to the privacy of a house to engage in "any other sexual activity," would meet the threshold of trafficking. (…) In such a scenario, not only would the person who drove the vehicle be committing the crime of trafficking in persons, but if the couple had decided to hail a taxi, the legislation would deem the taxi driver a trafficker".[20]

Notably, sexual exploitation remains the most commonly identified form of trafficking, especially among women and girls, as stated by the aforementioned data. Moreover, as reported by Europol[21], sexual exploitation may result in other illicit activities, such as prostitution, pornography and other forms of commercial sexual services that are lucrative for traffickers. However, not every form of sexual exploitation faces the same consequences. As a matter of

17 Ivi, p. 24.
18 United Nations Office on Drugs and Crime. Model Law against Trafficking in Persons. Vienna: UNODC, 2009. https://www.unodc.org/documents/human-trafficking/UNODC_Model_Law_on_Trafficking_in_Persons.pdf
19 United Nations Office on Drugs and Crime. United Nations Convention against Transnational Organized Crime and the Protocols Thereto. Vienna: UNODC, 2004. https://www.unodc.org/documents/middleeastandnorthafrica/organised-crime/UNITED_NATIONS_CONVENTION_AGAINST_TRANSNATIONAL_ORGANIZED_CRIME_AND_THE_PROTOCOLS_THERETO.pdf
20Jean Allain, No Effective Trafficking Definition Exists: Domestic Implementation Of The Palermo Protocol, 7 GLR, p.125, 2014.
21 Europol, Trafficking in Human Beings, available at: https://www.europol.europa.eu/crime-areas/trafficking-in-human-beings

fact, according to Malsch and Janssen (2022)[22], which form occurs is largely dependent on the country where the work is being done and the legal system it has. Countries with liberalized legal systems may tolerate more visible forms of sex work than countries with repressive regimes or countries where the mere existence of sex work is denied.

On the other hand, labour exploitation affects not only women, but also men and children. The 1930 ILO Convention No 29 concerning Forced or Compulsory Labour states that "the term forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily"[23]. So, this definition contains two fundamental elements, namely the menace of a penalty and involuntariness. More recently, the ILO proposed to interpret the term menace of a penalty as including criminal sanctions as well as various forms of coercion such as threats, violence, the retention of identity documents, confinement, or non-payment of wages. However, Scarpa (2013) highlights the fact that coercion is both a fundamental characteristic of forced labour and an improper mean included in the UN Trafficking Protocol's definition. Likewise, as far as the element of involuntariness is concerned, also the lack of consent is already included as an element of this crime. [24]

According to the ILO Global Estimates of Modern Slavery, the five sectors with the largest proportion of workers subjected to forced labour were domestic work, agriculture, and manufacturing, often involving children, too.[25]

A further kind of trafficking based on the purpose of exploitation is forced criminality, which can take the form of forced begging, as well as forced metal theft, pickpocketing, drug production, trafficking and dealing, and benefit fraud. This form of exploitation presents a serious concern for legislators because it is often very challenging to differentiate between offender and victim. [26] As a consequence, the majority of these kind of trafficking victims are being convicted for drug offences. The 2012 baseline assessment undertaken by the UK Human

22 Marijke Malsch and Janine Janssen, Human Trafficking and Sexual Exploitation around the World: Hidden in Plain Sight, 2022
23 International Labour Organization (ILO), Forced Labour Convention, 1930, available at: https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029
24 Scarpa, Silvia, The Definition of Trafficking in Adult Persons for Various Forms of Exploitation and the Issue of Consent: A Framework Approach that Respects Peculiarities (December 5, 2013). Groningen Journal of International Law, Vol. 1, No. 2, p. 157, 2013.
25 ILO, Global Estimates of Modern Slavery: Forced Labour and Forced Marriage, Geneve, p. 4, 2017
26 European Crime Prevention Network (EUCPN), Preventing Trafficking in Human Beings: A Multidisciplinary Toolkit for Practitioners, 2022, available at: https://eucpn.org/sites/default/files/document/files/2209_Preventing%20trafficking%20in%20human%20beings_ENG_LR.pdf

Trafficking Centre claimed that out of the 2,255 potential victims of trafficking identified, 362 (16%) were victims of forced criminality. One of the most common activity for which these individuals were exploited is cannabis cultivation. Yet, the most concerning data is that the 81% of the victims being forced to cultivate cannabis are children (RACE, 2014).

Moreover, the Counter-Trafficking Data Collaborative (CTDC) detected the most common means of control used by traffickers in order to deceive and take advantage of their victims. As a result, abuse is the most employed control method and it could be categorized into three dimensions: by "psychological abuse", the CTDC indicates emotionally abusive, deceptive, or devious tactics to influence the individual, whereas "physical abuse" implies actions causing physical injury, pain, disability, death or trauma to the individual. Finally, "sexual abuse" constitutes any kind of unwanted or non-consenting sexual contact from their exploiter(s) as a means by which to control the individual.[27]

Although less common, the evolving nature of trafficking has led to the recognition of other exploitative practices, including forced marriages, especially involving minors, and organ removal, primarily for illegal transplant markets. Exploring this latter exploitative practice, the major difference in respect of the other ones included in the definition of human trafficking is the fact that the practice of removing organs can be conducted on both living donors and post-mortem. However, the latter can be excluded from this analysis, as it can legitimately be assumed that the definition of trafficking in persons does not refer to cadavers, but only to living individuals. Moreover, unlike other forms of exploitation, there is no universal treaty establishing absolute prohibition and criminalisation of the removal of organs; therefore this practice may be legitimately conducted according to the rule and limitations imposed by national legal frameworks.[28]

In addition, more recently, cases of trafficking linked to emerging technologies such as artificial intelligence have been explored. For instance, Europol reports claim that the use of deepfakes is a crucial area of concern, since they are refining fraudsters' and traffickers social capabilities in their deception and manipulation operations.[29] Generally speaking, contemporary human trafficking processes that are embedded in the use and exploitation of digital technologies

27 International Organization for Migration (IOM), Means of Control – Global Human Trafficking Data Hub, available at: https://traffickingdata.iom.int/msite/trafficking-data/indicator/means-of-control/#all/COO/.
28 Scarpa, Silvia, The Definition of Trafficking in Adult Persons for Various Forms of Exploitation and the Issue of Consent: A Framework Approach that Respects Peculiarities (December 5, 2013). Groningen Journal of International Law, Vol. 1, No. 2, p. 160, 2013.
29 Europol, Internet Organised Crime Threat Assessment (IOCTA), 2024, Publications Office of the European Union, Luxembourg

undoubtedly present a new and considerable challenge due to the continued development and proliferation of digital technologies and networked environments. For traffickers, the digital dimension may be seen as a double edged sword: on the one hand, exploiting new technological opportunities and capabilities enable traffickers to adapt to the law enforcement. On the other hand, the use of technology might leave important traces in order to foster criminals' identification and victims' assistance. A pivotal and problematic difference to others exploitative practices is the lack of physical proximity: due to the transcendence of in-person interaction, not only traffickers may be able to exploit victims in their home country and control them in another, but it is also much easier to reach a wider customer base than, for instance, street-based sexual exploitation. From the legal perspective, law enforcement investigatory practices may not be appropriate to adapt to the difficulties emerging from the physical separation between offenders and victims. [30]

As L'Hoiry, Moretti & Antonopoulos (2024) point out, the challenges of combatting human trafficking in a digital age are arguably most demonstratable in the apparent use of Adult Service Websites (ASWs) by human traffickers. This online platforms enable traffickers to promote sexual services by setting up personal profiles where they can list their services, share pictures and provide contact information, fundamentally altering the marketplace for sex by creating a virtual red-light district (Perer 2012)[31] connecting supply and demand in an online environment at relatively low risk of law enforcement intervention. The outreach of ASWs is so concerning that in 2018, the Joint Slavery and Trafficking Analysis Centre in the UK stated that ASW represent "the most significant enabler of sexual exploitation in the UK". Other barriers to detection, investigation and prosecution have been identified as including the sheer volume of digital data to be investigated; the obfuscation of identifiable details online (e.g.: use of nicknames; use of VPNs; encrypted communications) meaning identifying offenders and victims becomes exceptionally difficult.

1.3 – The Issue of Consent

According to Scarpa (2013), the issue of consent included in the second element of the definition was a highly contested issue during the negotiations that led to the adoption of the UN Trafficking Protocol. However, the debate on its relevance was only conducted in respect

30 L'Hoiry, Xavier; Moretti, Alessandro; Antonopoulos, Georgios A., Human trafficking, sexual exploitation and digital technologies. Trends in Organized Crime, [s. l.], v. 27, n. 1, p. 3, 2024
31 Perer AR, Policing the virtual Red Light District. Brooklyn Law Review 77(2):823–859, 2012

of one specific form of exploitation, namely the exploitation of the prostitution of others or other forms of sexual exploitation.[32]

For instance, in "Who Gets to Choose?" Jo Doezema (2022) critically examines the heated debates over the interpretation of the "consent" element, mainly shaped by feminist groups such as the "Coalition Against Trafficking in Women" (CATW) and the Human Rights Caucus. The former argued that all prostitution constitutes trafficking and it is coercive, regardless of consent, since no woman would choose this demeaning practice, whereas the latter claimed that deception or overt force must be present to nullify consent, and that consensual sex work among adults should not automatically be deemed trafficking.[33]

What the Protocol's language actually reflects is that the adult consent is rendered legally irrelevant only if improper means (such as coercion, fraud, or abuse of vulnerability) have been used. By contrast, in the absence of such means, consensual sex work may not amount to trafficking. On the one hand, Doezema argues that the Protocol's stance on the issue of consent is highly problematic, since it may undermine both sex worker rights and broader migration justice frameworks, fostering moralistic and exclusionary policies. On the other hand, Sharma (2005) claims that "by making the consent of the migrant in her/his movement across borders "irrelevant" if they experience any form of deception, coercion, or abuse in the process, this definition also dramatically expands the scope of trafficking". Sharma criticizes the Protocol's statement because, in her view, it denies the agency of migrants, particularly those who actively choose to migrate in search of better conditions. Moreover, in this way it may prove very complicated to distinguish the acts of smugglers from the acts of traffickers as both move people along illegalized routes of migration.[34]

The issue of consent remains particularly complex when analysing the various forms of exploitation included in the UN Trafficking Protocol, as several of them—such as slavery, practices similar to slavery, and servitude—may occur in both voluntary and involuntary contexts.

32 Scarpa, Silvia, The Definition of Trafficking in Adult Persons for Various Forms of Exploitation and the Issue of Consent: A Framework Approach that Respects Peculiarities (December 5, 2013). Groningen Journal of International Law, Vol. 1, No. 2, p. 155, 2013.
33 Doezema, Jo., "Who Gets to Choose? Coercion, Consent, and the UN Trafficking Protocol." Gender and Development 10 (1): p. 20, 2002
34 Nandita Sharma, Anti-Trafficking Rhetoric and the Making of a Global Apartheid, NWSA Journal, vol. 17, n. 3, pp. 90-91

Furthermore, by reading the definition of slavery provided by the Article 1.1 of the 1926 Slavery Convention it is quite interesting that it does not contain any kind of reference to the issue of consent: "the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised".[35] However, Scarpa (2014) explains that "the inclusion of slavery among the practices that can constitute the end result of the process of adult trafficking--done by the UN Trafficking Protocol--leads to the outcome that an additional issue is to be taken into consideration when examining a case of adult trafficking for the purpose of slavery: that consent was given but was vitiated by the use of improper means".[36]

As Niezna (2024) suggests, consent might also change over time, and people might find themselves in situations where they initially consented to work or travel that they no longer accept but cannot leave.[37] A further issue concerns the notion of coercion. The question of whether exploitation implies coercion depends on how one defines it: if all background conditions limiting choices are considered "coercion", it becomes quite challenging to distinguish between coercion and vulnerability abused in situations of consent to exploitation.[38]

1.4 – The International and Regional Legal Framework

The large-scale spread of this appalling phenomenon has led to the implementation of a comprehensive international and regional legislative framework to discourage the demand that fosters all forms of human trafficking and their dreadful consequences on men, women and children.

At the International level, the main legally binding instrument is the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (also known as *Palermo Protocol*), adopted in 2000 and entered into force in 2003. The main purpose of the Protocol is "to prevent and combat trafficking persons, paying particular attention to women and children", "to protect and assist the victims of such trafficking, with full respect for their human rights" as well as "to promote cooperation among States Parties in order to meet those objectives", as claimed in Article 2. It provides the most widely accepted definition of human trafficking, as outlined in Article 3 and as described in Chapter 1.1 of this paper. However, the

35 Office of the United Nations High Commissioner for Human Rights, Slavery Convention, 1926.
36 Scarpa, Silvia, The Definition of Trafficking in Adult Persons for Various Forms of Exploitation and the Issue of Consent: A Framework Approach that Respects Peculiarities (December 5, 2013). Groningen Journal of International Law, Vol. 1, No. 2, p. 158, 2013.
37 Niezna, M., Consent to Labour Exploitation. Industrial Law Journal, 53(1), p. 7, 2024.
38 Ivi, p. 10

Palermo Protocol is not just about defining trafficking, it also seeks to account for the protection of victims, including measures that provide appropriate housing, counselling and information, medical, psychological and material assistance, employment, education and training opportunities. Furthermore, the Palermo Protocol is characterized by a gender-sensitive and child-sensitive approach, since particular attention is paid to protect women and children from revictimization. It is also worth noting that the Protocol encourages States to strengthen border controls, improve the integrity of travel documents, and train relevant authorities to identify and provide assistance to victims.

Together with the Trafficking Protocol, there are other international legal instruments to take into consideration when discussing the legislative framework of human trafficking. For instance, since 1919, the International Labour Organisation (ILO) is primarily devoted to promoting human and labour rights. In fact, it regularly gathers the governments of 187 member states to set labour standards, namely non-binding (Recommendations) and binding legal instruments (Conventions and Protocols). These latter instruments oblige member states to suppress and eliminate forced labour in all its forms, emphasize state responsibility in ensuring access to remedies for victims and addressing trafficking when it results in exploitative labour, thus complementing the Palermo Protocol which, according to Article 4 (Scope of application), it "shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 of this Protocol, where those offences are transnational in nature and involve an organized criminal group (…)". In addition, new and continuously growing online spaces are receiving academic, law enforcement and policymaking attention. In 2018, the US government passed the Stop Enabling Sex Traffickers Act (SESTA) and Allow States and Victims to Fight Online Sex Trafficking Act (FOSTA), commonly known as SESTA-FOSTA. These acts were ostensibly aimed at tackling human trafficking mediated via online platforms such as ASWs. However, research has found that in the aftermath of SESTA-FOSTA, sex workers reported feeling less safe and more financially vulnerable as a result of the lost income previously generated via advertising on ASWs. Such adverse impacts on non-trafficked sex workers have led some commentators to describe SESTA-FOSTA as having 'failed miserably'.[39]

39 L'Hoiry, Xavier;Moretti, Alessandro; Antonopoulos, Georgios A., Human trafficking, sexual exploitation and digital technologies. Trends in Organized Crime, [s. l.], v. 27, n. 1, p. 4, 2024

Furthermore, the apparent limited scope of application Palermo Convention scope is mentioned by Planitzer and Sax (2020)[40] in comparison with the one of the Convention on Action against Trafficking in Human Beings, one of the most comprehensive regional instruments addressing the crime of human trafficking that sets out a series of measures for the protection of trafficked persons, the prevention of trafficking and the prosecution of those responsible for it. In fact, the Convention aims to address trafficking in all its forms comprehensively and it extends beyond mere criminalization. The implementation of its provisions is monitored by GRETA (Group of Experts on Action against Trafficking in Human Beings), which conducts country evaluations and issues reports with practical recommendations. Among the provisions provided in the Convention are the non-discrimination and non-punishment principles. On the one hand, the former, as defined in Article 3, obliges the Parties to implement all provisions of the Convention "without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority property, birth or other status". This provision is crucial in order to guarantee equal access to assistance, protection and justice. On the other hand, Article 26 introduces the non-punishment principle, which requires Parties to provide for the possibility of not imposing penalties on victims of trafficking for their involvement in unlawful activities, aiming to prevent victims being penalised for offences committed as a consequence of being trafficked. Most often, these are actions such as: violation of border regulations by way of, for example, illegal border crossing; using a fake identity card; participating in drug distribution (for example, in a brothel); petty theft; soliciting potential clients on the street; or providing sexual services where it is punishable. However, as Lasocik (2021) underlines, at the universal level, there are no binding regulations in this area because the Palermo Protocol of 2000 does not directly regulate this matter.[41]

1.5 – Introduction to Child Trafficking

Child trafficking is one of the most severe and threatening forms of trafficking of human beings. As a matter of fact, children are inherently much more vulnerable to exploitation due to a wide range of factors, including age, their limited capacity to protect themselves, lack of access to

40 Planitzer, Julia, and Helmut Sax. A Commentary on the Council of Europe Convention on Action against Trafficking in Human Beings. Cheltenham, UK: Edward Elgar Publishing, 2020

41 Zbigniew Lasocik. Protection of the Child Victims of Human Trafficking in the United States. Studia Iuridica Lublinensia, p. 349, 2021.

education, and economic struggle. As the UNODC (United Nations Office on Drugs and Crime) underlines, child trafficking is quite prevalent, since in 2020 nearly 20,000 children worldwide were identified as trafficking victims globally, and the number could be significantly higher, due to various challenges regarding detection and reporting of offenders.

Article 3(c) and (d) of the Palermo Protocol explicitly claims that the means element is not a requirement element if the crime of trafficking involves a child. However, as of March 31, 2021, according to Silver, only twenty countries required the "means" element for trafficking offenses involving child victims: Algeria, Bhutan, Bolivia, Brazil, Burma, Cameroon, Dominican Republic, Equatorial Guinea, Ecuador, Hungary, India, Indonesia, Iran, Iraq, Liberia, New Zealand, Papua New Guinea, Venezuela, Vietnam, and Zambia. All but two of these countries (Bhutan and Vietnam) simply do not differentiate between trafficking crimes involving adult victims, and those that involve child victims with respect to the required elements of the crime. As a result, this kind of inconsistency with internation law is problematic, since by requiring a demonstration of the “means” element when dealing with child victims of trafficking, certain acts of child trafficking e.g. the exploitation of a child through prostitution, in which none of the “means” listed are involved, would not be criminalized as trafficking under the national laws in question. This clash between domestic laws and the international legal framework appears to be worrying, because it may result in failure to identify, protect, and provide services to some of the most vulnerable trafficking victims: children.[42]

Among the multiple methods traffickers use to approach and control children, deception, manipulation, and force are the most common. However, the widespread use of the Internet, social media platforms, and encrypted messaging applications have significantly facilitated the work of traffickers. In fact, online platforms provide traffickers with a low-risk environment to identify, recruit and manipulate vulnerable victims. In this regard, in 2007 the Council of Europe commissioned a study on the misuse of the Internet by traffickers in order to facilitate two stages of the trafficking process: recruitment and exploitation. On the one hand, trafficker may take advantage of modern technology in order to evade detection and disseminate exploitative content. Furthermore, children making supervised use of the Internet and social media can further expose them to traffickers. On the other hand, several strategies are used to approach children for sexual exploitation: for instance, the so called “lover boy” technique is

42 Soumya Silver, Twenty Years After the Passage of the Palermo Protocol: Identifying Common Flaws in Defining Trafficking through the First Global Study of Domestic Anti-Trafficking Laws, Yale Law & Policy Review, p. 366, 2021.

defined by the aforementioned study as "a type of online recruitment in which a trafficker identifies and contacts a potential victim via an online platform, gets to know their hobbies and interests as well as their personal and family situations. The trafficker then offers empathy and support to the potential victim in the context of a romantic relationship – seeking to gain trust and subsequently establish control over the victim".[43] This kind of relationship of trust and interest affects mostly young girls, who might be approached by people from their own community, or the same ethnic group luring minors by showing affection and promising them love, a good job, or even a marriage.[44]Moreover, one of the most concerning aspect of the digital dimension is that legislative enforcement faces challenges in keeping pace with technological advancements, making it difficult to identify and tackle trafficking networks that operate online.

Among the pivotal tools for combating child trafficking are the internationally and regionally agreed commitments that are laid down in instruments such as conventions, protocols, recommendations and declarations. As an example, the 1989 Convention on the Rights of the Child (CRC) sets out some crucial general principles: Article 2 ensures that all appropriate provisions are to be applied without any kind of discrimination. Moreover, Article 3 defines the best interests of the child as a primary consideration, whereas Article 6 recognizes the inherent right to life of every child. Finally, the Convention establishes the child's right to be protected from economic exploitation and from hazardous work, to be protected from the illicit use and production of drugs, and to be protected from sexual abuse and exploitation (Articles 32, 34, 35).

In this regard, the Optional Protocol to the Convention on the Rights of Children, Child Prostitution and Child Pornography (2000) extend the measures that States Parties should undertake in order to achieve the purpose of the CRC and the implementation of its provisions. In particular, Article 1 mandates the prohibition of acts against minors' integrity like sale, child prostitution, and child pornography. Article 3 ensures that such acts "are fully covered under its criminal or penal law, whether such offences are committed domestically or transnationally (…)", while Article 8 promotes Members States cooperation in recognizing the vulnerability and the special needs of child victims.

43 Council of Europe, Online and Technology-Facilitated Trafficking in Human Beings, 2022, available at: https://rm.coe.int/online-and-technology-facilitated-trafficking-in-human-beings-full-rep/1680a73e49.
44 International Labour Organization and UNICEF. Training Manual to Fight Trafficking in Children for Labour, Sexual and Other Forms of Exploitation. Geneva: ILO and UNICEF, 2009, 27, available at: https://www.ilo.org/ipecinfo/product/viewProduct.do?productId=10290.

Furthermore, more and more national laws are being brought into line with international principles, even though not all countries have laws relating specifically to human trafficking; instead there is a distinct focus on traffickers, who are prosecuted under laws concerning abduction, prostitution, illegal migration or people smuggling, counterfeiting (a fake or unauthorized replica of a genuine product, such as documents) or labour exploitation.[45] As regards regional tools addressing children as victims of trafficking, one of the main legislative instrument of the European Union is the Anti-Trafficking Directive[46] (Directive 2011/36/EU, adopted on 5 April 2011. It recognises children as belonging to a group at an increased risk of becoming victims of trafficking and encourages Member States to adopt a child-sensitive approach to ensure that specialised assistance and support are provided to minors in their short and long term, in their physical and psycho-social recovery. More precisely, paragraphs 1, 2 and 3 of Article 14 list a range of specific actions to assist and support child victims of trafficking in human beings: first of all, Member States shall provide assistance and support to the family of a child victim of trafficking in human beings when the family is in the territory of the Member States. Moreover, they shall give children victims access to education and appoint a guardian or a representative from the moment the authorities identify the child, and they shall ensure that, in case of a conflict of interest between the guardian or the representative and the child victim, a different guardian or representative is appointed. Finally, the Directive also calls for preventive measures, such as awareness-raising campaigns targeted at children and professionals working with them.

1.6 – Introduction to the Comparative Method and Case Selection

This section is dedicated to discussing the methodology implemented in this paper: a qualitative comparative approach. In fact, this method enables the analysis of how different countries address and tackle the complex issue of trafficking in human beings. Moreover, it may reveal parallels and dissimilarities between the countries, thanks to which it would be possible to draw broader conclusions and recommendations for more effective transnational cooperation and victim protection. However, it is pivotal to note that this kind comparison comes with its

45 Ivi, p. 21
46 European Parliament and Council. Directive 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims and replacing Council Framework Decision 2002/629/JHA. Official Journal of the European Union, L 101/1, 15 April 2011

challenges. As a matter of fact, direct comparison may be threatened by socio-political contexts and legal traditions differences.

The chosen subjects of comparison are Italy and United Kingdom. The rationale behind this selection is twofold: on the one hand, these two countries developed similar national responses in matter of trafficked children protection; on the other hand they offer a quite interesting contrast due to their different legal systems, respectively Civil Law and Common Law, allowing for the exploration of how these two opposite legal frameworks operate in terms of identification, assistance, and protection of child victims of trafficking. Furthermore, the case of the United Kingdom provides for further valuable insights given its recent withdrawal from the European Union, therefore it seems appealing to examine how the country continues to engage in children trafficking protection despite operating outside the direct influence of EU legislation.

In order to compare the national legislative responses of Italy and United Kingdom, the analysis is primarily based on the country reports published by the European Union Agency for Fundamental Rights (FRA)[47]. These reports form the core reference material for the FRA's compilation of the report "Child Trafficking in the EU – Challenges, Perspectives and Good Practices" and provide a comprehensive summary of the strategies, instruments, institutional practices and assistance mechanisms adopted by Italy and United Kingdom.

47 European Union Agency for Fundamental Rights (FRA), Child Trafficking in the EU: Challenges, Perspectives and Good Practices, 2009, available at: https://fra.europa.eu/en/publication/2009/child-trafficking-eu-challenges-perspectives-and-good-practices#country-related.

Chapter 2 – The Protection of Child Victims of Trafficking in Italy

2.1 – Child Trafficking in Italy: Scale and Scope

The phenomenon of human trafficking in Italy, particularly of women and minors, has increasingly grown over the past ten years, reaching proportions that have alarmed governments and control institutions and have led to the adoption of increasingly severe measures against the criminal organizations that manage it. Human trafficking and forced prostitution appear as the new frontier arising from unrestrained globalization processes aimed at fuelling significant sectors of the global organized crime market. The buying and selling of human beings for economic or sexual exploitation is linked and functional to a transnational and global trade that significantly parallels that of weapons and drugs in its various forms.

According to Nicodemi & Cirillo (2024) In Europe and in Italy, trafficking of human beings is closely related to the so-called "mixed migration flows", meaning the set of persons reaching Italy through the Central Mediterranean and the Balkan routes. These groups have often experienced or are at risk of trafficking. Among persons reaching Europe and Italy, indeed, there are those fleeing armed conflicts, the impact of climate change, human rights violations and persecutions; unaccompanied and separated minors; survivors of gender-based violence and or torture; persons with disabilities, pregnant women and families. These profiles and vulnerabilities could be interrelated and linked to trafficking experiences or factors that expose them to the risk of trafficking.[48]

Carchedi & Frisanco (2004) claim that three major areas of illicit activity have emerged with particular prominence over the last decades:

1. Human trafficking aimed at certain marginal segments of undeclared labor
2. Exploitation of the propensity to emigrate
3. Trafficking of women and children for prostitution

However, there are substantial differences between the first two and the third in terms of the motivation for departure (voluntary migratory project or forced emigration/immigration), the methods of paying for transport (cash for migrant workers, credit for a large portion of women destined for forced prostitution), and the traffickers' risks (limited to transport with

48 Nicodemi F. and Cirillo C., Toward effective protection of victims of human trafficking in mixed migration flows: referral mechanisms shaped on individual need. The Italian experience and the European perspective, p. 2, 2024.

abandonment before reaching the borders for labor migrants, extended to accompaniment and ensuring the "successful outcome" of trafficked women's entry and subsequent exploitation in prostitution).[49]

Trafficking for the purpose of sexual exploitation, involving not only adult women but also minors destined for severe forms exploitation, originates mainly from countries not far from Italy, particularly Albania, Romania, Moldova, and, to a lesser extent, other countries of the former Soviet bloc. To these flows must be added those coming from a Central African country, Nigeria, and, to a lesser degree, from Ghana and Ivory Coast. This occurs when organizations, generally run by adults, derive economic profit from the continued abuse and violence against minors, taking advantage of their dominant position or power over them.

Italy itself can be seen both as a transit country and as a place of serious exploitation, since some groups of underage girls, initially exploited in our country, are then taken to Germany, France, Austria, Spain, and Belgium. These transnational movements highlight both the importance the phenomenon has gained for the criminal gangs involved and the high level of specialization and technical-organizational efficiency they have achieved. Because of its geographic position and proximity to the Greek-Balkan coasts, Italy constitutes the first frontier and therefore the most exposed one, serving both as a settlement area and as a passage point for illicit human trafficking. For this reason, Italy is particularly affected by sexual exploitation practices, ranging from pedophilia to the production of pornography using child actors, from forced street prostitution to segregation in "brothels", pose particularly severe social problems. They are deeply traumatic for victims, who, precisely because of their subjugation, are unable to break free from violent or abusive relationships due to their physical and psychological vulnerability.[50]

In Italy, according to Quarta (2004), forced and abusive sexual exploitation is the form of exploitation that most involves foreign minors on national territory. These minors are subjected to techniques and methods of subjugation that closely resemble para-slavery practices. In other words, practices that condemn victims to live in extremely harsh conditions that are difficult to escape: either because they are threatened, raped, and beaten whenever they attempt to resist, or because they are vulnerable and entangled in servile mechanisms that hinder and greatly complicate a clear awareness of the state of subjugation they are in. It should be noted that

49 Carchedi, Francesco, and Frisanco, Renato, "La tratta di donne adulte e bambine, uno sguardo insieme." Piccoli schiavi senza frontiere. Il traffico dei minori stranieri in Italia. Futura Editrice, p. 36, 2004.
50 Ivi, pp. 20-21

criminal gangs, aware of the high risks linked to underage girls, adopt highly flexible methods of subjugation and exploitation. The aim of this choice is to anticipate police investigations and thus escape detection and subsequent arrest. Mobility appears to be so high that the volume defines it as "walking-nomadic prostitution".[51]

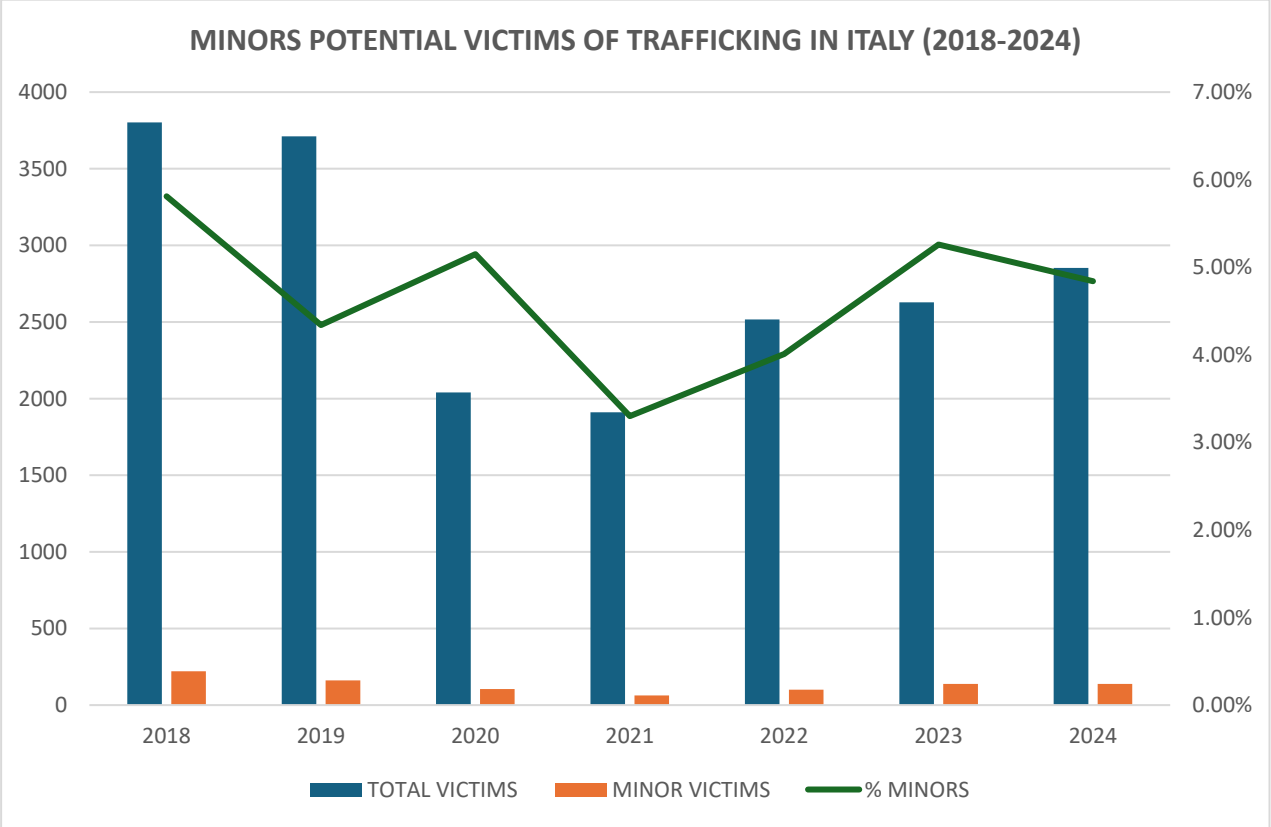
From a quantitative point of view, recent data reveal a deeply worrying scenario when it comes to human trafficking and the exploitation of minors. In 2024, as the SIRIT database *(Sistema Informatizzato di Raccolta Informazioni sulla Tratta)* points out, 2853 persons were reported potential victims of human trafficking, of which 138 involved minors, equating to 4,8% of the total[52]. Particularly concerning is the fact that, despite a significant decrease in the data during the pandemic in 2020, they have since shown a progressive and serious increase. In fact, Save The Children annual reports *Piccoli Schiavi Invisibili*, that provides data, analysis and testimonies to shed light on this phenomenon, claim that the number of persons detected and evaluated as possible victims of trafficking in human beings were 3802 in 2018, 3711 in 2019, 2040 in 2020, 1911 in 2021, 2517 in 2022 and 2628 in 2023.

As far as minors are concerned, the data reveal a fluctuating trend. While the number of identified child victims in 2024 (4,8%) has slightly decreased compared to those in 2023 (138 victims equating to the 5,3% of the total)[53], it shows a modest rise relative to 2022 (101 victims, equating to the 4,01% of the total)[54] and a considerably greater increase relative to 2021 (63 victims, equating to the 3,3% of the total)[55]. In 2020, although the pandemic contributed to a reduction in the total number of trafficked persons (2040), the proportion of minors involved remains significantly high (105 victims, equating to the 5,1% of the total)[56]. In 2019 and 2018,

51 Carchedi, Francesco, and Quarta, Elisabetta, "Il fenomeno migratorio regolare e irregolare: flussi di transito, flussi migratori Albanesi e traffico di bambini." Piccoli schiavi senza frontiere. Il traffico dei minori stranieri in Italia. Futura Editrice, p. 203, 2004.
52 Italia, Presidenza del Consiglio dei Ministri — Dipartimento per le Pari Opportunità, Nuove valutazioni 2024 (aggiornamento 02/05/2025) (SIRIT), 2 May 2025, www.pariopportunita.gov.it/media/l3qfwuux/sirit-nuove-valutazioni-2024-agg-02052025.pdf
53 Italia, Presidenza del Consiglio dei Ministri — Dipartimento per le Pari Opportunità, Nuove valutazioni 2023 (aggiornamento 07/06/2024) (SIRIT), 7 June 2024, www.pariopportunita.gov.it/media/wuvc1rva/sirit-nuove-valutazioni-2023-agg-07062024.pdf
54 Save the Children Italia, Piccoli Schiavi Invisibili (XIII Edizione, 2023). www.savethechildren.it/public/allegati/piccoli-schiavi-invisibili-2023.pdf
55 Save the Children Italia, Piccoli Schiavi Invisibili (XII Edizione, 2022). https://s3-www.savethechildren.it/public/allegati/piccoli-schiavi-invisibili-2022.pdf
56 Save the Children Italia, Piccoli Schiavi Invisibili (XI Edizione, 2021). https://s3-www.savethechildren.it/public/allegati/piccoli-schiavi-invisibili-2021.pdf

the numbers of people trafficked reached alarming levels, with a correspondingly high numbers of minors affected: respectively, 161 (4,34% of the total)[57] and 221 (5,81% of the total).[58]

The following chart highlights the annual evolution of children trafficking in Italy from 2018 to 2024.



In addition, as explained by the 2024 GRETA evaluation report on Italy, sexual exploitation remains the predominant purpose of exploitation of detected victims (84% in 2018, decreasing to 59% in 2022), followed by labour exploitation (10% in 2018, increasing to 38% in 2022). Forced begging, domestic servitude, forced marriage and forced criminality account each for 1 to 2% of the victims. The number of victims of THB for sexual exploitation has been decreasing, as a consequence of the COVID-19 pandemic which moved prostitution indoor and made it more difficult to identify victims. Labour exploitation concerns a growing number of

57 Save the Children Italia, Piccoli Schiavi Invisibili (X Edizione, 2020). https://s3-www.savethechildren.it/public/allegati/piccoli-schiavi-invisibili-2020.pdf
58 Save the Children Italia, Piccoli Schiavi Invisibili (IX Edizione, 2019). https://s3.savethechildren.it/public/files/uploads/pubblicazioni/piccoli-schiavi-invisibili-2019.pdf

persons each year. High risk sectors include agriculture, textile, domestic service, construction, hospitality, and restaurants.[59]

2.2 – Forced Prostitution Cycle

Delving into minors trafficking, to understand child sexual exploitation, Carchedi and Frisanco (2004)[60] first provide a brief overview of the historical development of forced prostitution in Italy, before offering a detailed analysis of the phenomenon involving children, divided into four stages. This framework highlights the mechanisms through which minors are coerced and trafficked, providing a clear lens for examining both the structural factors and individual vulnerabilities involved in sexual trafficking.

In Italy, before the rise of human trafficking, the smuggling of people, although smaller in scale and less visible, has been known since the 1980s, when the country began to experience immigration, aligning itself with the experiences of other European countries. Since then, about 70–80% of foreigners and immigrants entering our country have done so irregularly or with tourist visas that were not renewed. Alongside smuggling aimed at the entry of irregular immigrants, there later developed the trafficking of women for sexual exploitation. This particular migratory flow during the 1980s concerned almost exclusively young women from South America and Southeast Asia. These groups arrived under false promises, mostly of marriage (promoted by sometimes complicit agencies) and employment, or with the awareness of undertaking work activities that concealed more or less evident forms of prostitution. In these latter cases, however, what they did not know where the conditions under which such activities would take place. As previously mentioned, the forced prostitution cycle may generally be subdivided into four main phases:

1. *Recruitment phase*

The recruitment of women, both adults and minors, is aimed at exploitation. Potential victims are identified, sometimes involving families, depending on the case. Recruiters study and analyse potential victims, seeking those with a certain inclination toward emigration. In

59 Group of Experts on Action against Trafficking in Human Beings (GRETA), Evaluation Report on Italy (GRETA(2024)03), Council of Europe, 23 Feb. 2024.
60 Carchedi, Francesco, and Frisanco, Renato, "La tratta di donne adulte e bambine, uno sguardo insieme." Piccoli schiavi senza frontiere. Il traffico dei minori stranieri in Italia. Futura Editrice, pp. 52-64, 2004.

contexts of economic hardship and underemployment of active-age family members, any opportunity to leave the country of origin is pursued, even at risk. Under these conditions, the victim's family itself often takes on debt in the expectation of repayment. Ultimately, this phase concludes with an agreement or contract that appears advantageous for the victim and her family, "justifying" the subsequent exploitation.

2. *Journey phase*

This is the stage of the journey and the awakening from the "dream" of migration (when there is consent of those involved) or of forced transfer (when there is no cooperation from the woman or minors involved). In both cases, however, the journey becomes a particularly complex and risky event, both for the migrants and for the transporters. During this stage, the women and minors are transferred from recruiters to members of the criminal organizations. The condition of the women or minors may change during the journey: what began as a voluntarily accepted irregular migration may become one characterized by coercion and violence.

3. *Subjugation and Training Phase*

Here, members of the organization initiate the process of progressively ensnaring the woman in forced prostitution. Subjugation mechanisms have two sides:

a. Persuasive: seeking cooperation, emotional involvement, and existential dependence of the woman or minor in the exploitation practice.

b. Violent: marked by rape, physical assaults, and various forms of torture.

Victims are fully deprived of their name (changed to a pseudonym), clothes (forced into "work clothes"), identification documents, social relationships and solidarity with other women and minors, and finally family ties. Subjugation is followed by a training phase, characterized by a period in which women, especially minors, are raped by gang members and their associates to make them docile. Docility is that condition that compels the young woman to conform her behavior to her tormentors' will.

4. *Exit phase*

This final stage is marked by attempts to escape the para-slavery condition, either after repaying the debt to the exploiting gang or through the intervention of services and alternative opportunities available in the territory, allowing them to break away from prostitution and attempt reintegration into society. However, more often, exit mechanisms mature only through the combined effect of multiple social actors involved in the prostitution system in different capacities. The disengagement process is often longer for Albanian and Eastern European girls because they are subjected to greater violence and extortion. Even when they can free themselves from exploitation, they are often unable to return home or seek new opportunities in Italy. This impossibility stems from the complex psychological and emotional conditions of coercively exploited women, which make them vulnerable and therefore at risk of being recruited again by other organizations and subjected to further abuse.

A further significant issue relates to the territorial and geographic mobility of children engaged in prostitution. The young age of women engaged in prostitution, on the one hand, and the evident risk of being intercepted by law enforcement due to the strict anti-trafficking regulations, on the other hand, are factors that, according to many interviewees, determine the high territorial and geographic mobility of these women and the underlying characteristics of their exploitation. The different types of mobility can be managed separately or represent a sequential chain within a planned exploitation program over relatively longer periods:

The first level of mobility, "*monopolar*", occurs within a single city or at most within the province. The minor is forced to prostitute herself in different parts of the city or surrounding area, following timeframes ranging from a few days to a maximum of one or two weeks, after which she is moved to other areas. Longer exposure, aimed at higher profits, becomes counterproductive for the trafficker. Therefore, the trafficker may avoid this risk by increasing mobility to avoid interception of the minor, or by transferring her to another gang or trafficker, who will continue the exploitation in the same territory long enough to gain significant sums while avoiding law enforcement detection. For traffickers, having minors on the street represents a form of criminal-professional pride, a challenge to investigators, and a display of status toward other accomplices.

The second level of mobility, "*bipolar*", occurs between two specific territorial areas, which may be distant from each other and span multiple regions. The minor is forced to work in different parts of the same city or surrounding area, then later in another city, potentially

returning to the first with occasional variations and additional cities. These transactions may involve financial exchanges or the "trade" of one woman for another.

The third level, "*multipolar*", involves multiple specific territorial areas, potentially across several regions or foreign countries simultaneously. This occurs when minors are moved more frequently along longer routes, either by the same trafficker or by different traffickers. In the first case, the prostitution relationship is seen by other traffickers as a "pair business"; in the second case, the exploitation is more structured and anonymous, where cohabitation or partnership is not the main feature. Exploitation relies both on the emotional and existential entanglement of the minor, when a seemingly privileged relationship exists with the trafficker, and on a managerial entrepreneurial approach.[61]

2.3 – The National Legal Framework

Italy has developed a comprehensive and robust framework to combat human trafficking, focusing significantly on child victims. This framework includes a sophisticated legal structure, national mechanisms, specialized support programs, and proactive initiatives.

As explained by the FRA Italy report, all forms of trafficking, involving both children and adults are covered by Articles 600-602 of the Italian *Codice Penale*. In particular, Article 600 of the Penal Code focuses on victims brought for the first time, and kept, into a state of "slavery" or "servitude". Therefore, the aforementioned Articles tend to highlight the result of the trafficking on the victim, rather than the acts of trafficking in themselves. Nevertheless, such acts are taken into consideration by the following Articles 601 and 602:

On the one hand, Article 601 of the Penal Code criminalises, in fact, a) any act of trafficking of a person who is already in a state of "slavery" or "servitude", and b) the compulsion or induction of a person, who had not been previously in such a state, i) to enter, or to remain in, or to leave Italian territory, or to move within its boundaries, ii) by means of force, threat, deceit or fraud, or by abuse of authority or a position of vulnerability arising from mental disability or a situation of necessity, or by promising or giving payments or benefits to obtain the consent of a person who has control over the victim, iii) with the aim of bringing the victim into a state of "slavery" or "servitude".

61 Carchedi, Francesco. Piccoli schiavi senza frontiere. Il traffico dei minori stranieri in Italia. Milano: Futura Editrice pp. 106-111, 2004.

On the other hand, Article 602 criminalises single acts of buying and selling a person already in a state of "slavery" or "servitude", when these acts do not amount to "trafficking" (which apparently can only be committed, in the legislator's opinion, in the framework of a large-scale criminal organisation for purely 'commercial' purposes).[62]

Moreover, as La Rocca (2004) explains, a number of laws have been enacted in order to protect children concerning labour exploitation: the Article 37 of the Italian Constitution says: "…the law sets the minimum age for salaried work. The Republic protects the labor of minors with special provisions and guarantees them equal pay for equal work." In addition, the cornerstone of Italian legislation on child labor is Law No. 977 of 17 October 1967, "Protection of Child and Adolescent Labor." For the first time, this law distinguished between child labor and female labor and established various forms of protection. Specifically, it emphasized the need to "reconcile work activities with the necessity of safeguarding physical development and providing educational and vocational training aimed at full integration into the labor market".[63]

Conversely, Law No. 269/1998 represents a significant step towards the effective legal protection of minors in Italy. This law makes the production, trade, dissemination, and mere possession of child pornography prosecutable; accessory penalties include the confiscation of seized material, closure of the establishment, and revocation of licenses for television and radio broadcasters. Further innovative elements introduced by the law include the establishment of a fund, financed through confiscated assets and imposed fines, to support programs for the prevention, assistance, and rehabilitation of victims, as well as the reintegration of those convicted of sexual offences.[64]

A further point that the FRA report explores is the fact that Italy has both a formalised task force for investigating human trafficking and a coordination body for the social protection of trafficked victims. But each of them deals with trafficked children and adults together, and not only children. Investigations into the facts criminalised by Articles 600, 601 and 602 and 416, par. 6 of the Penal Code are under the competence of the *Procure Distrettuali* (Public Prosecutor's District Offices). Each of these 26 District Offices has a pool of prosecutors who are experts in organised crime, and all of them cooperate with each other, under the supervision

62 European Union Agency for Fundamental Rights (FRA), Thematic Study on Child Trafficking (Italy), p. 3, 10 August 2012, https://fra.europa.eu/en/publication/2009/child-trafficking-eu-challenges-perspectives-and-good-practices

63 La Rocca, Simona, "Gli strumenti normative internazionali, europei e nazionali nella lotta allo sfruttamento minorile" Piccoli schiavi senza frontiere. Il traffico dei minori stranieri in Italia. Futura Editrice, p. 245, 2004

64 Ivi, p. 246

and coordination of the *Procuratore Nazionale Antimafia* (National Anti-mafia Public Prosecutor), who is able to use the investigative resources of the *Direzione Investigativa Antimafia* (Anti-Mafia Investigation Bureau) a special investigative body made up of various police forces with jurisdiction throughout the country.[65] Moreover, Carchedi (2004) points out that in September 2002 the Italian Parliament unanimously extended the application of Article 41-bis of Law 354/1975, a provision usually reserved for particularly dangerous offenders, to individuals involved in human trafficking. Normally, Article 41-bis is applied to crimes falling under Article 416-bis of the Penal Code, which regulates the crime of mafia-type associations, that is, criminal organizations making use of intimidation and subjugation to exert control and commit serious crimes. By extending this strict regime to traffickers, the law effectively placed human trafficking, including child trafficking, on the same level of severity as mafia-related crimes, signalling a significant tightening of criminal penalties.[66]

As further explained by the FRA Italy report[67], the penalty for the offences established under Articles 600, 601, and 602 of the Italian Penal Code is the same, i.e. imprisonment from eight to 20 years. All these crimes are aggravated – with the effect that the penalty can be increased by one-third to one half:

a) If the victim is a minor (under the age of 18);
b) If the acts are committed for the purpose of exploiting the victim throughout prostitution or for the removal of the victim's organs;
c) If the acts result in a serious risk to the victim's life or to their physical or psychological integrity

In addition, the Italian legal framework also provides sanctions under Article 12 of Consolidated Act 286/98 (Law 40/98). Paragraph 3-ter specifically targets trafficking for sexual exploitation or other forms of exploitation of minors, providing for imprisonment from five to fifteen years and a fine of €25,000 for each trafficked person.

65 European Union Agency for Fundamental Rights (FRA), Thematic Study on Child Trafficking (Italy), p. 5, 10 August 2012, https://fra.europa.eu/en/publication/2009/child-trafficking-eu-challenges-perspectives-and-good-practices
66 Carchedi, Francesco, and Quarta, Elisabetta, "Il fenomeno migratorio regolare e irregolare: flussi di transito, flussi migratori Albanesi e traffico di bambini." Piccoli schiavi senza frontiere. Il traffico dei minori stranieri in Italia. Futura Editrice, p. 188, 2004.
67 European Union Agency for Fundamental Rights (FRA), Thematic Study on Child Trafficking (Italy), p. 3, 10 August 2012, https://fra.europa.eu/en/publication/2009/child-trafficking-eu-challenges-perspectives-and-good-practices

2.4 – Child Protection Measures

Italy has developed a comprehensive approach to combating child trafficking, combining the efforts of public authorities with the expertise and support of non-governmental organizations (NGOs). In this context, several important projects have been designed collaboratively to prevent children from becoming victims of trafficking and exploitation. At the same time, the protection of minors is reinforced by a range of legal provisions, which establish formal mechanisms and obligations aimed at safeguarding their rights and ensuring access to specialized services.

2.4.1 - Non-Governmental Responses to Child Trafficking in Italy

First and foremost, to foster effective victim identification, Kennedy (2024) outlines the pivotal role of NGOs in Italy, pointing out that migrants, refugees, and unaccompanied minors often fear punitive measures or deportation when dealing with state authorities. For this reason, NGOs play a critical role in bridging this gap, offering a more approachable and trusted avenue for these vulnerable groups to seek help. On the other hand Carchedi (2004) emphasizes the need to study minors trafficking, which is often underexplored or confused with adult trafficking. Understanding these dynamics allows NGOs, international agencies and institutions to better protect the rights of trafficked minors and respond to their specific needs. Moreover, this knowledge allows for an enhanced awareness of these phenomena, thus enabling the development of specialized interventions that strengthen victim empowerment and promote social and professional integration in their origin or host countries.[68]

Italy has indeed made progress through an integrated system involving NGOs, law enforcement, and social services. Still, according to some, challenges remain, such as uneven influence of NGOs and differences in the quality of services across regions. To improve its response, Italy should give NGOs a stronger role in decision-making and work to reduce regional disparities. In addition, policies and interventions should be more child-focused, survivor-oriented, and gender-sensitive, so that the specific needs and vulnerabilities of child victims are fully addressed in a more effective and humane way (Kennedy, 2024).[69]

68 Ezgi Yaman Kennedy, Child-Centered Anti-Trafficking Approaches in Mediterranean Migration Routes: Italy and Turkey, p. 16, 2024.
69 Ibidem

One of the most active organizations in Italy in shedding light on child trafficking is Save the Children Italy. Its primary aim is to combat trafficking of minors with several targeted projects, for instance[70]:

a) *Vie d'Uscita*: since 2012, the project has been carried out in collaboration with local anti-trafficking organizations, with the aim of supporting the identification and assistance of minors and young adults who are victims of trafficking and exploitation. Once intercepted through outreach activities, individual meetings in drop-in centres, or awareness-raising initiatives in reception facilities, the beneficiaries identified as victims are taken into care by the partner anti-trafficking organization, with the support of institutional bodies previously trained and sensitized on the issue. In 2024, the project reached 718 beneficiaries, 131 of whom were minors, predominantly male; of these, more than 200 were identified and taken into care as victims of trafficking and exploitation. In the first six months of 2025, across four different territories, the project encountered 35 minors and young adults at high risk of trafficking, 23 of whom (mainly minors and young males) were subsequently identified and taken into care as victims.

b) *Nuovi Percorsi*: since 2021, the *Nuovi Percorsi* project has been supporting, across Italy, minors and mothers who have survived trafficking and exploitation, with the aim of ensuring women's reintegration, the healthy development of children, and the autonomy of the entire family unit. The intervention methodology provides for the allocation of care grants designed to promote the empowerment of mothers and children, while also strengthening the capacities of public and private entities responsible for supporting these families—particularly in the areas of cross-cultural parenting and the management of survivors of trafficking and exploitation. Since 2021, the project has assisted 1,348 beneficiaries, reaching 238 people in 2024 alone, including 67 girls, 59 boys, and 83 mothers. In the first six months of 2025, 139 people were reached, including 37 girls, 39 boys, and 46 mothers, mainly from Nigeria, Côte d'Ivoire, Morocco, and Romania.

c) *Progetto E.V.A.*: from April 2023 to March 2025, Save the Children implemented the transnational project E.V.A. (Early identification and protection of victims of trafficking and exploitation in border areas) together with partners in France and Spain, with the

70 Save the Children Italia, Piccoli Schiavi Invisibili (XV Edizione, 2025). https://s3-www.savethechildren.it/public/allegati/piccoli-schiavi-invisibili-2025.pdf

aim of identifying victims of trafficking and exploitation in transit areas. The project, funded by AMIF resources, was active in Italy at the Ventimiglia border. The intervention made it possible to intercept 995 potential victims of trafficking across the three countries, 416 of whom in Italy alone. Among them were minors, girls, and young women mainly from Côte d'Ivoire, Guinea, and Nigeria. Subsequently, 236 people, including 70 minors, were pre-identified as victims of trafficking and referred to protection pathways.

Other NGOs have been mentioned by Carchedi and Orfano (2004) as being active in the fields of child trafficking, exploitation, and social inclusion, with a particular focus on the commercial sex market. The author analyses their service philosophy, operational approach, activities, and services provided:[71]

d) *Osservatorio sulla prostituzione minorile*: the Observatory on Minor Prostitution, part of the "*Oltre la strada*" (Beyond the street) project in the Emilia-Romagna Region, is promoted and managed by the Rimini Local Health Authority (ASL). Officially established in 2001, it represents a long-standing regional effort in social policies for minors and adolescents. At least during the first decade of the twenty-first century, Emilia-Romagna was one of the main Italian regions receiving trafficked persons for sexual exploitation from the former Soviet bloc, Eastern Europe, Africa, and Latin America.

To define objectives and activities for the Observatory, ASL Rimini established a technical-scientific committee with representatives from institutions and agencies specialized in minor protection. Activities include monitoring, information dissemination through periodic press reviews, and collecting documentation on minor trafficking, including monographs, articles, research, conference proceedings, and national, regional, and international legislation.

According to monitoring by the regional project *Oltre la Strada* the phenomenon of prostitution is closely linked to migration and migration policies. In the municipality of Rimini, 97% of those engaged in prostitution, both on the streets and indoors are foreign nationals, the vast majority of whom are trafficked. These individuals face difficulties even in accessing social and

71 Carchedi, Francesco, and Orfano, Isabella, "Servizi di protezione e buone pratiche di re-inserimento sociale: analisi di alcuni casi." Piccoli schiavi senza frontiere. Il traffico dei minori stranieri in Italia. Futura Editrice, pp. 139-144, 2004.

health services and often find themselves in an irregular legal status, which exposes them to traffickers and organized crime. For these reasons, the project highlights the pressing need to implement interventions capable of supporting a highly vulnerable population, with the aim of preventing the spread of sexually transmitted diseases among the general population.[72]

Finally, it is worth mentioning that Kennedy (2024) cites a further NGO, outlining not only its main objectives, but also its challenges[73]:

e) *ADITUS*: the ADITUS project, funded by the Ministry of Internal Affairs and IOM since 2007, aims to strengthen the identification and support of trafficking victims, with a particular focus on children. Its activities include providing information at disembarkation points, training staff at shelters and centres for unaccompanied minors, and conducting outreach in the community. Despite these efforts, GRETA's recommendations and expert assessments highlight key areas that need improvement. In particular, there is a need to enhance protections for children during disembarkations, reinforce non-punishment measures for victims, and streamline and standardize age assessment procedures. Moreover, Italy must ensure access to justice for women victims with children, more effectively tackle labor exploitation, and strengthen international cooperation. Implementing these recommendations would further consolidate Italy's response to human trafficking, with a specific focus on safeguarding child victims and improving victim identification and support mechanisms.

As a final consideration, effective outreach programs play a crucial role in the identification and support of child trafficking victims. These initiatives involve direct engagement with vulnerable individuals, often beginning with basic interactions aimed at providing immediate assistance and access to opportunities. Adopting a human rights-based approach, outreach programs seek to address the significant risks associated with illegal activities, including exposure to violence, disease, and exploitation. In Italy, such efforts typically involve street-level engagement, focusing on guiding vulnerable individuals from an initial point of contact while ensuring their protection and access to appropriate services.

72 Comune di Rimini, Programma Attuativo Annuale 2022, p. 111, Novembre 2022, https://www.comune.rimini.it/sites/default/files/2022-11/PAA%202022.pdf

73 Ezgi Yaman Kennedy, Child-Centered Anti-Trafficking Approaches in Mediterranean Migration Routes: Italy and Turkey, p. 8, 2024.

2.4.2 – Legislative Measures Against Child Trafficking in Italy

Italian national legislation formally aims to combat the phenomenon of child trafficking. The virtually unanimous opinion among practitioners is that there should be no mitigating circumstances for exploiters, and even less so when minors are sexually abused. From this perspective, the distinction between voluntary and involuntary prostitution becomes meaningless. For children underage, it must therefore always be considered forced and abusive prostitution, as it violates the best interests of the child, infringing upon their psychological, physical, and cultural integrity (Carchedi, 2004)[74]. For child victims, Italy's support system includes both short-term and long-term programs. Short-term programs under Article 13 provide immediate protection, including voluntary repatriation assistance or special residence permits. Long-term programs under Article 18 offer comprehensive support such as recovery plans, social integration, housing, health services, and vocational training (Kennedy, 2024)[75]

Building on Carchedi's earlier discussion of the best interest principle, the Article 3, paragraph 1, of the 1989 Convention on the Rights of the Child (CRC) highlights that when addressing the protection of children who are victims of human trafficking, it is essential to place the child's best interests at the heart of any social and legal intervention. Ensuring that every action, from identification to support and legal proceedings, prioritizes the needs, rights, and well-being of the minor is a cornerstone of effective protection

As the FRA Italy report points out, the 1948 Constitution of the Republic of Italy does not include an explicit formulation of the principle of the best interests of the child, but it has largely been established and supported by *Corte Costituzionale* (Constitutional Court) case law since the beginning of the 1980s. In order to establish the principle of the best interests of the child, the Constitutional Court has combined an interpretation of:

- Article 2 of the Italian Constitution, according to which "the Italian Republic recognises and guarantees the inviolable rights of the person, as an individual and in the social groups where human personality is expressed";
- Article 30, which states that "it is the duty and right of parents to support, raise and educate their children, even if born out of wedlock" (paragraph 1), and that "in the case

74 Carchedi, Francesco. Piccoli schiavi senza frontiere. Il traffico dei minori stranieri in Italia. Milano: Futura Editrice p. 11, 2004.
75 Ezgi Yaman Kennedy, Child-Centered Anti-Trafficking Approaches in Mediterranean Migration Routes: Italy and Turkey, p. 8, 2024.

of the incapacity of the parents, the law provides for the fulfilment of their duties" (paragraph 2);

- Article 31, according to which "the Republic protects children and the young by adopting the necessary provisions".[76]

Despite the absence of an explicit reference to the best interests of the child in the Italian Constitution, several legal provisions and regulatory mechanisms have been established to safeguard and uphold the best interests of minors:

The FRA report explains that the Italian legal system provides that a legal guardian should be appointed for every unaccompanied foreign child under 18 years of age; and so this happens whenever an unaccompanied child is identified as a victim of trafficking. In particular, the presence of any foreign unaccompanied child is communicated both to the *Giudice tutelare* (judge supervising guardianship) and to the *Procura presso il Tribunale per i Minorenni* (Public Prosecutor of the Juvenile Court) and to the *Comitato per i minori stranieri* (Committee for Foreign Minors).[77] The judge supervising guardianship then appoints a legal guardian. Moreover, according to Kennedy (2024), since the enactment of a new law, the No. 47/2017, voluntary legal guardianship has been introduced, with lawyers often fulfilling this role, particularly those specializing in human trafficking, criminal law, and asylum protection. However, concerns have been raised about the effectiveness of voluntary guardianship without sufficient expertise.[78] In fact, as the FRA report outlines, specialised training for legal guardians employed to represent unaccompanied foreign children (in general, and not only trafficked children) is provided at a regional level. Most regional laws have established authorities responsible for children named *Tutore Pubblico per i Minorenni* or *Garante per i Minori* (Minors Public Guardian or Minors Guarantor), empowered to organise training intended to give specific care and protection skills both to social service providers and to legal guardians.[79]

As previously explained, in the Italian legal system, the age limit for qualifying for legal representation is the same of age of majority (18). According to Article 5, par. 3, of Prime

76 European Union Agency for Fundamental Rights (FRA), Thematic Study on Child Trafficking (Italy), p. 12, 10 August 2012, https://fra.europa.eu/en/publication/2009/child-trafficking-eu-challenges-perspectives-and-good-practices
77 Ivi, p. 21
78 Ezgi Yaman Kennedy, Child-Centered Anti-Trafficking Approaches in Mediterranean Migration Routes: Italy and Turkey, p. 12, 2024.
79 European Union Agency for Fundamental Rights (FRA), Thematic Study on Child Trafficking (Italy), p. 22, 10 August 2012, https://fra.europa.eu/en/publication/2009/child-trafficking-eu-challenges-perspectives-and-good-practices

Minister Decree n. 535/1999,47 a minor's identity and age are assessed by the police officers in cooperation with the diplomatic authorities of the minor's country of origin. According to the 2003 *Linee Guida* (Guidelines) issued by the Committee for Foreign Minors, if the minor has a valid identity document (i.e. passport), indicating only the year of birth, it is common practice to assume the birth date as 31 December of the indicated year. However, if the minor has no valid documents or it is not possible to ascertain his/her age, an age assessment is carried out by independent professionals (usually doctors) on the basis of the child's physical and psychological development as well as cultural factors, taking into consideration his/her ethnic and geographical origin; and if this procedure fails to establish the child's age, the child is presumed to be a minor. In any case the child is treated (and given protection) as a minor until his/her age is proven.[80]

Throughout her research, Kennedy (2024) investigated social protection policies for children and young trafficking victims in Italy and Turkey between 1 February 2020 and 20 May 2021. Semi-structured interviews were conducted with 46 experts. Among the Italian respondents, one explained: "We operate approximately ten different shelters, each varying significantly in its setup. Some, known as 'comunità', offer 24h support with social workers residing on-site. Others resemble standard apartments, where 3–4 individuals share the space, and social workers visit weekly to conduct activities and meetings. The support provided is tailored to the individual's readiness for employment, with job training commencing when appropriate. The approach varies based on factors such as age, whether the individual is a minor or an adult, and their duration of stay in Italy. Working with someone who has recently arrived from another country is distinct from working with someone who has lived in Italy for several years or with someone from another European nation. Consequently, we develop customized services for each individual, which we refer to as a social protection and support project".[81]

In this regard, Carchedi and Quarta (2004) also documented interviews with NGO operators in his research. As a result, concerning accommodation, opinions vary: some operators prioritize community-based solutions, others favour family settings, and some prefer neighbourhood-family models. Forced repatriation of foreign minors is viewed negatively unless accompanied by assisted reintegration policies. Each case should be carefully assessed, collecting detailed information on family, social, and security conditions. Funding projects in the minors' countries of origin is deemed essential. Awareness campaigns targeted at specific social groups and

80 Ibidem
81 Ibidem

support for local associations are crucial both to increase understanding of minor trafficking and to promote fundamental rights protection and gender-sensitive culture.[82] Moreover, Article 13 of Law n. 228/2003 establishes "a special aid programme granting on a temporary basis suitable accommodation, food and healthcare" to the trafficked victims, financed by a special fund. This protection programme grants victims of trafficking appropriate accommodation in locations that are kept secret, in order to protect them from threats by criminal organisations (FRA Report, 2012).[83]

In addition, the *Dipartimento per le libertà civili e l'immigrazione* (Department for Civil Liberty and Immigration) of the *Ministero dell'Interno* (Ministry of Internal Affairs) signed a cooperation agreement with the IOM – International Organization for Migration on a national programme to encourage the voluntary assisted return of trafficked victims and their reintegration into their native countries. This programmes offers psychological, medical and legal assistance to trafficked victims, as well as effective support in returning to their native countries. For a victim to be repatriated, he/she must have expressed a clear desire, verified by psychological screening, and there must be suitable conditions for his/her return. According to the procedure stipulated by the programme, local services, such as the police, local government bodies, and NGOs indicate to the IOM which victims have expressed the intention to return. Once the required conditions are verified, the IOM submits a "return programme proposal" to the Minister of Internal Affairs to obtain permission. The IOM then makes the travel arrangements and prepares all the documentation and funding necessary for the return. The victim also receives a sum of €550 as an "initial accommodation grant". Once the foreign national has returned to the country of origin, the reintegration programme begins, and the IOM provides two grants of €550. The IOM supports at the victim for at least 6 months, and it keeps the Minister for Internal Affairs up to date (FRA Report, 2012).[84]

Another pivotal provision to take into consideration is the Article 18 of 1998 Italian Law on Immigration, *Testo Unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero*, that grants a special residence permit to foreign nationals, whatever their age, who are presumed to have been victims of violence or severe

82 Carchedi, Francesco, and Quarta, Elisabetta, "Il fenomeno migratorio regolare e irregolare: flussi di transito, flussi migratori Albanesi e traffico di bambini." Piccoli schiavi senza frontiere. Il traffico dei minori stranieri in Italia. Futura Editrice, pp. 180-181, 2004.
83 European Union Agency for Fundamental Rights (FRA), Thematic Study on Child Trafficking (Italy), p. 30, 10 August 2012, https://fra.europa.eu/en/publication/2009/child-trafficking-eu-challenges-perspectives-and-good-practices
84 Ivi, pp. 29-30

exploitation, and are still in danger of their lives as a result of their desire either to escape from the control of criminal organisations or to cooperate with police and prosecutors. A residence permit may be granted without the victim reporting the trafficker, because exploitation and the associated danger for the victim are a sufficient condition for it to be obtained.[85] This measure is particularly innovative as provides two possible routes for a victim of trafficking, one social and one judicial, with no risk that one will be influenced by the other. The fact that a residence permit may be granted even without the victim reporting the trafficking provides the victim with the possibility of social and psychological recovery, which in turn establishes the basis for a relationship of trust, a fundamental premise for his/her subsequent judicial cooperation. Since this provision allows immediate protection to be extended to all victims of trafficking, child victims of trafficking therefore fall under this provision irrespective of their actual cooperation with the police and prosecutors. The permit expires after six months, but can be renewed for one year, or for the time required by judicial authorities; indeed, the law does not specify how often a permit can be renewed, and so it can be renewed until the child has reached the age of 18.[86]

2.4.3 – Judicial Procedure in Cases of Child Trafficking Victims in Italy

According to the FRA report, the Italian law does provide special safeguards for criminal proceedings involving a minor who has been the victim of serious crimes, such as enslavement, juvenile prostitution and pornography, child trafficking and sexual assault. In fact, the Criminal Procedure Code, in force since 1989, does not prohibit minors from testifying (Indirli, 2004)[87]. In general terms, Article 609-decies of the Italian *Codice Penale* grants the minor psychological assistance over the entire course of any criminal proceeding, such as the presence of his/her parents or other persons chosen by the minor and admitted by the judge, and care and support through central or local public social services for care and support. Child witnesses should be examined directly by the judge, who asks the minor questions raised by both the defence and prosecution. The judge may be assisted in this by an expert psychologist (FRA Report, 2012).[88]

85 Ivi, p. 5
86 Ivi, p. 27
87 Indirli, Danila "Procedure giudiziario e costruzione dell'iter processuale nell'ambito dello sfruttamento sessuale dei minori stranieri. Analisi di alcuni casi." Piccoli schiavi senza frontiere. Il traffico dei minori stranieri in Italia. Futura Editrice, p. 259, 2004.
88 European Union Agency for Fundamental Rights (FRA), Thematic Study on Child Trafficking (Italy), p. 37, 10 August 2012, https://fra.europa.eu/en/publication/2009/child-trafficking-eu-challenges-perspectives-and-good-practices

Therefore, the child's testimony regarding sexual exploitation or abuse is a central moment in judicial proceedings. It is crucial to align the child's "internal time" with the "procedural time," ensuring that the testimony occurs when the child's emotional processing facilitates disclosure. Achieving this goal requires coordination and sensitivity among social, health, and judicial services. Moreover, to prevent intimidation by the accused, practices and laws (No. 269/1998 and No. 228/2003) introduced the use of a one-way mirror this arrangement separates the room occupied by the minor, the judge, and the psychological expert from the space where the accused, defense counsel, prosecutor, and civil party are located. The minor cannot see the other side, while the accused can observe the child. Further protective minors for minors include the possibility of conducting hearings outside the courthouse, in specialized assistance facilities, or, if unavailable, at the minor's home (Indirli, 2004).[89]

Moreover, the minor's testimony must be evaluated by the judge regarding both the credibility of the alleged victim and the intrinsic and extrinsic reliability of the account. Judicial practice involves a psychodiagnostic technical consultation under Article 196, paragraph II, of the Code of Criminal Procedure, which states: "When it is necessary to verify the physical or mental ability of a witness to testify, the judge may order appropriate assessments, even ex officio." The expert employs clinical interviews, projective tests, play and drawing analysis to examine the minor's reality and differentiate between psychiatric syndromes (personality disorders, borderline syndromes, psychotic syndromes, etc.) and post-traumatic stress disorders potentially linked to abuse. The expert then validates the minor's statements clinically; if credible, it is up to the judge to determine legal reliability, ensuring consistency and alignment with other procedural findings. Only an integrated and trained intervention involving social, health, legal operators, volunteers, and law enforcement can fully guarantee the right of foreign minors to be heard and to have their rights recognized, including in judicial context.

2.5 – Weaknesses and Contradictions in the Italian System of Protection

Despite its advanced legislative framework, the Italian system continues to display structural contradictions, particularly in the gap between formal guarantees and their practical implementation.

89 Indirli, Danila "Procedure giudiziario e costruzione dell'iter processuale nell'ambito dello sfruttamento sessuale dei minori stranieri. Analisi di alcuni casi." Piccoli schiavi senza frontiere. Il traffico dei minori stranieri in Italia. Futura Editrice, p. 261, 2004.

A practical illustration of the critical shortcomings of the Italian legal framework is provided by Court of Cassation judgment No. 2319/2024[90]. The Court deemed the defence of the state of necessity (Article 54 of the Italian Penal Code) applicable to a person who, as a victim of human trafficking, committed drug-related offences while in a condition of extreme vulnerability that prevented her from escaping the criminal network. Article 54 establishes that a person is not punishable if compelled by the necessity of saving herself or others from imminent danger, provided the act is proportionate to the danger.

The case involved a young Nigerian woman, forced into prostitution and drug trafficking to repay debts to traffickers. Although the Court of Appeal acknowledged her status as a trafficking victim, it denied the state of necessity, reasoning that she was not in an absolute impossibility to break ties with the organisation. This reasoning relied on factors such as short intervals between drug deliveries and possession of mobile phones, disregarding the broader context of coercion and exploitation. The Court of Cassation criticised the appellate judges for failing to adopt a victim-oriented approach, in line with international and EU standards, which require non-punishment of victims for acts committed as a consequence of trafficking. It clarified that Article 54 must be interpreted in light of these supranational obligations, giving priority to the protection of the victim over strict criminal repression. Moreover, the Court also stressed a two-step assessment: first, establishing the victim's status based on indicators of trafficking, and second, evaluating the applicability of the state of necessity considering the individual's vulnerability.

This case exposes a significant weakness in the Italian system: protection of trafficking victims in criminal proceedings depends heavily on judicial interpretation rather than explicit statutory provisions. While the case involved an adult, the reasoning is highly relevant to minors, who are even more vulnerable and require careful assessment and application of protective measures to ensure effective safeguarding under Italian law.

In addition, some scholars have also raised critical reflections regarding Article 18 of the Italian Immigration Act and its practical application, highlighting concerns about potential inconsistencies and ambiguities in its enforcement. These critiques point to the tension between the law's protective intent and the restrictive practices often observed in its implementation. Firstly, according to La Rocca (2004)[91], some gaps include the lack of monitoring of the law

[90] Corte di Cassazione. *Sentenza n. 2319/2024*. 19 Jan. 2024.

91 La Rocca, Simona, "Gli strumenti normative internazionali, europei e nazionali nella lotta allo sfruttamento minorile" Piccoli schiavi senza frontiere. Il traffico dei minori stranieri in Italia. Futura Editrice, p. 249, 2004

and the absence of protection for victims' family members, particularly their children. Secondly, Santoro and Genovese (2018) a significant challenge concerning the application of Article 18 of the Italian Immigration Act lies in the restrictive approach often adopted by the *questure* (local police headquarters). In fact, they have frequently been reluctant to grant protection to victims of trafficking and exploitation unless they actively cooperate with judicial authorities. This restrictive interpretation has been so widespread that the Ministry of the Interior has had to intervene on several occasions through specific circulars, even though not always clear or consistent, to reiterate the true purpose of Article 18 and to ensure its correct implementation. Such difficulties stem partly from the ambiguous drafting of the provision itself: on the one hand, the article seems to extend protection to a very broad category of individuals who are victims of violence and severe exploitation; on the other, it appears to make protection conditional upon the opinion of the public prosecutor, which must include an assessment not only of the seriousness and immediacy of the danger but also of the relevance of the victim's contribution to criminal investigations. This ambiguity, as the authors underline, has created tension between a protective, victim-centered interpretation of Article 18 and a more restrictive, security-driven approach that risks undermining the best interests of victims, especially minors.[92]

As a matter of fact, the application of Article 18 in Italy has been marked by significant misinterpretations, extending beyond situations of non-cooperation with the authorities. A striking example is that of an applicant who, in August 2018, submitted a request for a residence permit under Article 18 of the Consolidated Immigration Act to the *Questura di Firenze* (Florence Police Headquarters). After an initially favourable opinion from the competent public prosecutor, the Tribunal of Naples issued a negative opinion, based solely on the fact that the Prosecutor's Office had requested the dismissal of the criminal proceedings arising from the complaint filed by the applicant. Subsequently, the Florence Police Headquarters notified the refusal of the permit, basing its decision exclusively on that negative opinion.[93]

This case highlights a misapplication of Article 18, as the refusal relied on a formal act, the request for dismissal which, according to the case law of the Council of State (Sez. VI, 10/10/2006, n. 6023), does not by itself constitute proof of the unfounded nature of the

92 Genovese, Diana and Santoro, Emilio, Giornale di Diritto del Lavoro e di Relazioni Industriali, L'articolo 18 (t.u. immigrazione) e il contrasto allo sfruttamento lavorativo: la fantasia del giurista tra libertà e dignità, p. 21, 2018.

93 Tribunale di Firenze, *sentenza n. 11527/2019*, 11 Jan 2020, de Jure Database

complaint, nor does it legitimize an automatic denial of the residence permit for social protection purposes.

The personal circumstances of the applicant, on the other hand, present all the typical elements of a trafficking victim: geographic origin, belonging to a large and impoverished family, young age (the applicant was still a minor when entrusted to a trafficker), the incurrence of debt for the journey to Europe, and exposure to concrete dangers, as demonstrated by the traffickers' attempt to trace her via Facebook. These circumstances clearly illustrate her condition of vulnerability, which should be central to the assessment for granting a permit under Article 18.

This case clearly demonstrates how, although Italian law formally provides protection for vulnerable individuals, it is sometimes applied restrictively, prioritizing formal and procedural aspects over a substantive evaluation of vulnerability and concrete risks.

A further critical element of the Italian system emerges from the analysis of a case decided by the Tribunal of Ancona, which rejected the application for international and humanitarian protection of an applicant coming from a country marked by serious instability and widespread violence.[94] The rejection was based on the one hand, on generic and outdated information regarding the situation in the country of origin, in violation of the duty of cooperation in fact-finding laid down in Article 8 of *Legislative Decree 25/2008*; on the other, on the argument that the applicant did not fall within "subjective categories" of vulnerability, such as minors. This approach has been repeatedly censured by the Court of Cassation, which has clarified that humanitarian protection, cannot be reduced to a closed list of categories, but requires a case-by-case assessment of the applicant's individual condition, also in relation to the context of the country of origin.
Therefore, this case shows how the Italian system suffers from fragmented and restrictive applications in judicial practice, with the risk of leaving concrete situations of vulnerability without adequate protection. In this sense, even minors, who are inherently in a heightened condition of vulnerability, may face the risk of being denied the full protection that the legal framework is meant to guarantee.

In this regard, with judgment n. 27226, the Italian Civil Supreme Court (*Corte di Cassazione*) affirmed that, in matters of humanitarian protection, an assessment of the applicant's lack of credibility cannot be inferred from the applicant's failure to attend the scheduled hearing. The evaluation that the judge is called to carry out must be comprehensive. Indeed, such an

94 Corte di Cassazione, *Sentenza n. 13079/2019*. 15 May 2019, de Jure Database

assessment must take into account both the degree of deprivation of human rights in the applicant's country of origin and the risks associated with return, which may expose the applicant to a condition of objective personal vulnerability, particularly where systemic violence against certain categories, such as women and children, or the concrete risk of exploitation within the human trafficking circuit is evident.
From this perspective, the decision of the Tribunal and the Court of Appeal of Ancona appears problematic: the rejection based on the alleged vagueness of the applicant's account, without an autonomous assessment of the situation in the country of origin and the risks connected to return, contrasts with the established approach of the Court of Cassation, which requires a substantive rather than merely formal evaluation of the applicant's condition of vulnerability.

Indeed, the concept of vulnerability emerges as a central factor in assessing protection claims. The Court of Cassation has emphasised that the applicant's age and personal circumstances must be carefully considered, particularly in cases involving minors. For instance, in judgment n. 6185/2023[95], the Court of Cassation clarified that, for the recognition of a residence permit on humanitarian grounds, when the applicant entered Italy as an unaccompanied minor, even if the judge doubts the credibility of the reported episodes of family violence or mistreatment, the minor's age at the time of departure from the country of origin must be given precise and significant weight as a specific factor of vulnerability. The court must apply a tempered comparative judgment, taking into account the likely trauma of the flight and the journey.

[95] Corte di Cassazione. *Sentenza n. 6185/2023*. 1 Mar. 2023, de Jure Database.

Chapter 3 – The Protection of Child Victims of Trafficking in the United Kingdom

3.1 - Child Trafficking in the United Kingdom: Scale and Scope

Within the UK, trafficking of children and young people into, within and out of the country has become an increasingly important and debated issue over the past decades. In this regard, the term "modern slavery" started gaining a distinct recognition when the UK used it as the title of its primary anti-trafficking law: the *Modern Slavery Act 2015* (Luneburg, 2019)[96]. As highlighted by the *National Crime Agency*, the UK's lead law enforcement body tackling serious and organized crime, modern slavery and human trafficking manifests in four key types of exploitation in the UK: domestic servitude; exploitation in criminal activity; labour exploitation; and sexual exploitation. Although victims of modern slavery and human trafficking are of both sexes, it is a highly gendered crime, with male victims most often exploited for their labour and in criminal activity, and female victims the majority in both sexual exploitation and domestic servitude.[97]

In the UK debates around the trafficking of children are particularly framed within debates on immigration and asylum and the systems set up to control migration on the one hand, and child protection concerns on the other. Since the mid-1990s, the portrayal of asylum seekers as "bogus" versus "genuine" or "deserving" versus 'undeserving' has entered public consciousness within the UK. These socially constructed labels have, had consequences for trafficked children, since an "immigration-centred discourse" rather than a "child-centred discourse" often prevails. (Hynes, 2010)[98]. Literature focusing on the topic of child trafficking in the UK often identified gaps in services and in knowledge levels relating to trafficking protocols that appeared to arise from structural and definitional confusion.

In 2009, the UK created the *National Referral Mechanism* (NRM) as the first fulfilment of its obligations under the *Convention on Action against Trafficking in Human Beings* (ECAT). The NRM helps locate and identify potential victims and ensures they receive appropriate support.

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96 Amanda Luneburg, "Foreign Law Makes a Mockery of International Instruments in an Attempt to Protect Voiceless Victims: A Call on the UK Modern Slavery Act to Adhere to International Anti-Trafficking Instruments", New York International Law Review, Vol. 32, No. 2, 2019, p. 102

97 National Crime Agency, "Modern Slavery and Human Trafficking", Threats 2025, https://www.nationalcrimeagency.gov.uk/threats-2025/nsa-msht-2025

98 Patricia Hynes, "Global Points of 'Vulnerability': Understanding Processes of the Trafficking of Children and Young People into, within and out of the UK," in Sociology and Human Rights: New Engagements, 1st ed., Routledge, 2011, pp. 954-955

First, a potential victim is referred to the NRM by a first responder. A Competent Authority then makes a "reasonable grounds" decision. Finally, a conclusive grounds decision is made on whether the individual is a victim under its definition.[99] There are currently two competent authorities in place to make these decisions: the *National Crime Agency's Modern Slavery Human Trafficking Unit* (MSHTU) and the *Home Office Visas and Immigration* (UKVI).

A worrying scenario is displayed by the 2024 Report of the NGO *ECPAT UK* (End Child Prostitution and Trafficking): the number of child referrals has surged by 138% from 2018 to 2023. Despite this surge, the number of children being formally recognised as victims of child trafficking has decreased. This decline should not automatically be interpreted as evidence of a decrease in child trafficking. Rather, it may equally reflect shortcomings in the identification process itself.[100] Since the identification process relies on first responders, and each one of them has its own method of referral (Luneburg, 2019)[101], the figures risk underestimating the actual scale of the phenomenon. This represents a systemic weakness of the NRM, as the lack of consistent and objective criteria may result in many trafficked children not being officially acknowledged as victims

As explained by Harvey, Hornsby and Sattar (2015)[102], often the exploitation experience is identified as domestic servitude, forced marriage, indentured or slave labour and/or sexual exploitation. Yet, although some identify these as typologies of child trafficking, others have pointed towards the lack of clarity of the trafficking protocol definitions (as highlighted in Chapter 1) as possibly explaining the under-reporting of child trafficking and of trafficking victims being misclassified. Despite the apparently encouraging numbers, it remains widely accepted that such estimates fail to reveal the true extent of child trafficking into and within the United Kingdom and alternatively represent just "the tip of the iceberg". Indeed, as Davidson (2013)[103] intuitively argues: "it is impossible to measure a phenomenon that defies standard and

99 Amanda Luneburg, "Foreign Law Makes a Mockery of International Instruments in an Attempt to Protect Voiceless Victims: A Call on the UK Modern Slavery Act to Adhere to International Anti-Trafficking Instruments", New York International Law Review, Vol. 32, No. 2, 2019, p. 106
100 ECPAT UK and Independent Anti-Slavery Commissioner, Child Trafficking in the UK 2024: A Snapshot, ECPAT UK, 2024, p.9
101 Amanda Luneburg, "Foreign Law Makes a Mockery of International Instruments in an Attempt to Protect Voiceless Victims: A Call on the UK Modern Slavery Act to Adhere to International Anti-Trafficking Instruments", New York International Law Review, Vol. 32, No. 2, 2019, p. 112
102 Jackie Harvey, Robert Hornsby, and Zebeida Sattar. "Disjointed Service: An English Case Study of Multi-Agency Provision in Tackling Child Trafficking." British Journal of Criminology, vol. 55, no. 3, 2015, p. 497
103 O'Connell Davidson, J., 'telling tales: child Migration and child trafficking', Child Abuse and Neglect, 37, 2013

consistent definition and the definitional problems described should be enough on their own to make us extremely wary of all statistics on child trafficking (and trafficking more generally)".

Beyond the most well-documented means of child trafficking, some scholars have also examined less conventional channels. In this regard, Giommoni and Ikwu (2021)[104] conducted a study specifically focusing on the use of digital technologies as a medium for trafficking activities. In their view, traditionally, traffickers were forced to conduct their activities underground to minimise their risks. The advent of internet advertising presents an opportunity for traffickers to reach a wide audience, while, simultaneously, maintaining a low profile. Hence, online advertising can increase exploiters' profits and reduce their risk of detection. Their study sourced data and human trafficking patterns from a popular multi-service adult entertainment platform in the UK. The platform offers several services, including webcam shows, instant messages and clients' reviews, but the provision of advertising space for sex workers is its principal function. The authors identified ten indicators of human trafficking. Among them, however, two are particularly alarming, as they specifically relate to the sexual exploitation of children:

- Advertisements using words that allude to the youthful characteristics of the sex workers. While advertisements cannot report that sex workers are younger than 18 years-old, they can use words alluding to them being underage, such as "young", "teen", "petite" and "tiny".
- Stating a dress size typical of underage women. This indicator also aims to flag-up cases of underage sexual exploitation, by identifying those advertisements that stated that the sex worker was a size 4 (the smallest dress size reported), which is a particularly small size that is more typical of very young women.

From a quantitative perspective, in order to grasp the scope and scale of child trafficking in the United Kingdom, the period from 2018 to 2024 provides particularly insightful data, revealing interesting trends in identification, exploitation types, and demographic patterns.

In 2024, the NRM it received 19,125 referrals of potential victims of modern slavery, the highest since 2009, the year when the NRM began. Children comprised 5,999 (31%) of referrals[105]. In

104 Luca Giommoni and Ruth Ikwu. "Identifying Human Trafficking Indicators in the UK Online Sex Market." Trends in Organized Crime, vol. 27, no. 1, 2024

105 Home Office. Modern Slavery: National Referral Mechanism and Duty to Notify Statistics UK, End of Year Summary 2024. Home Office, 6 Mar. 2025, https://www.gov.uk/government/statistics/modern-slavery-nrm-and-dtn-statistics-end-of-year-summary-2024/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2024

2023, the number of referrals for child potential victims (7,432; 44%) were at their highest record[106], whereas in 2022 they represented the 41% (7,019) of all referrals[107]. In 2021, the 43% (5,468) of referred victims claimed exploitation as children.[108] Despite the COVID-19 pandemic, the number of trafficked minors was not significantly lower in 2020: 4,946 of all referrals (47% of the total).[109] In 2019, 43% of the referrals were for individuals who claimed they were exploited as minors (4,569)[110], whereas in 2018 they constituted the 48% (3,137 of all referrals).[111]

The following chart highlights the annual evolution of children trafficking in Italy from 2018 to 2024.

106 Home Office. Modern Slavery: National Referral Mechanism and Duty to Notify Statistics UK, End of Year Summary 2023. Home Office, 7 Mar. 2024, https://www.gov.uk/government/statistics/modern-slavery-nrm-and-dtn-statistics-end-of-year-summary-2023/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2023

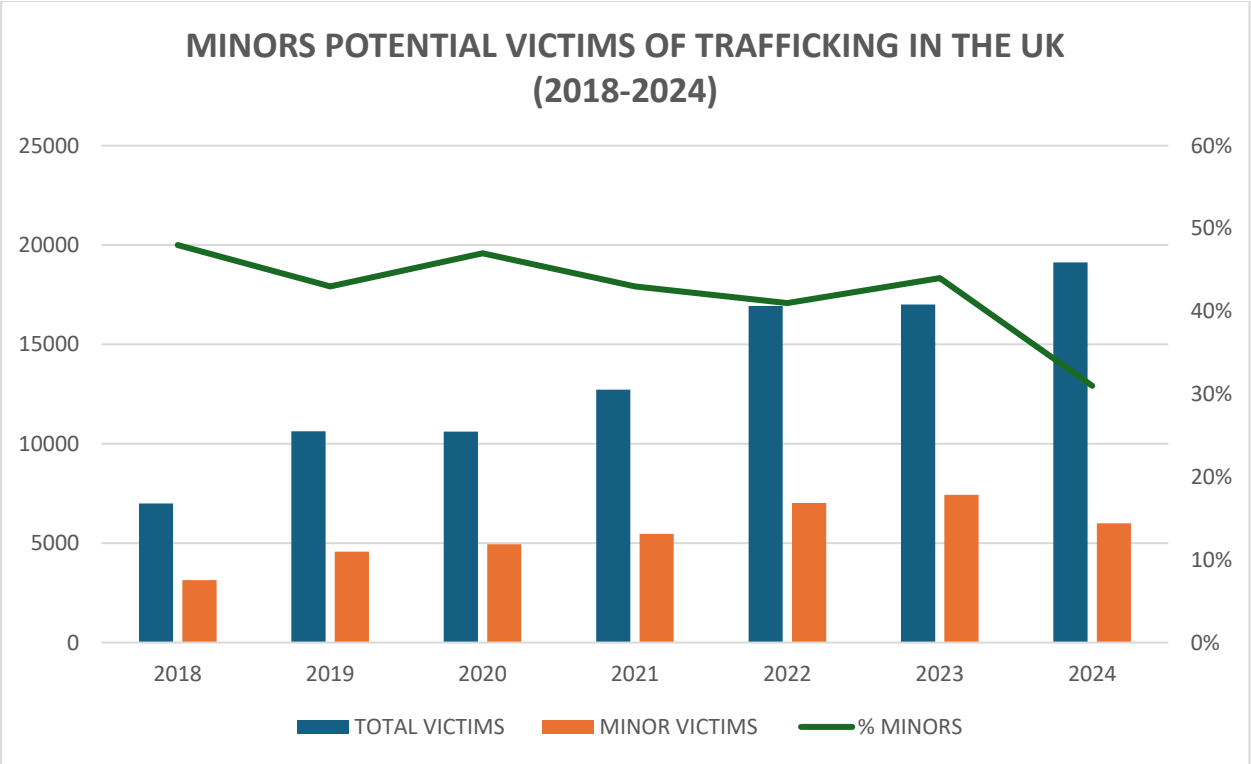
107 Home Office. Modern Slavery: National Referral Mechanism and Duty to Notify Statistics UK, End of Year Summary 2022. Home Office, 2 Mar. 2023, https://www.gov.uk/government/statistics/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2022

108 Home Office. Modern Slavery: National Referral Mechanism and Duty to Notify Statistics UK, End of Year Summary 2021. Home Office, 3 Mar. 2022, https://www.gov.uk/government/statistics/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2021

109 Home Office. Modern Slavery: National Referral Mechanism and Duty to Notify Statistics UK, End of Year Summary 2020. Home Office, 18 Mar. 2021, https://www.gov.uk/government/statistics/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2020

110 Home Office. National Referral Mechanism Statistics UK: End of Year Summary 2019. Home Office, 2 Apr. 2020, https://assets.publishing.service.gov.uk/media/5e81c863e90e0706f4cfcc7a/national-referral-mechanism-statistics-uk-end-of-year-summary-2019.pdf

111 National Crime Agency. National Referral Mechanism Statistics: End of Year Summary 2018. National Crime Agency, 20 Mar. 2019, https://nationalcrimeagency.gov.uk/who-we-are/publications/282-national-referral-mechanism-statistics-end-of-year-summary-2018/file



The data presented in this section are drawn from official sources of the UK government. Statistics on human trafficking, including child victims, are published by the *Home Office* and the *Office for National Statistics* (ONS). Throughout the period analysed, from 2018 to 2024, there has consistently been a marked predominance of male child victims of human trafficking in the United Kingdom, with their proportion ranging between approximately 70% and 80%. The nationalities of trafficked children have remained relatively stable over the years, predominantly including British nationals, Albanians, and Vietnamese. Moreover, the most common form of exploitation throughout this period has consistently been criminal exploitation, including drug-related crimes often linked to "County Lines" exploitation: County Lines is a structured criminal network engaged in the illicit distribution of drugs, operating between urban and rural areas, as well as between large cities and provincial towns (Fawell et al., 2024).[112] The sole variable that has shifted over the years, and which raises significant concern, is the total number of victims, steadily rising each year.

112 Fawell, L., Davies, J.L., Stubbings, D. et al. How vulnerable are people to victimisation of County Lines drug dealing?. Crime Prev Community Saf 26, 285–300 (2024).

3.2 – The National Legal Framework

Since child victims of trafficking are recognized as particularly vulnerable victims, who require additional protection and support and a more rigorous legal framework (Weatherburn and Mellon, 2019).[113] As noted by Hynes (2010), vulnerability is understood to mean being exposed to the possibility of being harmed, either physically or emotionally. In this regard, there are several points of vulnerability during the whole trafficking process, occurring pre- and post-arrival in the UK.[114]

3.2.1 – Legislative Measures Addressing Child Sexual Exploitation

The UK Fra Report (2019) provides a comprehensive picture of the existing legislation. The *Sexual Offences Act 2003* introduced measures, in England, Wales and Northern Ireland, introduced, in sections 57-60, measures to criminalise trafficking of both children and adults, where that trafficking is related to the commission of sexual offences[115]:

- Section 57 for trafficking into the UK;
- Section 58 for trafficking within the UK; and
- Section 59 for trafficking out of the UK.

An offence is committed under UK law wherever in the world the prohibited acts are committed and whether or not by a UK citizen.

Section 57 of the *Sexual Offences Act 2003* is concerned with the trafficking of persons into the UK, whether as a final destination or in transit to another country. It is a criminal offence, punishable by a maximum of 14 years in prison, for a person (A) intentionally to "arrange or facilitate" the arrival of another person (B) in the UK if A intends to do anything in respect of B after his or her arrival in the UK (or subsequently if B subsequently leaves the UK, after B's arrival in a third country), which is defined by section 60 of the 2003 Act as a "relevant offence".

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113 Amy Weatherburn and Yvonne Eloise Mellon, "Child Trafficking Victims and Legal Guardians: Exploring the Fulfilment of the EU Trafficking Directive in the Context of the UK Modern Slavery Act 2015," New Journal of European Criminal Law, vol. 10, no. 2, 2019, p. 107

114 Patricia Hynes, "Global Points of 'Vulnerability': Understanding Processes of the Trafficking of Children and Young People into, within and out of the UK," in Sociology and Human Rights: New Engagements, 1st ed., Routledge, 2011, pp. 954-955

115 European Union Agency for Fundamental Rights (FRA), Thematic Study on Child Trafficking (United Kingdom), 10 August 2012, p. 15, https://fra.europa.eu/sites/default/files/fra_uploads/527-child-trafficking-09-country-uk.pdf

A also commits an offence under section 57 if he or she believes that a third person (C) will commit a "relevant offence", whether in the UK or elsewhere. Relevant offences include: rape, assault by penetration, sexual assault of, and the incitement to sexual activity by, a child under 13; sexual activity with a child or in the presence of a child or inciting a child to engage in or to observe sexual activity; arranging or facilitating any of the offences listed above; meeting with a child following sexual grooming.

Section 58 of the *Sexual Offences Act 2003* criminalises the trafficking of people within the UK. This offence is identical in form and requirements to those in sections 57 and 59, the only difference is that there is no necessary international element to the offence.

Section 59 of the *Sexual Offences Act 2003* is concerned with trafficking children out of the UK. Here the offence is committed if a person (A) intentionally arranges or facilitates the departure from the UK of a person (B), and A either intends to commit a relevant offence in relation to B elsewhere in the world or believes that a third person (C) will commit such an offence. The "relevant offences" for this purpose are the same as those discussed above in relation to the offence under section 57, and again the maximum punishment is 14 years imprisonment.

In Scotland, the framework in which it operates differs from elsewhere in the UK. Indeed, offences prohibiting human trafficking, including child trafficking, were introduced by Section 22 of the *Criminal Justice Act 2003* and Sections 10 to 12 of the *Protection of Children and Prevention of Sexual Offences Act 2005*.[116]

The offence in section 22 of the *2003 Act* is the arrangement or facilitation by a person (A), of the arrival of another person (B) into the UK, or the travel of B within the UK, or the departure from the UK of B, in circumstances in which A "intends to exercise control over prostitution by B or to involve B in the making or production of obscene or indecent material". The offence is also committed if A believes that another person (C) is likely to exercise such control or to so involve B. Also in this case the maximum penalty on conviction is 14 years imprisonment.

Section 10 of the *Protection of Children and Prevention of Sexual Offences Act 2005* makes it an offence for a person, A, to cause or incite another, B, to provide sexual services or to be involved in pornography if B is aged under 18 years of age and A does not reasonably believe that B is older than 18, or if B is under 13 years of age.

116 Ivi, p. 23

Section 11 of the *2005 Act* creates an offence of intentionally controlling the activities of such a person relating to the provision of sexual services or the involvement in pornography.

Section 12 creates a further offence of intentionally arranging or facilitating the provision of sexual services or the involvement in pornography of such a person. In each case, the offence is committed wherever in the world the provision of sexual services or the involvement in pornography occurs. As for all the other offences listed above, the maximum penalty of these sections is 14 years imprisonment.

3.2.2 – Legislative Measures Addressing Child Trafficking for Non-Sexual Exploitation

The *UK Action Plan on Tackling Human Trafficking* was published by the Home Office and the Scottish Executive in March 2007, and an updated version in July 2008.[117] Its main objectives are:

a) To underscore that the central focus of UK policy is on the need of victims.

This entails the further building of human rights principles into policy and practice, and to ensure that strong law enforcement is backed up by effective protection and services for trafficking victims.

b) To ensure that there is an "end to end" strategy in place, in which the various agencies and areas of policy, prevention and law enforcement, immigration, and support for victims, function in a holistic and "joined up" way.

c) To broaden and deepen the scope of anti-trafficking policy and practice.

During the initial phase of UK policy development, the emphasis on sexual exploitation illustrates how elite problematisations shaped the policy agenda, prioritising forms of trafficking that were more visible and politically salient. Consequently, other forms of exploitation, such as labour trafficking, remained marginalised, receiving limited attention in both legislative and policy measures (Broad and Turnbull, 2018).[118]

117 Ivi, p. 25

118 Turnbull, Nick, and Rose Broad. "Bringing the Problem Home: The Anti-Slavery and Anti-Trafficking Rhetoric of UK Non-Government Organisations." Politics, vol. 42, no. 2, 2022, p. 119

Therefore, consequently to the implementation of the UK Action Plan, the historical focus on trafficking for reasons of sexual exploitation is being broadened to also focus on trafficking for non-sexual reasons, such as for forced labour. As seen in the section on legal provisions criminalising child trafficking (paras.40-59), new legislation is already in place to ensure that all types of trafficking are within the purview of the criminal law, and in 2006 the *Serious Organised Crime Agency* (SOCA) was established[119], 25% of the resources of which are dedicated to combating organised immigration crime including trafficking. Moreover, the *Action Plan* contains a chapter dedicated to the safeguarding and protection of child victims of trafficking.

Furthermore, international trafficking for reasons not related to the commission of sexual offences is criminalised by the *Asylum and Immigration Act 2004*, which, in contrast to the previously mentioned acts, applies in all parts of the UK. Section 4 of the Act creates three offences: trafficking a person into the UK, within the UK, and out of the UK. The nature of the crime, the maximum penalty and the defining characteristics are essentially the same as those established in relation to sexual exploitation. Nevertheless, this Section is particularly relevant because it offers a very broad definition of exploitation, covering all circumstances under which a child might be trafficked, namely if:

- He or she is the victim of behaviour in breach of Article 4 of the European Convention on Human Rights, which establishes the prohibition of slavery and forced labour; or
- He or she is encouraged, required or expected to do anything as a result of which he or another person would commit an offence under the Human Organ Transplants Act 1989, 26 or sections 32 or 33 of the Human Tissue Act 2004 or the Human Tissue (Scotland) Act 2006; or
- He is subjected to force, threats or deception designed to induce him, (i) to provide services of any kind, (ii) to provide another person with benefits of any kind, or (iii) to enable another person to acquire benefits of any kind; or
- He or she is vulnerable by reason of physical or mental disability, family connection or, most relevantly for present purposes, youth, and "is requested or induced to undertake any activity, having been chosen as the subject of the request or inducement" because

119 European Union Agency for Fundamental Rights (FRA), Thematic Study on Child Trafficking (United Kingdom), 10 August 2012, p. 26, https://fra.europa.eu/sites/default/files/fra_uploads/527-child-trafficking-09-country-uk.pdf

of this vulnerability, and "a person without the illness, disability, youth or family relationship would be likely to refuse the request or resist the inducement".

3.2.3 - General Anti-Trafficking legislation

Harvey, Hornsby and Sattar (2015)[120] argue that in May 2013, a review of the UK's *Sexual Offences Act 2003* (referred to as the *Davies Review*), stated that the myriad of policies and procedures aimed at eradicating trafficking in the United Kingdom essentially hindered efforts to prevent the sexual abuse of children in both the United Kingdom and abroad. In January 2014, the then Home Secretary, Theresa May, introduced the *Modern Slavery Bill* to further support international efforts on anti-trafficking law and eradication of slavery from the UK. This draft legislation culminated in the adoption of the *Modern Slavery Act 2015.*

The *Modern Slavery Act 2015* (MSA) is the cornerstone of the anti-slavery strategy, which aims to strengthen criminal justice responses to the so-called problem of "modern slavery" (Weatherburn and Mellon, 2019)[121]. It primarily applies to England and Wales: any parts of the act which apply to the rest of the UK (i.e. Northern Ireland) are specified within the act itself. The *MSA* integrated both the Convention and the Directive within its act by outlining the instruments' obligations within its statutes for trafficking crimes and designing victim identification and protection, as well as by reinforcing the NRM through the introduction a specific statutory provision establishing Independent Child Trafficking Advocates (ICTAs), referred to as a "measure that ensures that a trusted adult, who was independent from statutory services [...] could help children to navigate the care, immigration and criminal justice processes, and to challenge service providers who were not meeting their entitlements". The *Modern Slavery Act* not only seeks to combat child trafficking within the United Kingdom, but also aspires to generate broader social benefits, by fostering corporate social responsibility and encouraging businesses to contribute to economic growth and social engagement. According to Carle and Brewer (2023)[122], a key provision of the law is the *Transparency in Supply Chain* (TISC) clause, designed to expose supply chain practices to public scrutiny and thereby pressure

120 Jackie Harvey, Robert Hornsby, and Zebeida Sattar. "Disjointed Service: An English Case Study of Multi-Agency Provision in Tackling Child Trafficking." British Journal of Criminology, vol. 55, no. 3, 2015, p. 497

121 Amy Weatherburn and Yvonne Eloise Mellon, "Child Trafficking Victims and Legal Guardians: Exploring the Fulfilment of the EU Trafficking Directive in the Context of the UK Modern Slavery Act 2015," New Journal of European Criminal Law, vol. 10, no. 2, 2019, p. 118

122 Heather Carlea and Linda Brewer, "The United Kingdom Modern Slavery Act: Are we Making Progress? A Look at Organizational Commitment to Eradicating Modern Slavery," Transnational Corporations, Vol. 30, 2023, pp. 72-73

firms to take proactive measures against modern slavery risks. This provision mandates companies to publish an annual statement detailing their efforts to combat modern slavery in their supply chains. This may result in a competitive advantage to firms that have a demonstrated track record of addressing slavery risk, as those firms with a history of recent social incidents had more incidents of negative stock price reactions.

Despite its status as a key instrument in the UK's fight against child trafficking, the Modern Slavery Act has faced considerable criticism, with scholars highlighting its internal inconsistencies and a range of operational flaws. For instance, Luneburg (2019)[123] defines it as a "nice touchstone to showcase the international movement toward eradicating trafficking", due to the fact that in England and Wales, victim support is not guaranteed by law. As a matter of fact, the *MSA* delegates statutory authority to the *Independent Anti-Slavery Commissioner* to provide guidance to relevant authorities about identifying and providing resources to victims. However, referral procedures to the *NRM* vary from one first responder's council to another. Therefore, the *MSA* and its implementation have led to disparate and faulty treatment of trafficking victims which is evident in cases such as *H v. Secretary of State for the Home Department*.[124] The case concerns a Vietnamese minor who was trafficked to cultivate cannabis. Though trafficked as a minor, he did not go through the NRM until he was nineteen years old and, therefore, a competent authority treated him as an adult; this meant that there were harder tests for him to satisfy in order to be considered a trafficking victim and for him to be granted asylum. (Luneburg, 2019)[125]. As a matter of fact, the age of a trafficking victim is a vital question, in terms of immigration status, entitlement to services, and the manner in which those services will be provided.

In addition to these shortcomings, Necchi and Bradford (2025)[126] further stress that the *Modern Slavery Act* and the *National Referral Mechanism* not only fall short in providing adequate protection but may also produce the opposite effect by exposing child victims to the risk of

123 Amanda Luneburg, "Foreign Law Makes a Mockery of International Instruments in an Attempt to Protect Voiceless Victims: A Call on the UK Modern Slavery Act to Adhere to International Anti-Trafficking Instruments", New York International Law Review, Vol. 32, No. 2, 2019, p. 111
124 H v Secretary of State for the Home Department, [2018] EWHC 2191 (Admin), High Court of Justice, Queen's Bench Division, 16 Aug. 2018, https://vlex.co.uk/vid/h-v-secretary-of-792008597
125 Amanda Luneburg, "Foreign Law Makes a Mockery of International Instruments in an Attempt to Protect Voiceless Victims: A Call on the UK Modern Slavery Act to Adhere to International Anti-Trafficking Instruments", New York International Law Review, Vol. 32, No. 2, 2019, p. 112
126 Holly Necchi and Tracy Bradford, Examining the Exploitation of Vulnerable Migrant Populations and Interventions to Combat Human Trafficking and Modern-Day Slavery within the Illegal UK Cannabis Cultivation Industry, p. 4

criminalisation rather than safeguarding their rights. Finally, Broad and Turnbull (2018)[127] also highlight that the policy framework remains problematic, as it continues to marginalise vulnerable groups, and that the legislation offers only a partial response to the diverse issues encompassed within the concept of modern slavery. Consequently, modern slavery persists as a moderately structured problem, with further efforts required to mitigate unintended consequences and to overcome implementation challenges. In particular, strengthening multi-agency cooperation has been identified as crucial, especially in relation to information-sharing and the coordination of compliance and prevention measures. A clear example of multi-agency cooperation can be seen in the UKHTC (*UK Human Trafficking Centre*), that operates a strategic partnership in tackling human trafficking, working in conjunction with a range of partners including: police forces, government departments, international agencies, charities and non-governmental organizations (Harvey, Hornsby and Sattar, 2015)[128]

3.3 – Child Protection Measures

Similarly to the previous Chapter, also in the UK the best interests of the child are always of paramount importance when determining the level of support and protection required to ensure their safety.

3.3.1 - Legislative Measures Against Child Trafficking in the United Kingdom

In this respect, it should be noted that the UK FRA Report (2012) was compiled in 2008 and may therefore not fully reflect subsequent developments in the protection of child victims of trafficking in the UK. Indeed, at that time, the establishment of a formal scheme for the automatic appointment of a guardian when a child is identified as a trafficking victim was not required; nor was it considered necessary to establish such a scheme, whether or not the unaccompanied child has been identified as a trafficking victim.[129] Nonetheless, the *Council of Europe Convention on Action against Trafficking in Human Beings* entered into force in the United Kingdom in April 2009. Therefore, as required by the Article 10(4) of the Convention,

127 Turnbull, Nick, and Rose Broad. "Bringing the Problem Home: The Anti-Slavery and Anti-Trafficking Rhetoric of UK Non-Government Organisations." Politics, vol. 42, no. 2, 2022, p. 120

128 Jackie Harvey, Robert Hornsby, and Zebeida Sattar. "Disjointed Service: An English Case Study of Multi-Agency Provision in Tackling Child Trafficking." British Journal of Criminology, vol. 55, no. 3, 2015, p. 499

129 European Union Agency for Fundamental Rights (FRA), Thematic Study on Child Trafficking (United Kingdom), 10 August 2012, p. 7, https://fra.europa.eu/sites/default/files/fra_uploads/527-child-trafficking-09-country-uk.pdf

each Party shall "provide for representation of the child by a legal guardian, organisation or authority which shall act in the best interests of that child".[130]

Indeed, in the United Kingdom, a range of mechanisms exist to safeguard children's rights by ensuring that they are provided with appropriate legal guardianship. For what concerns England and Wales, where a child is identified as a child victim of trafficking, local authorities have a statutory duty to safeguard and promote the welfare of all children by allocating a social worker who will assess their needs and determine a care plan which takes into account their wishes and feelings. The child will be placed with a carer and allocated an Independent Reviewing Officer (IRO) who is responsible for regularly reviewing the care plan, ensuring the child understands and takes an active part and obtaining legal advice. (Weatherburn and Mellon, 2019).[131] In addition, as noted by Beddoe and Brotherton (2016)[132], the wording of Section 48(6)(c) of the *Modern Slavery Act*, which refers to the appointment of a *Child Trafficking Advocate* where there are "reasonable grounds" to believe that a child may be a victim of trafficking, has raised concerns about a possible linkage with the *National Referral Mechanism* (*NRM*). Since the expression "reasonable grounds" is a technical term closely associated with *NRM* decisions, it could be misinterpreted as requiring a formal *NRM* determination before an Advocate is appointed. Nevertheless, both the Explanatory Notes to the Act and parliamentary debates on the *Modern Slavery Bill* clarified that the appointment of an Advocate is not dependent on an *NRM* decision and should take place as soon as practicable once indicators of trafficking are identified.

It is paramount to underline that the role of the *Independent Child Trafficking Advocate* (*ICTA*) does not replace the statutory protection mechanisms already in place, such as the *Independent Reviewing Officer* (*IRO*). While the *IRO* acts as a safeguard for all looked-after children by overseeing care plans and ensuring that local authorities comply with their legal duties, the *ICTA* operates as an additional and specialised layer of protection for children who are suspected or confirmed victims of trafficking, ensuring their rights and best interests are promoted across multiple agencies.

130 Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197). Council of Europe, 16 May 2005, https://rm.coe.int/168008371d

131 Amy Weatherburn and Yvonne Eloise Mellon, "Child Trafficking Victims and Legal Guardians: Exploring the Fulfilment of the EU Trafficking Directive in the Context of the UK Modern Slavery Act 2015," New Journal of European Criminal Law, vol. 10, no. 2, 2019, p. 116

132 Christine Beddoe and Vicky Brotherton (Anti-Trafficking Monitoring Group), Class Acts? Examining Modern Slavery Legislation across the UK, Anti-Slavery International, Oct. 2016, https://www.antislavery.org/wp-content/uploads/2017/01/atmg_class_acts_report_web_final.pdf

In addition, Weatherburn and Mellon (2019)[133] further highlight that the report *Evaluation of Independent Child Trafficking Advocates trial* (2015)[134] outlines both advantages and critical concerns of the ICTA system, thus offering a nuanced picture of its practical implementation. For instance, the report concluded that the use of advocates added value to the existing systems. In fact, there were several identifiable benefits for the children in the advocate group including keeping the children safely visible, the creation of relations of trust and credibility and maintaining momentum in the case suitable to the child's needs. However, the report also underlines that Advocates do not fully address the issue of children going missing from statutory care in the UK. In fact, trafficked children are at high risk of going missing (12,378 minors in 2023), with most going missing within one week of becoming looked after and many within 48 hours, consequently becoming once again potential victims of trafficking. The FRA report on *Guardianship for children deprived of parental care* (2014)[135], suggests that this issue cannot be resolved simply by introducing *ICTAs*, it is also important the additional steps are taken, including regular risk assessment as to the likelihood the child may go missing, reporting mechanisms in accommodation facilities to ensure that any disappearances are reported within 24 hours, ensuring that the guardian and law enforcement agencies act together to locate the child and prevent re-disappearance.

Furthermore, international obligation and standards require government to ensure that trafficked children are not prosecuted, detained or punished for any crimes they have committed as a direct consequence of their trafficking. According to the UK FRA Report (2012) the United Kingdom has a policy of non-criminalisation for children who have been trafficked that states that children who commit offences under the control of traffickers should not be treated as criminals, as prosecutors are expected to take into account whether the act was carried out under coercion amounting to legal duress.[136] The *Code for Crown Prosecutors* reinforces this approach, requiring that the best interests of the child be considered in decisions about

133 Amy Weatherburn and Yvonne Eloise Mellon, "Child Trafficking Victims and Legal Guardians: Exploring the Fulfilment of the EU Trafficking Directive in the Context of the UK Modern Slavery Act 2015," New Journal of European Criminal Law, vol. 10, no. 2, 2019, p. 121

134 Kohli, Ravi K.S., et al. Evaluation of Independent Child Trafficking Advocates Trial: Final Report. Research Report 86, Home Office, Dec. 2015, https://assets.publishing.service.gov.uk/media/5a80937e40f0b62302694508/icta-horr86.pdf

135 European Commission and European Union Agency for Fundamental Rights, Guardianship for Children Deprived of Parental Care: A Handbook to Reinforce Guardianship Systems to Cater for the Specific Needs of Child Victims of Trafficking, June 2014, https://fra.europa.eu/sites/default/files/fra_uploads/fra-2014-guardianship-children_en.pdf

136 European Union Agency for Fundamental Rights (FRA), Thematic Study on Child Trafficking (United Kingdom), 10 August 2012, pp. 34-35, https://fra.europa.eu/sites/default/files/fra_uploads/527-child-trafficking-09-country-uk.pdf

prosecution. Generally, a child should only be considered for prosecution, depending on the severity of the offence, after receiving a reprimand and a final warning and it should only occur as a last resort. Moreover, Section 45 of the *Modern Slavery Act*[137] introduces a statutory defence for victims of modern slavery. With regard to children, the provision establishes that a minor cannot be held criminally liable if: i) they were under 18 at the time of the offence; ii) the offence was a direct consequence of being, or having previously been, a victim of slavery or related exploitation; and iii) it can be shown that a reasonable person of the same age and circumstances would have acted in the same way. Nevertheless, GRETA has raised significant concerns regarding the way the UK has framed the statutory defence under the *Modern Slavery Act*, arguing that the scope of this defence is significantly limited, as it explicitly excludes over one hundred offences of varying degrees of seriousness, thus the interpretation of the non-punishment principle is deemed to be too narrow. Yet, according to the UK authorities, the rationale behind these exclusions is to preserve the defence for offences that victims are typically forced to commit, such as cannabis cultivation, while preventing its misuse in relation to serious crimes, such as violent or sexual offences, which could create legal loopholes that traffickers may want to exploit.[138] Furthermore, even in cases where the statutory defence does not apply, the *Crown Prosecution Service* (*CPS*) retains discretion to discontinue proceedings if prosecution would not be in the public interest, and courts also have the authority to halt cases where pursuing a victim would amount to an abuse of process. Thus, while the statutory defence is circumscribed by a long list of exceptions, prosecutorial discretion and judicial safeguards continue to operate in parallel, allowing for case-by-case consideration of a victim's circumstances. Necchi and Bradford (2025)[139], also add that victims identified as suspects may be reluctant to provide statements, fearing that information shared in victim interviews could be used against them in the original offence. On the other hand, NGOs report that dual status and secondary victimisation discourages victims from co-operating with investigations into their traffickers.

137 Modern Slavery Act 2015, c. 30, s. 45, An Act to make provision about slavery, servitude and forced or compulsory labour and about human trafficking, including provision for the protection of victims, Mar. 2015

138 Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA), Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom: Second Round Report, Council of Europe, 2016, https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806abcdc

139 Holly Necchi and Tracy Bradford, Examining the Exploitation of Vulnerable Migrant Populations and Interventions to Combat Human Trafficking and Modern-Day Slavery within the Illegal UK Cannabis Cultivation Industry, p. 8

Moreover, the UK Government introduced the *Temporary Permission to Stay* (*TPS*)[140] policy to allow victims of human trafficking to remain in the country following a positive decision under the *National Referral Mechanism*. This form of leave is intended to support victims' recovery, enable access to compensation, and facilitate their cooperation in criminal proceedings. The policy also intends to recognise that each victims' experience of modern slavery will be different and their reaction to often traumatic experiences will mean that some will need to stay in the UK to assist with that recovery if their treatment is not available and not likely to be accessible to them in their country of return. However, ECPAT UK argues that the practical implementation of this measure has proven highly problematic: despite the large number of children formally recognised as trafficking victims, only a very limited number have actually been granted *TPS*. Between 2020 and 2022, over 5,000 children were confirmed as victims, yet fewer than 21 were granted this form of leave. Moreover, where permission was granted, its duration was extremely short, providing little stability and falling short of the principle of the best interests of the child. This restrictive approach seems to conflict with the standards set by the *Council of Europe Convention on Action against Trafficking in Human Beings* (*ECAT*). Article 14(2) of *ECAT* clearly claims that when a residence permit is needed for child victims, it should be given and renewed with the child's best interests in mind. The temporary and complicated nature of *TPS* does not follow this rule and may harm children's protection and long-term recovery. Although the Government paused decision-making on TPS in mid-2023 to review the policy, subsequent guidance issued in October 2023 has not addressed the fundamental concerns. The updated rules merely clarified procedural aspects, without ensuring that children's best interests are treated as a primary consideration.[141]

Finally, the UK FRA Report (2012)[142] adds that a court may appoint a solicitor for a child who is able to give instructions, and in the view of the court to do so is in the best interests of the child in certain circumstances, for example when there is an application to make a care or secure accommodation order in respect of that child. Such representation and assistance must be free to child victims (Weatherburn and Mellon, 2019)[143]. Here too, ECPAT UK has expressed

140 Home Office. Temporary Permission to Stay: Considerations for Victims of Human Trafficking or Slavery.
141 ECPAT UK and Independent Anti-Slavery Commissioner, Child Trafficking in the UK 2024: A Snapshot, ECPAT UK, 2024, p. 31
142 European Union Agency for Fundamental Rights (FRA), Thematic Study on Child Trafficking (United Kingdom), 10 August 2012, p. 42, https://fra.europa.eu/sites/default/files/fra_uploads/527-child-trafficking-09-country-uk.pdf
143 Amy Weatherburn and Yvonne Eloise Mellon, "Child Trafficking Victims and Legal Guardians: Exploring the Fulfilment of the EU Trafficking Directive in the Context of the UK Modern Slavery Act 2015," New Journal of European Criminal Law, vol. 10, no. 2, 2019, p. 112

criticism, stressing that the current civil legal aid landscape for child victims of human trafficking is seriously lacking. In fact, many children often struggle to secure a legal representative to assist with their cases, sometimes waiting years for support, especially in matters related to immigration and asylum.[144]

3.3.2 - Non-Governmental Responses to Child Trafficking in the United Kingdom

In addition to the provision of support provided by public authorities, an alternative form of support of child trafficking victims is provided by NGOs. In the United Kingdom, there are a number of mechanisms and non-governmental bodies to raise awareness on the issue, which in turn contribute to preventing child trafficking, facilitating the identification of victims, and improving the protection and support provided to them. Within the multi-agency approach adopted by the UK, NGOs serve a crucial function in safeguarding children's rights. Notably, Craig (2017) argues that not only several NGOs were instrumental in lobbying and directly influencing the final form and provisions of the *Modern Slavery Act*, but they also drove the introduction of legislation when, in 2002, the *National Criminal Intelligence Service* suggested that there was no evidence of large-scale trafficking into the UK, thus framing modern slavery as a problem and in demanding abolition.[145] NGOs also make use of statistic in order to monitor the impact of policy and operational decisions and challenge government on modern slavery. The following section outlines some of the main UK NGOs and examines their specific areas of intervention:

a) *ECPAT UK* (*End Child Prostitution and Trafficking*) is recognised as a leading UK charity campaigning against child trafficking and supporting young people who have been victims of exploitation. It also provide training for all frontline professionals who come into contact with children at risk, including social workers, immigration officers and other practitioners. In this context, in 2007, it developed an online e-learning tool aimed at equipping these professionals with knowledge on trafficking, offering access to a mini website with information on the phenomenon in general and on best practice

144 ECPAT UK and Independent Anti-Slavery Commissioner, Child Trafficking in the UK 2024: A Snapshot, ECPAT UK, 2024, p. 32
145 Gary Craig. "The UK's Modern Slavery Legislation: An Early Assessment of Progress." Social Inclusion, vol. 5, no. 2, 23 June 2017, p. 16

approaches (UK FRA Report, 2012)[146]. Moreover, ECPAT UK has distinguished itself for having been deeply critical of the way the United Kingdom's legal and institutional framework has addressed child trafficking, as highlighted in the previous subsections. An additional example of this stance is its critique of the operation of the *NRM* framework, expressing concerns that their immediate short-term needs are neglected during the identification process. They argue that more rigorous training and monitoring of first responders would increase effectiveness (Harvey, Hornsby and Sattar, 2015)[147]. Furthermore, interesting example of awareness-raising campaigns carried out by ECPAT UK are: firstly, the *Blue Blindfold campaign*, launched in December 2007, is a joint pilot poster national campaign, launched in 12 UK cities and on 550 buses to raise awareness amongst male sex buyers of the exploitation and trafficking involved in off street prostitution.[148] It encourages public involvement in sharing any suspicions or information with the police. Secondly, the *Stop Sex Trafficking of Children and Young People* three-year campaign, launched in August 2009. It aimed to raise awareness of the issue and to empower individuals to take action. It featured a petition, one of the largest ever submitted to the United Nations, with 753,889 signatures originating from the UK.[149]

b) *Barnardo's* is a British children charity that runs services aimed at improving the lives of young people, while also having an impact on practice, policymaking and systems so that they meet the needs of all children. Moreover, they also amplify the voices of young people to influence the Government on the issues that affect their lives, fighting their corner and making sure their voices are heard. A clear example of Barnardo's commitment is its pilot project on specialist foster care placements, launched in 2012 with funding from the Department for Education.[150] The initiative was designed to

146 European Union Agency for Fundamental Rights (FRA), Thematic Study on Child Trafficking (United Kingdom), 37 August 2012, p. 42, https://fra.europa.eu/sites/default/files/fra_uploads/527-child-trafficking-09-country-uk.pdf
147 Jackie Harvey, Robert Hornsby, and Zebeida Sattar. "Disjointed Service: An English Case Study of Multi-Agency Provision in Tackling Child Trafficking." British Journal of Criminology, vol. 55, no. 3, 2015, p. 500
148 European Union Agency for Fundamental Rights (FRA), Thematic Study on Child Trafficking (United Kingdom), 37 August 2012, pp. 36-37, https://fra.europa.eu/sites/default/files/fra_uploads/527-child-trafficking-09-country-uk.pdf
149 CPAT UK. "Stop Sex Trafficking Campaign with The Body Shop". ECPAT UK, 23 Feb. 2011 (published); updated 9 June 2017, https://www.ecpat.org.uk/bodyshopcampaign
150 Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA), Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the

address concerns about trafficked and sexually exploited children going missing from foster care, an issue that has been widely debated in recent years. It included specific training for foster carers and tailored support for young people in other care settings. Although it reported positive outcomes, the scheme was later interrupted due to its high costs, and while the authorities argue that foster carers are already trained and experienced to response to diverse needs, there is still no statutory requirement for specialised training to meet the specific needs of trafficked children. The charity's 2023-2024 results further illustrate its impact: they reached a total of 356,200 children, young people, parents and carers through their services and partnerships, raised £93.1 million through sales and donations of second-hand goods from its 591 shops and superstores across the UK, and fundraised £41.7 million thanks to their network of dedicated supporters.[151]

c) *The Children's Society* is a UK-based national children's charity dedicated to supporting vulnerable children and young people. Their work covers a wide range of services aimed at protecting children from both sexual and criminal exploitation, helping them rebuild trust and reducing the risk of being targeted by traffickers again. In particular, the charity focuses on County Lines exploitation, a practice in which, as previously explained, children are coerced into transporting and selling drugs far from their homes, often forcing them to miss school, sleep in unsafe environments, and conceal their activities from family members. Their research estimates that around 46,000 children in England are involved in criminal networks. To address this issue, the charity launched the *#LookCloser* campaign in partnership with the British Transport Police and the National County Lines Coordination Centre, raising awareness of the signs of child exploitation and how to report them.[152] Regarding sexual exploitation, *The Children's Society* provides support to young people aged 8–24 years who are assessed as being at medium or high risk, offering one-to-one therapy sessions and support for their families.

United Kingdom: Second Round Report, Council of Europe, 2016, p. 50, https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806abcdc

151 Barnardo's. Annual Report and Accounts 2023–24. Barnardo's, published 2025, https://www.barnardos.org.uk/sites/default/files/2025-01/25278_Annual_Report_Accounts_2023-24_DIGITAL3.pdf

152 The Children's Society. "#LookCloser Campaign", https://www.childrenssociety.org.uk/what-we-do/our-work/lookcloser

According to their *2024 Annual Impact Report*, the charity operated 62 services for young people and their families, working directly with 72,016 children.[153]

3.3.3 – Judicial Procedure in Cases of Child Trafficking Victims in the United Kingdom

Children in England and Wales can come into contact with the criminal justice system from the age of 10, which marks the age of criminal responsibility.[154] In 2024, the *Metropolitan Police Service* (*MPS*) set out its new *Children's Strategy*[155], outlining several guiding principles for policing minors. First, anyone under 18 should always be treated primarily as a child. Second, the inherent vulnerability of children must be identified and addressed to protect them from harm. Third, in every encounter with the police, officers should seek to fully understand the child's circumstances, recognising that serious offending rarely occurs without a child also being a victim of wider circumstances. Finally, the voices of children must be heard and their perspectives respected. Yet, a significant challenge lies in the fact that exploitation is often not recognised by the children themselves, who may perceive their exploiters as friends or even romantic partners. Consequently, it becomes essential for legal practitioners to identify signs of exploitation, even when the child involved does not.

In addition, the European Court of Human Rights ruled over two decades ago that, if the UK wishes to try young children in adult criminal courts, proceedings must be adapted to ensure their effective participation. To support this principle, the *Equal Treatment Bench Book* (*ETBB*)[156] provides guidance on accommodating disadvantaged groups, including trafficked children, so that they can give reliable evidence. Hence, a genuinely child-centred approach is necessary, one that is grounded in an understanding of children's needs and perspectives. In this respect, the *Equal Treatment Bench Book* offers valuable guidance, such as discouraging directive leading questions (e.g. "You are lying, aren't you?"), which tend to elicit inaccurate responses, and recommending strict limits on closed leading questions, since children often struggle to contradict adults and may simply agree even when it is not true.

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153 The Children's Society. Annual Impact Report 2024, https://www.childrenssociety.org.uk/sites/default/files/2024-09/Annual%20Impact%20Report%202024.pdf

154 Lambe, Shauneen, and Katya Moran. "Need to Know: Youth Justice Law for Criminal Practitioners." Legal Action Group, 2024

155 Metropolitan Police Service. The Children's Strategy. Metropolitan Police Service, Sept. 2024. https://www.met.police.uk/SysSiteAssets/media/downloads/force-content/met/about-us/children-strategy/the-children-strategy-a4-final.pdf

156 Judicial College, Equal Treatment Bench Book, July 2024 (updated May 2025), https://www.judiciary.uk/wp-content/uploads/2025/05/ETBB-July-2024-May-2025-update.pdf

Young people are dealt with by the *Youth Court*. This type of court differs from adult criminal proceedings in a number of ways, for example the proceedings are designed to be less formal, the public are not permitted to enter the court and defendants are addressed by their first name. Yet, if they are 16 or under, their parents, guardians or carers must attend court. Special measures were introduced through the *Youth Justice and Criminal Evidence Act* (*YJCEA*) 1999[157] that includes, similarly to the ETBB, a range of measures to support victims and witnesses (other than the accused) to give their best evidence and help reduce some of the anxiety of attending court. For instance, special measures direction:

a) may provide for the witness to give evidence by means of a live link (allowing a vulnerable witness to give evidence via video connection from a separate location). The parliamentary debates surrounding the live link provision centred on the idea that to give evidence orally, in court, in front of the accused, was extremely difficult for a child witness (Fairclough, 2021);
b) may provide for the wearing of wigs or gowns to be dispensed with during the giving of the witness's evidence, to put the defendants at ease;
c) may provide for the witness, while giving testimony or being sworn in court, to be prevented by means of a screen or other arrangement from seeing the accused.

The literature has often focused on the debate surrounding adult victims, who are frequently denied access to special provisions. In such cases, the decision is based on an assessment of whether these measures would enhance the quality of evidence or the trial outcome. However, if special measures are refused to vulnerable or intimidated witnesses on the basis that they are not needed to secure evidence quality, this does not mean they are unnecessary for reasons of humane treatment (Fairclough, 2021)[158]. Beyond this debate, it is important to note that all children under the age of 18 are entitled to special measures, without exception, reflecting their particular vulnerability within the justice system.

3.4 – Weaknesses and Contradictions in the British System of Protection

Just as the Italian system, analysed in Chapter 2, reveals a number of weaknesses in the protection of trafficked minors, the British system also presents significant shortcomings and

157 Youth Justice and Criminal Evidence Act 1999. The National Archives, legislation.gov.uk, https://www.legislation.gov.uk/ukpga/1999/23/contents/enacted
158 Fairclough, Samantha. "The Lost Leg of the Youth Justice and Criminal Evidence Act (1999): Special Measures and Humane Treatment." Oxford Journal of Legal Studies, vol. 41, no. 4, 2021, p. 1094

contradictions. For instance, the case of *Mr L*[159] clearly illustrates a gap between policy and reality. Trafficked into the United Kingdom at the age of 16 by an organised criminal group, he was forced to work in cannabis production. At 17, he was arrested and, despite findings by the competent authority that he had been exploited, he was sentenced to 20 months' imprisonment. In September 2009, shortly after his conviction, the competent authority under the *National Referral Mechanism* (NRM) confirmed that he was a victim of trafficking.

Despite this formal recognition, upon completion of his sentence in March 2010, Mr L was transferred to immigration detention. As explored in the previous sections, according to UK Border Agency policy, victims of trafficking should only be detained in the most exceptional circumstances, as a last resort. Yet in his case, neither the initial detention record nor subsequent reviews made any reference to his trafficking status or to the existence of such exceptional circumstances. By the time he was interviewed in June 2011, he had already spent 15 months in detention. He reported a profound sense of lost autonomy, stressing that his life had always been controlled, first by traffickers, then by the prison system, and now by immigration authorities.

This case highlights not only a serious failure to take into account the vulnerability of a recognised trafficking victim, but also the broader contradictions of the British immigration detention system. Mary Bosworth's volume *La galera amministrativa» degli stranieri in Gran Bretagna*, represents one of the first systematic studies of the network of immigration detention centres in the United Kingdom, their organisation, and the policies governing them. Drawing on ethnographic research conducted between 2009 and 2012, the author collected the voices of both detainees and staff, placing them at the centre of the narrative. What emerges is an analysis that does not merely describe the functioning of detention centres, but also addresses broader issues such as state power, the fear of the "other," and the dynamics of social exclusion.

The book highlights the contradictory nature of these institutions: on the one hand, they are presented as necessary tools of border control; on the other, they produce devastating effects both on migrants, forced to endure often indefinite detention, and on staff members, who are required to manage a difficult and morally complex environment. The author's critical perspective is evident: detainees, frequently stigmatised on the basis of their origin, social condition or legal status, become easy targets of state intervention and exclusion.

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[159] *European Court of Human Rights*, *Application no. 77587/12, V.C.L. v. the United Kingdom*"." *HUDOC*, Council of Europe, 20 November 2012, www.hudoc.echr.coe.int/fre/{"itemid":["001-181927"]}

Based on Bosworth's findings, every day about 3,000 foreign nationals are held in the UK in one of the ten immigration detention centres, while others, including men, women, and children, are placed in police cells, immigration service facilities or hospitals. However, as the author notes, these practices lack a declared purpose: there is no official objective, vision, or set of values justifying their existence. For supporters, detention is an essential component of border policy and a right of the sovereign state; while for critics, it is an arbitrary, inefficient, and costly measure that causes severe psychological harm. Despite official claims that detention lasts only for short periods pending removal, many individuals remain confined for months, sometimes even years.

In line with the 1951 Geneva Convention (relating to the status of refugee) and its 1967 Protocol, the UK is required to limit both the categories of people who may be detained and the conditions of detention, while also respecting the principle of non-refoulement. In particular, unaccompanied minors, victims of trafficking, victims of torture, and people with serious health conditions should not be confined. Yet, as also seen with the Mr. L case, exclusion procedures are not always effective: many centres host minors with disputed age, individuals claiming to be victims of trafficking or torture, as well as people with severe mental disorders or physical illnesses.

The detention of children is a particularly controversial issue. Unlike the case of adults, the confinement of minors for immigration purposes often provokes strong emotional reactions in public opinion. Some staff members describe children as able to adapt quickly to life in detention, stressing their apparent well-being. However, such assessments are often contradicted by the ambivalence and confusion of the staff's own perceptions, with many expressing discomfort at the prospect of exercising coercive control over minors. In the absence of specific training, the idea of physically restraining children in detention has generated frustration and concern.

In this context, pressure from activists, scholars, and former detainees has led to partial reforms, such as those introduced with the Immigration Act 2016, which set, for example, a maximum detention limit of one week for pregnant women and new safeguards for vulnerable detainees. While welcomed, these reforms did not fundamentally challenge the centrality of detention in British migration policies. On the contrary, in parallel, legislation continued to reduce migrants' rights and strengthen control mechanisms.

The 2016 referendum on the UK's withdrawal from the European Union further exacerbated tensions, fuelling anti-immigrant rhetoric and practices, with an increase in racist incidents and restrictions against foreign nationals. In this way, British policy has legitimised and reinforced a widespread sense of hostility towards migrants, normalising detention as an increasingly ordinary practice. The condition of minors, particularly those who are victims of trafficking, is therefore emblematic: despite the legal protections provided under both international and national law, they continue to be exposed to the risk of confinement, with profound and long-lasting consequences on their psychological and social well-being.

Finally, also the case of *R v Pacan, Arslan, Facuna and Doci*[160] provides a striking illustration of the shortcomings and contradictions within the English legislative and judicial framework for addressing children trafficking. The four appellants, along with two other individuals, were convicted of multiple trafficking offences involving young women, including Martina, a 16-year-old girl from Slovakia, who was deceived with promises of legitimate work in the UK but was subsequently forced into sexual exploitation. Martina endured repeated abuse, including physical assault and rape, and was passed between traffickers before being controlled within a brothel operated by one of the defendants.

The case exposes critical weaknesses in the sentencing system: the definitive sentencing guidelines for sexual offences, which also cover trafficking, do not distinguish between trafficking into, out of, or within the UK, creating ambiguity regarding the appropriate sentencing framework for different types of trafficking operations. Furthermore, coercion is paradoxically treated both as a threshold factor and as an aggravating factor, adding further complexity for sentencers in determining appropriate judgments.

Although the sentences imposed were severe, reflecting the seriousness of the offences, the Court of Appeal emphasized that these guidelines were not always clear or easy to apply, raising concerns about consistency and the potential for uneven application across similar cases. Importantly, the case also underscores the human impact of these systemic shortcomings: despite legal mechanisms apparently designed to protect minors from exploitation, victims like Martina remained highly vulnerable, demonstrating that legislative provisions and judicial processes alone may be insufficient to ensure effective protection. This case therefore exemplifies the broader contradictions in the English system, where legal frameworks exist but are complicated, inconsistently applied, and sometimes inadequate to prevent the exploitation

[160] *R v Pacan, Arslan, Facuna and Doci*, [2010] 74 J. Crim. L. 10–26 (C.A. Eng.).

of children trafficked for sexual purposes. It highlights the urgent need for clearer statutory guidance, more precise sentencing criteria, and a judicial approach that fully considers the vulnerability and protection needs of trafficked minors.

Chapter 4 – Protecting Trafficked Children: Italy and the UK in Comparison

4.1 – Introduction

This chapter aims to provide a comparative overview of the protection systems for child victims of trafficking in Italy and the United Kingdom. While both countries share common international and regional obligations, notably the Palermo Protocol, the Convention on the Rights of the Child, and the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT), their responses reflect distinct legal traditions, institutional frameworks, and outcomes.

On the one hand Italy, as a civil law country and EU Member State, grounds its protection model in constitutional principles and immigration legislation. On the other hand, the United Kingdom, shaped by a common law system and, since Brexit, operating outside the EU framework, relies on a statutory and policy-driven approach, particularly through the Modern Slavery Act 2015 and the National Referral Mechanism (NRM).

By contrasting the Italian and the British approaches, the chapter aims to highlight similarities, divergences and critical shortcomings, assessing the extent to which the succeed, or fail, in providing durable and-child centred protection to minors who have been trafficked.

4.2 – Scale and Scope of Child Trafficking

The scale and scope of child trafficking present significant differences between Italy and the United Kingdom, reflecting diverse migration patterns, dynamics, and forms of exploitation.

In Italy, the scale of human trafficking, particularly of women and minors, has reached alarming proportions over the last decade. Italy functions both as a country of transit and as a place of serious exploitation, especially for sexual exploitation involving foreign minors. Data collected through the SIRIT database show a fluctuating but persistently high level of child trafficking, averaging around 130–150 minors annually, which corresponds to approximately 4–5% of all detected trafficking cases. These figures highlight how the pandemic initially reduced the overall number of identified victims, but the proportion of minors remained consistently significant. Qualitative reports, such as *Piccoli Schiavi Invisibili* by Save the Children, confirm that trafficking of children in Italy predominantly concerns sexual exploitation, often connected to networks from Nigeria, Albania, and Eastern Europe. At the same time, recent years have

witnessed a sharp increase in labour exploitation, which rose from 10% of detected cases in 2018 to 38% in 2022, affecting minors in high-risk sectors such as agriculture, construction, hospitality, and domestic service. The GRETA report underlines that while sexual exploitation continues to dominate, forced begging, servitude, forced marriage, and forced criminality, though less frequent, remain part of the exploitation landscape. Taken together, these figures show that, despite some fluctuations, child trafficking remains a persistent and deeply worrying phenomenon in Italy, with exploitation practices becoming increasingly diversified and sophisticated.

In the United Kingdom, the scale of child trafficking appears even more pronounced than in Italy, both in absolute numbers and in the diversity of exploitation patterns. According to the data reported under the *National Referral Mechanism* (NRM), children account for a significant proportion of identified victims of trafficking each year, with several thousand minors referred annually. Unlike the Italian context, where sexual exploitation has historically predominated, in the UK the main form of exploitation involving children is criminal exploitation, particularly linked to the phenomenon of so-called county lines. A distinctive feature of the UK context is the significant number of British children among the identified victims, which sets it apart from Italy, where the overwhelming majority of child victims are foreign nationals. Overall, the UK data reveal a phenomenon of considerable magnitude, in which thousands of children, both foreign and domestic, are trapped in sophisticated exploitation systems that combine elements of coercion, control and organised crime.

Comparatively, Italy's profile reflects a system where sexual exploitation has historically dominated but where labour exploitation is gaining ground, whereas the UK profile is marked by large and rising NRM referrals with criminal exploitation playing a leading role among children. In both jurisdictions, the data capture only part of the phenomenon and must be interpreted in light of the operational challenges of identification and inconsistencies in detection procedures, which significantly influence the reliability and scope of official statistics.

4.3 – Identification and Referral of Child Victims

The identification of trafficked children is a crucial step in ensuring their access to protection and assistance. Both Italy and the United Kingdom formally recognise this obligation under international and regional law. Yet, as explored in the previous Chapters, their practical approaches diverge significantly and expose common weaknesses.

First of all, in order to provide a victim with appropriate protection , it is pivotal establish their age, namely whether they are above or below the age of eighteen. This determination is particularly challenging in the case of unaccompanied minors, who often arrive without reliable documentation. Therefore, the outcome of age assessment is decisive, as it determines whether the individual will be entitled to child-specific safeguards such as guardianship, specialised accommodation, and access to legal, social and education assistance, or instead be treated as an adult within migration or criminal procedures.

In Italy, age determination procedures are regulated by Article 19-bis of Legislative Decree 142/2015. The provision requires a multidisciplinary approach that combines medical, psychological and social evaluations, taking into account not only the physical and psychological development of the child but also cultural elements linked to their ethnic and geographical background. The assessment must be carried out as quickly as possible and by qualified professionals, and throughout the procedure the individual must be treated as a minor and guaranteed access to all forms of child protection. A key element of the provision is the presumption in favour of the child: if the procedure fails to determine the age with certainty, the person is presumed to be a minor.

The United Kingdom has followed a different path. Age assessment has special resonance in the UK, which, until the CoE Convention was ratified, presumed that in a dispute over age in immigration cases, the person was designated an adult.[161]Subsequently, Article 10(3) CoE Convention stated the opposite: “when the age of the victim is uncertain and there are reasons to believe that the victim is a child, he or she shall be presumed to be a child and shall be accorded special protection measures pending verification of his/her age”. Despite this progress, the system continues to face criticism, particularly for the inconsistency of assessments between local authorities, the lack of uniform standards, and the reliance on subjective impressions. However, Home Office policy strongly reinforces the aforementioned legal requirement, by affirming that unless the claimant’s physical appearance or demeanour provides compelling evidence that they are clearly over the age of eighteen, they must be treated as a child until a comprehensive age assessment is conducted by the local authority by relating to a comprehensive guidance on how to conduct an age assessment, published only in 2015 by the *Association of Directors of Children’s Services*, and drafted by practitioners and legal experts aiming at helping social workers. According to these guidelines, social workers must

[161] Jones, Jackie. "*Human Trafficking in the UK: A Focus on Children.*" Child and Family Law Quarterly, vol. 24, no. 1, 2012, pp. 77-94. HeinOnline.

consider the claimant's overall presentation, psychological maturity, background information, and cultural factors. The process involves structured interviews carried out in a sensitive and non-adversarial manner, often with the support of interpreters and child protection specialists. Throughout the procedure, transparency and proper record-keeping are essential.

Beyond age assessment, the broader process of identifying child victims of trafficking also reveals significant shortcomings in both countries. In Italy, the identification of child victims of trafficking is closely intertwined with immigration control mechanisms and the broader management of mixed migration flows. Unaccompanied minors are referred to the *Tribunale per i Minorenni* (Juvenile Court), which appoints a legal guardian, and may be provided with protection programmes under Articles 13 (special aid programme granting on a temporary basis suitable accommodation, food and healthcare) and 18 of the *Testo Unico sull'Immigrazione* (special residence permit to foreign nationals, whatever their age, who are presumed to have been victims of violence or severe exploitation). In addition, Italian authorities are required to make every possible effort to trace the child's family, whenever this is considered to be in the best interests of the minor. However, the process is far from uniform: detection largely depends on the capacity of frontline actors, such as police officers, social workers, and NGOs, to recognise trafficking indicators. This generates disparities across regions, with well-resourced areas offering more effective protection than others.

In the United Kingdom, the gateway to identification is the *National Referral Mechanism* (NRM), introduced in 2009 and consolidated under the Modern Slavery Act 2015. The NRM allows designated "first responders" (e.g., local authorities, the police, NGOs) to refer potential victims to the competent authority for a formal decision. While the system aims to centralise and standardise identification, several criticisms have emerged: delays in decision-making, inconsistent assessments, and a declining rate of formal recognition for children despite a rise in referrals. Moreover, foreign nationals identified through asylum interviews or immigration raids are disproportionately subjected to negative NRM decisions, which are then frequently relied upon to dismiss their asylum claims on grounds of credibility. In this way, the NRM functions less as a mechanism of protection and more as an instrument of selective border control.

4.4 – Guardianship and Legal Representation

The appointment of a legal guardian and the availability of effective legal representation are crucial components of any child protection system, as they ensure that the best interests of the minor are respected in administrative and judicial proceedings. Both Italy and the United Kingdom have established frameworks to address these needs, yet their scope, consistency and effectiveness differ substantially.

In Italy, the system of guardianship has been significantly reinforced by Law No. 47/2017, which introduced the figure of the voluntary guardian. This reform aimed to ensure that every unaccompanied minor is appropriately assigned a guardian who can act as a point of reference and safeguard the child's rights. The law also promoted a wide network of trained volunteers, supported by regional courts and social services. In principle, this mechanism represents a strong guarantee of representation. However, in practice, its effectiveness varies across regions, depending on the availability and expertise of guardians, as well as on the resources invested in their training. As a result, while some minors benefit from attentive and proactive guardians, others face delays or insufficient support, leading to uneven protection nationwide.

In the United Kingdom, the framework is more fragmented. Following the entry into force of the Modern Slavery Act 2015, the role of *Independent Child Trafficking Advocates* (ICTAs). was introduced as an additional safeguard specifically for trafficked children. Their task is to support the child in navigating complex processes such as immigration and criminal justice proceedings, while ensuring that their rights are fully promoted. However, ICTAs are not meant to replace statutory protections, such as the role of the Independent Reviewing Officer (IRO), who monitors local authority care plans. Rather, they function as a supplementary mechanism, which in practice has shown both strengths and weaknesses. Evaluations of pilot schemes highlighted benefits such as trust-building and keeping children "visible" to authorities, but also persistent problems, notably the extremely high rates of trafficked children going missing from care, often within days of identification. In spite of this, as discussed in Chapter 3, addressing this issue requires more than the introduction of ICTGs: it also calls for systematic risk assessments, frequent reporting of disappearances, and closer cooperation between guardians and law enforcement to prevent re-trafficking.

4.5 – Legal Protection: Residence Permits and Non-Punishment principle

A crucial point of comparison between the Italian and British systems concerns the legal status granted to trafficked children, in particular the residence permits available to them, the long-term measures that determine their stability in the host country, and the principle of non-punishment for offences committed under conditions of exploitation

As illustrated in Chapter 2, Italy relies on Article 18 of the *Testo Unico sull'Immigrazione*, which establishes a special residence permit for foreign nationals who are victims of violence or severe exploitation. This measure is particularly innovative because it can be granted even without the victim's cooperation with judicial authorities. In principle, this provision should guarantee immediate and unconditional protection to all child victims of trafficking. However, case law has revealed a restrictive interpretation, with police headquarters often denying protection unless victims actively cooperate in criminal proceedings. In addition, as previously highlighted, this misapplication has been repeatedly criticised by the Court of Cassation, emphasising that vulnerability itself, including age, background, and risk of re-trafficking, must be central to the assessment.

By contrast, the United Kingdom has adopted a very different framework. As explained in Chapter 3, the *Temporary Permission to Stay* (TPS) was introduced to allow confirmed victims under the *National Referral Mechanism* to remain in the country. Formally, this instrument recognises that recovery and access to justice may require stability and residence rights. Yet in practice, the number of children who have actually been granted TPS remains extremely limited. Moreover, even when granted, TPS is short in duration and fails to ensure the stability that the principle of the best interests of the child requires, creating a strong contrast with Article 14(2) of ECAT, which demands that child victims be granted and renewed residence permits guided by their best interests.

A further aspect of legal protection that deserves attention is the principle of non-punishment of victims of trafficking for offences they have committed as a direct or indirect consequence of their condition of exploitation. In Italy, this principle has been developed primarily through judicial interpretation, with courts invoking Article 54 of the Penal Code (*state of necessity*) to exempt victims from criminal liability in cases where coercion and vulnerability deprived them of genuine autonomy. Although this approach aligns with international and European

obligations, its reliance on judicial discretion exposes victims to uncertainty and inconsistent application.

In the United Kingdom, the principle of non-punishment is expressly recognised in the Modern Slavery Act 2015, which introduced a statutory defence for victims compelled to commit offences as a result of their trafficking situation. This development reflects the case law of the European Court of Human Rights, notably *V.C.L. and A.N. v. the United Kingdom*, which underlined that prosecuting victims without adequate consideration of their circumstances may breach States' positive obligations. However, in practice, the scope of the statutory defence remains limited, as certain categories of crimes are excluded and decisions often depend on early and accurate identification within the National Referral Mechanism.

4.6 – Access to Protection and Support Services

Beyond legal status and guardianship, a decisive element in the protection of trafficked children concerns their effective access to specialised support services, such as safe accommodation, healthcare, education, and psychosocial assistance. Here again, Italy and the United Kingdom offer contrasting frameworks, both marked by important strengths but also critical shortcomings.

As discussed in Chapter 2, Italy guarantees trafficked minors access to a comprehensive set of services under the national anti-trafficking system, which is financed through dedicated funds and managed by accredited NGOs. These services include shelter, counselling, healthcare, schooling, and social integration projects. In theory, child victims of trafficking are entitled to immediate admission to such programmes, irrespective of their willingness to cooperate with judicial authorities. However, as pointed out in Chapter 2, the actual availability of services is highly fragmented, depending on regional resources and the efficiency of local referral networks. In some areas, minors are rapidly placed in specialised facilities and supported by experienced staff, while in others they remain in general reception centres without tailored assistance.

In the United Kingdom, access to protection and support is channelled primarily through the *National Referral Mechanism*. Once a child is referred and receives a positive reasonable grounds decision, they are entitled to accommodation and support provided either by local authorities or by specialised NGOs. In principle, this should ensure that all trafficked children benefit from protection. Yet Chapter 3 shows that the system suffers from several limitations:

many children go missing from care shortly after identification, safe housing is not always guaranteed, and psychological support is uneven. Furthermore, the linkage between immigration control and the provision of support has raised concerns that services are not fully child-centred but influenced by migration-management objectives. Reports cited in Chapter 3 underline that the quality and continuity of services vary considerably across local authorities, and that overstretched resources have left many children without adequate long-term assistance.

4.7 – Concluding Comparative Remarks

A comparative reading of the Italian and British systems reveals that the weaknesses affecting the protection of trafficked minors emerge at very different levels. While in Italy the most pressing issues relate to the application of the law, in the United Kingdom the criticalities lie primarily in the structural design of the protection framework itself. This distinction is crucial for understanding the divergent challenges each country faces in translating international obligations into effective safeguarding practices.

In Italy, the legislative framework is, at least on paper, relatively advanced. Provisions such as Article 18 of the Consolidated Immigration Act, which allows for residence permits on grounds of social protection, and Article 19-bis of Legislative Decree 142/2015, which establishes a multidisciplinary age assessment procedure, offer clear guarantees for child victims of trafficking. In addition, Law 47/2017 has reinforced guardianship by introducing voluntary guardians to strengthen representation for unaccompanied minors. However, case law and practical evidence demonstrate that the enforcement of these measures is highly uneven. Sometimes residence permits have been denied for purely formal reasons, for example just because a prosecutor requested the dismissal of a criminal case, without properly considering the applicant's actual condition of vulnerability. Similarly, the implementation of age assessments has in several instances relied excessively on medical examinations, disregarding psychological and social indicators and failing to apply the principle of the benefit of the doubt. These examples highlight a recurring pattern: the norms exist, but their application is often inconsistent, fragmented across regions, and marked by restrictive interpretations that weaken the intended protective scope.

The United Kingdom presents a rather different picture. Here, the limitations are rooted not only in practice but in the very structure of the system. The National Referral Mechanism, the central instrument for identifying and protecting victims of trafficking, has been repeatedly

criticised for being too closely tied to immigration control. Negative NRM decisions, often issued on the basis of credibility assessments during asylum or immigration procedures, can subsequently undermine a child's asylum claim, effectively transforming a protective mechanism into a tool of migration management. Furthermore, until recently, when the age of a young person was in doubt, the presumption tended to operate against them, with children being treated as adults pending formal assessment, an approach inconsistent with international child protection standards. Although reforms have introduced the principle of treating individuals as children unless their appearance strongly suggests adulthood, the legacy of these practices continues to affect trust and access to protection.

The comparison thus reveals two distinct but equally significant weaknesses. In Italy, the law sets out protective guarantees that are undermined in practice by restrictive, uneven, and often formalistic application. In the United Kingdom, the protective framework itself is weakened by its structural linkage to immigration enforcement. Both systems therefore fall short of the standards required by international and European instruments, but they do so in different ways: Italy by failing to bridge the gap between legal norms and practice, and the United Kingdom by maintaining a structural framework that risks subordinating child protection to migration control.

Ultimately, these findings suggest that improving the protection of trafficked children requires not only legal reform but also a fundamental shift in perspective. In both systems, there is a need for a more victim-centred approach that recognises trafficked persons not merely as migrants or claimants, but as individuals whose rights have been gravely violated. For children in particular, this requires a protection model that places the best interests of the child at its very core. Children are inherently fragile and vulnerable, and their needs cannot be met by generic measures of assistance: rather, they demand targeted safeguards that address their specific circumstances, ensure continuity of care, and support their long-term integration. Only by adopting such an approach can both systems move closer to fulfilling the obligations set by international and European standards, and above all, to safeguarding dignity and agency to those who have suffered exploitation.

In addition, the comparative analysis conducted in this chapter highlights a broader challenge that goes beyond the national level. At the European scale, the legal and policy framework on trafficking still suffers from significant ambiguities in its core definitions, particularly with regard to the concepts of exploitation and coercion. As discussed in Chapter 1, the lack of

conceptual clarity undermines a uniform understanding of trafficking and risks producing inconsistent practices in identification and protection across Member States. A revision of these definitions is therefore needed to bring greater precision and coherence to the legal framework, which would in turn ensure a more effective and victim-centred protection regime. This is especially important for vulnerable groups, including children, whose specific needs and heightened risks of exploitation require the highest degree of legal certainty and clarity.

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