



CEDAW Regional Consultation for the Preparation of a General Recommendation on the Trafficking of Women and Girls in the Context of Global Migration

KEY ISSUES FROM A LATIN AMERICAN AND CARIBBEAN PERSPECTIVE FROM THE REGIONAL CONSULTATION SESSIONS



“I felt guilty until I understood that it was not my fault, that the State did not do what it was supposed to.”

Voice of women survivors of human trafficking
who participated in the consultation

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INTRODUCTION

Human trafficking has been addressed in international law as a crime, whose main international instrument is the United Nations Convention against Transnational Organized Crime, from which the protocol to prevent, repress and punish human trafficking, especially of women and children, came about. Additionally, through resolution 04/19 of 7 December 2019, the Inter-American Commission on Human Rights adopted the “Inter-American Principles on the Human Rights of all migrants, refugees, stateless persons, and victims of human trafficking,” and the jurisprudence of the Inter-American Court, as well as the observations and statements issued by the different United Nations Committees, are always applicable.

Although human trafficking is a crime, it is important to understand that it violates all of the victim’s human rights, in particular the right of women and girls¹ to live free of violence, and causes a total nullification of the will and control of the trafficker who takes advantage of the vulnerable conditions in which the victims find themselves. Human trafficking clearly has a gender dimension that must be considered when designing policies for prevention and the protection of victims, as well as for investigation and imposition of sanctions that lead to comprehensive reparation, considering the rights and specific needs of women and girls.

The Inter-Agency Coordination Group against Trafficking in Persons (ICAT), in its fourth briefing note of September 2017², states that “women and girls represent 71% of all victims of trafficking

detected throughout the world,” and also highlights that “the damages caused by trafficking are notoriously more serious for women and girls than for men and boys, because the former are exposed to specific types of exploitation, such as sexual violence, domestic slavery and forced marriage”. It is added that, even when trafficking purposes are not sexual in nature, such as forced labour, begging and domestic servitude, women are victims of sexual violence as a means of coercion and control.

Human trafficking crimes are based on an exclusionary and patriarchal system, which perpetuates hierarchical power relations and requires an inter-institutional response, ranging from prevention policies to the protection, punishment and comprehensive reparation of victims, integrating gender and intersectional approaches.

This document contains the most relevant contributions of regional experts who, together with members of the United Nations agencies, met from 6 to 15 May 2020, for a total of eight sessions that, due to the COVID-19 pandemic, were held virtually. It also includes the voices of women human trafficking survivors, whose valuable contribution allows us to better understand this phenomenon and propose contributions to the General Recommendation.

¹ When we refer to girls, we include adolescent girls according to the Convention on the Rights of the Child, which includes minors under 18 years of age.

² Interinstitutional Group Against Human Trafficking, Information Note 4, September 2017, Available at <https://icat.network/sites/default/files/Resources/Document/Issue%20Brief%20Gender.Spanish.pdf#overlay-context=publications>



BRIEF ANALYSIS OF THE CONTEXT THAT FACILITATES HUMAN TRAFFICKING

Human trafficking affects women and girls the most throughout the world. Similarly, in Central America, the Caribbean and South America, women and girls constituted 80% of the trafficking victims identified in 2016. In the case of Central America and the Caribbean, girls accounted for 55% and in South America for 37% of the victims identified in 2016. Sexual exploitation is the most reported form of trafficking of women and girls in Latin America. Women and girls account for 84% of the victims of this form of trafficking. Cases of trafficking for labour exploitation have also been on the rise in the region; for example, in South America, going from 29% in 2014 with 32% of victims being women to 32% of victims being women and girls, of which 50% were victims of this form of trafficking in 2016.³

This crime has especially affected those who live in worse conditions of socioeconomic exclusion and gender inequality. Multiple factors and forms of gender discrimination are among the issues that promote this crime

and its greatest impact on women and girls. Recent estimates from the World Bank indicate that practically half of the world's population lives on less than US \$5.50 a day,⁴ of which most of the people at the bottom of the economic pyramid⁵ are women, who are more vulnerable to poverty, face a lack of decent work opportunities and take on a disproportionate share of unpaid or poorly paid care work, especially those who, because they belong to certain population groups, not only suffer discrimination on the basis of gender but also ethnicity, nationality, sexuality and caste⁶.

The lack of access to rights such as education, where it is estimated that "26% of girls ages 12 to 17 did not complete primary school and nearly 43% of young women ages 18 to 23 did not complete secondary school,"⁷ makes women and girls more likely to occupy precarious and low-income jobs, and take on most of the unpaid or low-income care work.⁸ In addition, increasing school drop-out rates, teenage pregnancy and the risk

³ UNODC (2018). Global Report on Trafficking in Persons. Available at: https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTIP_2018_BOOK_web_small.pdf

⁴ World Bank. (2018). Poverty and Shared Prosperity 2018: Piecing Together the Poverty Puzzle. <https://www.worldbank.org/en/publication/poverty-andshared-prosperity>

⁵ G. Epps (2016, October 13). Donald Trump's Attacks on the Rights of Minority Voters. The Atlantic. <https://www.theatlantic.com/politics/archive/2016/10/trumpelection-intimidation-minority-voters/504014/>; M. Savarese (2019, 3 January). Jair Bolsonaro: Brazil's far-right President targets minorities on first day in office. The Independent. <https://www.independent.co.uk/news/world/americas/jair-bolsonarobrazil-first-day-executive-orders-indigenous-lands-lgbt-privatisation-gun-control-a8709801.html>

⁶ L. Addati, U. Cattaneo, V. Esquivel e I. Valarino. (2018). Care work and care workers for a future with decent work. Geneva. Op. cit.

⁷ Latin American Development Bank Report, <https://www.eltiempo.com/vida/mujeres/brechas-de-genero-en-america-latina-en-educacion-trabajo-familia-334706>

⁸ L. Addati, U. Cattaneo, V. Esquivel e I. Valarino (2018). Care Work and Care Jobs for the Future of Decent Work. Geneva: International Labour Organization. https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_633135.pdf



of violence maintain the cycle of poverty and exclusion that ends up facilitating the creation of a context favouring recruitment for human trafficking networks.

Women perform more than three quarters of unpaid care work and constitute two thirds of the paid care workforce⁹, while rural women in low-income countries dedicate up to 14 hours a day to unpaid care work, five times more than men¹⁰; situations that are maintained throughout their evolutionary development cycle and that eventually become naturalized. Particularly in several countries in the region, girls spend more time in care work. For example, girls ages 7 to 14 in Bolivia and Nicaragua spend between 20 and 80 minutes more a day on domestic and care tasks than boys do.¹¹

This system, in a patriarchal capitalist world, has naturalized the unprotected conditions of women and girls in such a way that they are the ones working

the most in the informal sector in precarious and unsafe jobs, and in turn are more exposed to situations of forced labour and trafficking in all its forms. Paid female domestic workers, who make up 93% of the people employed in paid domestic work in the region,¹² find themselves trapped in the homes of their “employers” who control absolutely all aspects of their lives, leaving them invisible with a total lack of protection.¹³ Women and girls who spend much of their lives exploited by others have less chances of reintegrating into society since they do not have the tools to improve their quality of life. Particularly, migrant women who are informal and domestic workers whose families depend on them face higher levels of job insecurity and vulnerability, exposing them to greater risks of becoming victims of human trafficking.¹⁴

Women and girls are also the main victims of gender-based violence, which is increasingly accepted and normalized in the region. Violence against women is a global pandemic



⁹ Report, p. 34

¹⁰ Time to Care, Oxfam, 2020, p. 15

¹¹ ECLAC and UNICEF. Bulletin for children and adolescent girls on the advancement of the Millennium Development Goals. Available at: https://repositorio.cepal.org/bitstream/handle/11362/35995/1/Boletin-desafios8-CEPAL-UNICEF_es.pdf

¹² UN Women, ILO and ECLAC (2020). Paid domestic workers in Latin America and the Caribbean facing the COVID-19 crisis. Available at: <https://www2.unwomen.org/-/media/field%20office%20americas/documentos/publicaciones/2020/05/06/estabajadoras%20remuneradas%20del%20hogar%20v110620%20comprimido.pdf?la=es&vs=123>

¹³ International Labour Organization. (2013). Domestic workers in the world: Global and regional statistics and the extent of legal protection. Op. cit.

¹⁴ UN Women, ILO and ECLAC (2020). Paid domestic workers in Latin America and the Caribbean facing the COVID-19 crisis. Available at: <https://www2.unwomen.org/-/media/field%20office%20americas/documentos/publicaciones/2020/05/06/estabajadoras%20remuneradas%20del%20hogar%20v110620%20comprimido.pdf?la=es&vs=123>

that, prior to COVID-19 and exacerbated by it, affects on average one in three women throughout their lives, and in 2019 alone, resulted in at least 3,800 femicide/feminicide victims.¹⁵ This type of violence is among the reasons why women and girls migrate, exposing themselves in countries of origin, transit and destination to the crime of trafficking, especially when they are in an irregular situation or face barriers to access international protection. In Colombia, for example, gender-based and intra-family violence is the third largest event recorded among the Venezuelan population, quadrupling since 2017.¹⁶

Recently, several countries in the region have reported an increase in reports, calls and/or cases of violence against women and girls, especially domestic and sexual violence.

In conflict and post-conflict contexts, trafficking of women and girls is exacerbated during and after conflicts. In some militarized contexts connected to extractive industries, especially mining, as well as illicit drugs and organized crime, the risk of being a victim of this crime is greater for migrant women and girls.

Trafficking in persons is based on economic, social and gender inequality, the consequences of which affect their lives, health and well-being, and violate their right to live free of violence, among other rights. This crime limits



their physical and financial autonomy, as well as their ability to prosper economically, and further widens existing inequality gaps. Likewise, it reduces their possibilities of using free time, almost to the point of cancelling out their levels of participation in social and political activities. All this translates into greater exploitation, exclusion and discrimination towards women and girls, expressed in their greatest impact in different areas and persistent gender gaps.

The Latin American region has the highest levels of inequality in the world, with wide gaps in standards of living between countries, regions, sectors and socioeconomic spheres. In addition, the region is diverse, with a significant

¹⁵ The most recent information from 33 countries in the region shows that the number of women killed for the mere fact of being women exceeded 3,800. The measurement of femicide or feminicide: challenges and strengthening route in Latin America and the Caribbean. Gender Equality Observatory for Latin America and the Caribbean, ECLAC <https://oig.cepal.org/es/indicadores/feminicidio>

¹⁶ Colombian Ministry of Health. Epidemiological Bulletins. 2017-2019.

number of ethnicities, nationalities and languages.

According to the 2018 UNODC Report, migrant smuggling and human trafficking routes are flexible and subject to rapid and significant changes. Two predominant routes were identified: the route to the north, whose final destinations are the United States and Canada and that crosses South and Central America; and the multi-destination route to the south, where this intracontinental flow has increased in recent years. This new migration dynamic has increased migrant smuggling and human trafficking networks¹⁷.

This new migration context in the region has led countries throughout the continent to adopt restrictive migration policies that increase the risks faced by the migrant population. Venezuela is a country that approximately 5.1 million people¹⁸ have left over the last four

years, of which 84% have moved to Latin America or the Caribbean, and 21% are children and adolescent girls in need of protection.

This new migration scenario has caused several countries in the region to take measures such as the imposition of visas (Ecuador, Peru and Chile) with requirements that are difficult to meet due to a weakened institutional framework in Venezuela. As a result of these requirements, irregular passages, cases of migrant smuggling and human trafficking, and population irregularity have all increased considerably.

In relation to the situation of girls and adolescent girls in general, especially migrant and refugee girls and adolescent girls, a specific analysis is required, since there are comprehensive protection systems that still do not incorporate an effective gender and rights approach and are unaware of migration issues that are new to them. On the other hand, unaccompanied girls are more vulnerable, given the lack of services and alternative care programs in the face of constant institutionalization as the only protection measure.

Some data on girls and adolescent girls in the region that should be considered for the analysis:

- 1.1 million adolescent girls report sexual violence. Sexual violence tends to be higher among adolescent girls ages 10 to 14 and perpetrators

¹⁷ UNODC, Global Report on Trafficking in Persons, 2018. https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTIP_2018_BOOK_web_small.pdf

¹⁸ UNHCR, 5.1 million Venezuelan refugees and migrants. <https://eacnur.org/es/labor/emergencias/venezuela-crisis-de-refugiados-y-migrantes#:~:text=5%2C1%20millones%20de%20venezolanos,de%20desplazados%20en%20el%20mundo.>



may be partners, non-partners or family members.

- One in four young women were married or in union before age 18; about 70% of all “child marriages” in the region are informal non-marital unions. The impact on adolescent girls is the same in terms of increased violence, school drop-out rates, social exclusion and earlier and more frequent childbearing.
- Home is not always a safe place. Violence against women (intimate partner violence - IPV) and violence against children (VAC) often occur at the same time in the same homes.
- Four in 10 adolescent girls who have ever had a partner experienced violence at the hands of their male partner.
- One in three girls and women ages 15 to 49 have experienced intimate partner violence in their lives.
- Figures on the acceptance of IPV tend to reflect that women and adolescent girls can “justify” violence. However, in general, social

and gender norms in the region tend to naturalize violence against women and girls (VCMN), leading to both low help-seeking behaviour and formal complaints.

- Family violence, including incest, sexual abuse and gender-based violence, are considered domestic matters with little or no possibility that girls, boys, adolescents and women living in violent homes receive family or community support, affecting their courage and ability to seek help or report violence.
- VCM shelters and services do not always have the age-specific expertise to address the needs of adolescent girls that are often not found in parallel VAC and VAC services. Fourteen of the 25 countries with the highest rates of femicide in the world are in LAC, the highest proportion being between ages 15 and 39. In some countries, the rates of femicide are high among adolescent girls, but national responses tend to focus on “women” as a non-age-specific population.



MIGRATION: WOMEN AND GIRLS

The migration of women is determined by specific characteristics as a result of historical conditions of social discrimination, hunger and manifestations of violence throughout their lives. This includes migratory experience during which women, adolescent girls and girls are exposed to greater risks. The hyper sexualization level of migrant women, adolescent girls and girls has reached unexpected levels. All these factors make it necessary to include a gender perspective in the analysis of migration where women, adolescent girls and girls are considered a priority population. Migration has changed in the region; there is a greater number of unaccompanied or separated girls and adolescent girls, and women with their children, which forces us to consider new ways to face the risks of migration.

Among the most obvious risks, survivors do not know their rights, the services

they can access, and the protection system and institutional framework of the destination. Migration is increasingly widespread, diverse and complex; it is not necessary to cross an international border for it to be a human trafficking crime. Many migrant women and girls do not know what rights they should demand within their own country, which means that violation of the rights of women and girls does not only occur when they have crossed a border and are in a country they are unfamiliar with, but this lack of information also affects women and girls migrating within their own country.

Lack of information, fear of punitive State systems that promote victim blaming, a lack of protection, stigmatization processes, language limitations, and a lack of prevention mechanisms allow many women and girls to fall into trafficking networks.



IMPACT OF THE PANDEMIC ON EXACERBATING THE CRIME OF HUMAN TRAFFICKING

Mitigation and response measures to the COVID-19 crisis are exacerbating the trafficking risks women and girls face and intensifying barriers to access essential services, especially for some groups of women and girls who were already in situations of greater vulnerability, including migrant, refugee, displaced, indigenous, Afro descendant, disabled, and LGBTIQ+ women and girls, among others.

COVID-19 could put 15.9 million people in extreme poverty, bringing the total poverty level in the region to 214 million people, or 34% of its total population¹⁹. Women, girls and LGBTIQ+ people will be among the most affected, especially those in marginalized, discriminated and at-risk groups.

Gender-based violence has increased in LAC during the COVID-19 crisis. Isolation and confinement measures increase stress levels and economic problems, preventing women and girls who are subjected to violence from leaving places where they are being abused and finding effective reporting and protection mechanisms²⁰.

The emergence and spread of COVID-19 worldwide has not only affected States in their normal development, since isolation and quarantine were ordered in all countries affected by the virus, but also the conditions generated as a result of COVID-19 have increased risks at borders and controls at points of entry into countries. These migration policies have negative, and in many cases, devastating effects; therefore, the flow is more precarious, and people in

situations of human mobility run a very high risk of being victims of crimes such as migrant smuggling and/or human trafficking.

As isolation was ordered as a safety measure to prevent more infections, many people were left unemployed and, therefore, without income, resulting in a lack of resources to purchase food and basic necessities. In other words, the current COVID-19 crisis means that their own basic needs and those of their families are compromised, worsening their socioeconomic precariousness, and this exponentially increases the risk of falling into criminal networks.

This economic crisis resulting from the pandemic has worsened over time and the social and financial consequences are increasingly difficult to overcome. Cases of gender-based violence have been on the rise since the health crisis



¹⁹ Women and the loss of their rights. <https://cimacnoticias.com.mx/2020/07/06/cuando-las-mujeres-empiezan-a-perder-sus-pocos-derechos>

²⁰ Care, Rapid Gender Analysis, 2020, page 6.

orders; in some ways, isolation has made violence more constant and aggressive than it is on a daily basis. Child abuse has increased and due to the quarantine, everyone must remain at home, both victims and aggressors. Another important factor that must be brought to light is that the increase in xenophobia, combined with a lack of income, has forced entire families to return to Venezuela. Such a crisis can aggravate the situation of people who are already victims of trafficking, whose response to the specific needs of victims requires the joint work of authorities that help identify traffickers' profiles, implement actions with a gender and intersectionality approach, and strengthen relationships with communities. The clandestine nature of the trafficking crime is now exacerbated because of the pandemic.

According to the *Guide to Addressing Emerging Trends and Consequences of the COVID-19 Pandemic on Human Trafficking*,²¹ emergency measures during the COVID-19 pandemic in many countries posed greater risks for trafficking victims, including increased control, violence and isolation by their exploiters, and reduced access to assistance, including medical services, employment opportunities, psychological services and legal assistance. During the lockdown, anti-trafficking organizations reported that more women sought help to leave their traffickers²². There is concern that victims will not seek medical

assistance if they contract COVID-19 due to fear of administrative detention resulting from their irregular migration status. Trafficking victims in immigration detention or other detention settings may go unidentified due to a lack of access for NGOs conducting monitoring. Others identified were sometimes left in limbo and unable to return to their home countries due to border closures, lack of documentation and resources to return, or difficult coordination between country authorities. Some trafficking survivors reported an increase in domestic violence, financial insecurity and fear of traffickers released from prison due to COVID-19. The creation of contingency plans to mitigate the consequences of COVID-19 on the risks posed by human trafficking is important and urgent. Within these contingency plans, priority should be given to preventive actions, addressing violence in all its forms including human

²¹ UN Women – OSCE Office for Democratic Institutions and Human Rights (ODIHR), GUIDANCE Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic, July 2020, https://www.osce.org/files/f/documents/2/a/458434_1.pdf

²² Ibid



trafficking, and agile investigative actions, since both during and after the pandemic (in the recovery period), for all the above reasons, human trafficking tends to increase.

In the recovery from COVID-19, the worsening social and economic inequalities must be identified, public services must be essential, and it is important to do advocacy and make services accessible to trafficking

victims. Although it is true that the emergence of COVID-19 has exposed the shortcomings of public health systems and the lack of access to basic services, new opportunities are also arising. In this global crisis, the model that we will consolidate is at stake; a model that maintains exclusion or a model of sustainable development in which exclusion gaps are reduced and therefore, trafficking cases as well.



1. PREVENTION

Prevention must be thought of based on the current situation in the region, with an intersectional analysis and a gender perspective:

1.1 Structural changes

- **Prevent gender-based violence and effectively address gender inequality.** It is common in the stories of trafficking victims for them to have had previous experiences of sexual violence prior to the trafficking incident. It is, therefore, essential to create cultural contexts that prevent the emergence of this type of violence. It is key to highlight that situations such as gender-based violence, in particular physical, psychological, sexual and economic violence, and sexual abuse, all of which are perpetrated against women and girls, are conditions that become an ideal breeding ground for them to become trafficking victims to a greater extent. This includes working on societal attitudes and norms, including harmful masculinities that foster demand and exploitation. The region has high rates of exclusion and violence against women and girls, so it is urgent to seek to reduce inequality through public policies that improve access to services to guarantee the rights of women and girls, which is a priority in all scenarios, even more so in the current context where there is a precarious economy.
- **Promote the cultural paradigm shift from hegemonic masculinities.** Transform gender stereotypes, social norms, myths, beliefs around “male sexual entitlement”²³ and stereotypes of a dominant masculin-

lity, particularly in relation to sex, abandoning patriarchal practices that perpetuate the objectification of human beings. It is necessary to question - conflict and/or problematize macho/patriarchal practices that contribute to the continuous objectification of women and girls, especially those who are migrants and refugees, to the normalization of violence, and to the thought that poor, uneducated women and girls on the streets can be objectified. To prevent sex trafficking, it is recommended to address the problem from the deconstruction of hegemonic masculinities.

- **Prevent precarious rural migration and develop preventive actions in places of origin.** Special consideration must be given to migrant women from rural areas, especially adolescent girls, young women, heads of household and domestic workers, since they are exposed to higher levels of risk. Today, women are migrating for their own reasons and by their own means. Migration is diverse, complex and highly changing to the extent of social, economic and political phenomena in their own countries, preventing



²³ Male sexual right

those who want to migrate and decide doing so for whatever reason, whether they are victims of this crime is the obligation of States. To seek means that warn against and prevent trafficking would succeed in generating contexts of safe migration. The prioritization of women and girls and the integration of the gender approach in rural development policies is a key aspect

- **Approach sexuality from a vision of equals, not as a means of domination.** This includes identifying new forms of reproductive exploitation of women and girls generated by advances in medical sciences (surrogacy, sale of babies, cells, organs, tissues and fluids).

1.2 Border measures

- **Promote local socioeconomic inclusion and integration campaigns** for people of other national origins, with emphasis **on women, girls and LGBTIQ+ people**, including access to education, health, employment and economic entrepreneurship, as well as the promotion of social cohesion and gender equality. Nationality - stigmatized in the social context through ideas of rejection

(even hatred) of foreigners living in poverty (aporphobia) - has been reason enough to suffer constant discrimination and xenophobia due to their origin, which also generates a context favouring human trafficking. These campaigns should begin at the borders, the initial spaces where migrants and refugees form ties.

- **Improve access to documentation and migration registration systems for women, girls and LGBTIQ+ people on the move to guarantee their exercise of rights.** This includes specific gender and human rights measures, since the lack of documents and the barriers to access regular migration and international protection systems that migrants face imply greater risks of human trafficking and violations of their rights. A person can be mistaken for someone else, since he or she does not exist - in a figurative sense - to the State. Lack of documentation prevents or limits access



to work and other rights such as health, education, etc.

- **Avoid the use of immigration persecution strategies.** Reduce the risks of migrant women and girls in an irregular migratory situation becoming victims of human trafficking, preventing prosecution of the trafficking crime from resulting in the deportation of the trafficked women or girls. In this sense, the vulnerability of people in situations of human mobility is high due to forced motivation to leave their countries, conditions of departure and transit, and unfamiliarity with the route and protection systems of the countries. Therefore, any immigration action must be carried out with the due guarantee of due process to safeguard the rights of women and girls without any discrimination.
- **Facilitate information processes on documentation, regularization and migration routes, especially for women, girls and LGBTIQ+ people.** It is vital to ensure they are informed in their country, on migration routes or in destination countries, about the migration requirements of each country, as well as the risks during the migratory journey, scams they may fall victim to, and misinformation given to them even though they may have all the necessary documentation.
- **Deliver key information and create safe spaces to receive such information.** Due to high levels of migratory irregularity that exist, women and girls are afraid to approach the State authorities where they are for fear of being deported or detained; this reality makes them more likely to be caught by human trafficking, migrant smuggling or com-



mon crime networks. It is therefore a priority to create spaces for the delivery of key information to avoid the aforementioned risks.

- **Government campaigns and information on human trafficking with gender and intersectional approaches, directed at specific populations at risk, service providers and key actors from a rights perspective,** which are managed by local authorities together with community actors and which provide relevant information to prevent this crime.
- **Implement measures to prevent and confront xenophobia, stigmatization and gender discrimination against people in situations of human mobility,** especially women, girls and LGBTIQ+ people, promoting sensitization actions that deconstruct discriminatory gender and nationality imaginations and roles, and highlight their socioeconomic contribution through media campaigns, using virtual platforms

and other resources closer to the community and also directed at children and adolescent girls, migrants, refugees and displaced people, with an emphasis on those most at risk, unaccompanied adolescent girls, gender-diverse populations, etc.

- **Identify risk areas.** An important risk area to analyse is the link between irregular migration and the movement of women and girls, since being in these conditions exponentially increases their risks. The effect of restrictive policies on a migrant population already stripped of its rights along the migratory route could be analysed and thus strategies could be sought to mitigate this risk.

1.3 Knowledge generation, training

- **Recognize and strengthen the abilities of local, national and regional civil society organizations (CSOs),** especially those of women, LGBTIQ+ people and youth, as well as those that provide assistance to trafficking victims, key partners who

are often on the front line of prevention and protection against human trafficking. Support the work of local CSOs, most of which are weakened by the lack of financial resources and because they operate in difficult contexts for leaders and human rights defenders. Likewise, supporting those CSOs that focus on populations in more vulnerable situations, such as indigenous populations, those of sexual diversity, Afro descendants, people with disabilities, children and adolescent girls, and other fundamental preventive action lies in creating cooperative links between CSOs and the State.

- **Incorporate in the reality analysis human mobility, gender and intersectional analysis.** Gender-based violence against women and girls is reproduced because of historical structural factors of gender inequality and discrimination based on origin.
- **Training - sensitization of human rights, human trafficking and gender equality for labour inspectors and other key actors.** It is important to develop training processes for labour inspectors to prevent abuse from employers, and to guarantee human rights without discrimination. Training processes are also necessary for all actors in the fight against human trafficking, especially on issues such as the difference between human trafficking and migrant smuggling, and the creation of indicators to detect and activate protection routes. It is important that they recognize their responsibility as agents of the State. Although abuse may come from individuals, it could generate an international responsibility of the State on the breach



of its obligation to protect.

- Promote processes of collective memory and symbolic acts to reject any gender-based violence and human trafficking act through communication, social and cultural community initiatives.
- Exchange experiences with countries that have been successful in reducing the incidence of trafficking, particularly sexual exploitation and other forms of violence against women and girls.

1.4 Public policy and regulations

- ***It is necessary to have a Regional Convention on Human Trafficking, and to establish specialized courts. It is also necessary to ensure that comprehensive reparation processes are implemented.***
- **Strengthen public policies to fight human trafficking.** It is necessary to work on the adoption of national public policies that help the trans and LGBTIQ+ population fight crime, in order to reach a process of reparation and access to rights and justice, because it cannot be denied or ignored that the gender-diverse population is also a victim of this crime and requires protection and mechanisms that prosecute and punish its perpetrators.
- **Strengthen local protection systems,** especially the protection of women and girls since they are the guarantors of the exercise of human rights of the population at high risk of being trafficking victims, with particular emphasis on mechanisms for the prevention of child protection systems, both nationally and locally,

due to the particular impact that the trafficking crime has on women, girls and adolescent girls.

- **Establish mechanisms that facilitate operationalization of existing regulations and systems to address human trafficking, incorporating gender and intersectional approaches.** Make screening systems effective in preventing trafficking cases. This implies having local action plans in territories of greater prevalence to fight human trafficking, with an emphasis on women and girls. These plans must also have budgets allocated to the activities.
- **Incorporate gender and intersectional approaches based on mobility, age, sexual orientation and gender identity into public policy and legislation on human trafficking and migration as appropriate.** Structure legal and policy management responses to establish



this crime in legislation, take measures to eradicate it, and address the structural problems that underpin human trafficking, using an approach that addresses all aspects of the problem.

- **Local governments must generate local policies to improve access to information**, and create spaces for support and guidance, as well as access points for free Internet and information and communication technology so that people, especially **women, girls and LGBTIQ+ people**, can carry out the necessary procedures for their migration processes and be able to regularly access countries of transit and destination, as well as official information points, and minimize risks during the migration journey. Similarly, there is a need to permanently update the pages of the governing institutions on migration matters, with a user-friendly access interface. In addition, the costs to cover must be clearly informed to avoid both fraud and deception.
 - Increase investment in the prevention of trafficking and violence
- **Seek alternative mechanisms to correct administrative fines**, which the population has in the context of human mobility, integrating measures that facilitate access for **women, girls and LGBTIQ+ people**, since payment becomes impossible given the current economic crisis conditions. This feeling of defencelessness clearly leaves the population more vulnerable. Furthermore, these fines may prevent a regularization process.
 - **Adopt positive actions to prevent trafficking with a gender and age approach**, given the knowledge that exists regarding the operation of these networks. These actions range from regulations (national laws against trafficking, ratification of conventions for States that have not yet ratified them) to the establish-

against women and girls, ensuring sufficient resources at the national and local levels to implement State and social policies and programmes.



ment of the institutional framework to make these regulations effective at the national and local levels. Prevention must be aimed at both the participation of its own agents and the action of individuals. Regarding the guarantee of rights, the State apparatus must take measures to allow the exercise of rights for people who are at risk, as well as for victims, especially women, girls and LGBTIQ+ people.

- **Implement measures to prevent and confront xenophobia and the stigmatization and gender discrimination of people in a situation of human mobility**, especially women, girls and LGBTIQ+ people, promoting sensitization actions that deconstruct imaginary and discriminatory gender and nationality roles and highlight their socioeconomic contribution, through media campaigns using virtual platforms and other resources closer to the community and also directed at children and adolescent girls, migrants, refugees, and displaced people, emphasizing on those most at risk, unaccompanied adolescent girls, gender-diverse populations, etc.
- **Create public policies that fight human trafficking, integrating gender and intersectional approaches.** There are regional inputs, studies that are important sources, which must be considered to develop public policies that address human trafficking. All the regulations and jurisprudence in the Inter-American Human Rights System that issues reports and the Inter-American Court, advisory opinions and judgments must be added to these studies. Establish policies that clearly distinguish between victims of trafficking and migrants, and ensure

that migrant women are also considered trafficking victims.

Specific measures for girls

- **Inform and guide girls, adolescent girls and young women, as well as their families and schools, on the mechanisms for recruitment and protection**, and specifically on how trafficking networks seek to generate trust in them through social networks, extracting information (intimate and family data) and using them as a means of control and engagement, whose ultimate goal is exploitation. The same should apply to the routes and protocols for care and protection of cases identified in schools and families.
- **Strengthen the ability of girls and adolescent girls through empowerment and autonomy**, to build a culture of peace, non-discrimination and prevention of gender-based violence: prevention ini-





tiatives with creative approaches, micro-products developed by adolescent girls and young women as actors in their development, incorporating prevention strategies from their own experiences in their actions, initiatives to change social norms and promote positive masculinities, strengthening abilities to access employment development, technical courses, creation of opportunities and skills from an early age.

- **Take the gender identity, age and sexual orientation of a person into consideration for human trafficking prevention measures.** As a result of discrimination and exclusion, the LGBTIQ+ population is more vulnerable to trafficking in all its forms. In its report on “Violence against LGBTI persons,” the IACHR pointed out that one of the characteristics of this type of violence is that “it is based on the desire of the perpetrator to ‘punish’ said identities, expressions, behaviours or bodies that differ from traditional norms and gender roles, or that do not fit into the male/female binary system”²⁴.
- **Promote family reunification of unaccompanied or separated girls and adolescent girls when it is in their best interest.** The objective should be to regulate the migratory situation of girls unaccompanied by or separated from their families, identifying durable solutions that can address all their protection needs, taking into account the opinions of girls and adolescent girls to resolve their situation. Likewise, promote modalities for alternative care adapted to their needs and based on family and community, as a key element of prevention.
- **Create a systematic registration system for girls in the context of mobility from child protection systems.** It is urgent that registration systems be activated in the region to prevent them from “disappearing” from State systems, since this invisibility slows down access to rights and makes it easier for them to be

²⁴ Violence against LGBTI people, OAS/Ser.L/V/II.rev.2 Doc. 36, November 12, 2015, p. 37

victims of any type of rights violation, including human trafficking.

1.5 Participation

- **Create sustained processes for empowerment.** Promote leadership processes and social and political participation among women and girls, which is necessary to advance in a gender transformation model in which open spaces for participation and leadership, joint creation of strategies, public policies, and active participation of women and girls in decision-making spaces and faced with issues that affect them directly are created, motivating critical thinking that questions naturalized practices and rigid gender stereotypes. Prevention strategies based on working with society and in the long term include promoting the vision of women and girls as subjects of rights and improving the conditions of the most vulnerable, with the implementation of policies to reduce poverty and social, economic

and gender inequality, and improve access to social, education, health and work services.

- **Promote the participation of local and community actors,** ensuring the participation of women, youth and LGBTIQ+ people in specific communities where there is a higher prevalence of migration and human trafficking.
- **Create sustained processes for the empowerment of girls,** enabling them to be recognized as subjects of rights, capable of taking decisions, expressing their feelings and making choices. This empowerment is based on the paradigm shift of an adult-centric culture limiting their development.
- Link trafficking survivors in social and cultural processes, as well as political and economic ones, by strengthening support networks and community mechanisms, and allowing them to be linked to community processes.
- Involve the media and national and territorial community actors in community strategies that promote information and sensitization of the prevention of human trafficking with a gender, age and intersectional approach, and the non-commercialization of women's and girls' bodies. Include the distribution of information on the causes, consequences and risk factors of this crime, discouraging demand, as well as the establishment of routes/protocols for the care and protection of victims.



2. PROTECTION

The State is obliged to provide victims of human trafficking with protection, i.e. comprehensive care for survivors and essential and coordinated long-term services for women and girls. This attention implies working on the restitution of all the rights that were violated, and it must be taken into account that support must be given in various areas: social, legal, educational, health, including sexual and reproductive health, and mental health (psychological-emotional). The latter is particularly important since trafficking victims do not recognize themselves as such and fail to identify the need for protection. One of the limitations that may arise in the process of protecting the trafficking survivor is that, as some of them are of another nationality, in a country where a different language is spoken, they cannot express what is happening to them and/or they are in an irregular migratory situation, making them feel insecure in their host country. It is therefore advisable to consider the aspects that follow.

2.1 Identification

- **Create and/or strengthen early warning systems and context and personal indicators**, to enable the quick identification of a human trafficking victim. These mechanisms should also allow action to be taken against possible threats, as well as risk factors and perpetrators of this crime, in a coordinated manner between institutional mechanisms and community actors, including women's organizations and LGBTIQ+ people. These mechanisms should clearly identify the groups most vulnerable to gender-based violence and human trafficking. **Create unified**

protection routes at borders with a focus on human rights, gender and age, which must have two levels of protection: social and judicial (in the case of participation in the criminal investigation process), with particular emphasis on the development of transnational protection mechanisms for girls who are forced to move across different countries, due to their special vulnerability. **Create and/or activate binational and/or regional coordination mechanisms for the identification and social protection of identified women and girls.** Given the current migratory context, girls and women may be trafficking victims in the different migratory transit countries. In view of this reality, expeditious binational and/or inter-country coordination is important for generating mechanisms for the organization, coordination and/or recovery of potential victims that may be dispersed in various geographical locations.

2.2 Budgets

- **Allocate sustained and sufficient resources to provide protection.** This implies resources for institutional care units when dealing with



migrant women and girls, boys, and adolescent girls and/or resources for providing comprehensive care to the elderly and LGBTIQ+ people. It is recognized that throughout the process of caring for a person affected by trafficking, an investment is required to guarantee a comprehensive recovery, i.e. a long-term one until their full return, reintegration and/or integration in the place of their choice.

2.3 Technical teams/human rights defenders

- **Ensure emotional and physical care strategies to support teams and service providers.** Given the high-stress conditions to which technical teams are exposed, they need institutional support and financial resources to carry out self-care and self-protection exercises. Avoiding problems related to overworking, safety, psychosocial care, and family and work reconciliation will result in better quality care for women and girls affected by trafficking. And as part of the emotional care of the technical teams, there is a need for training by means of which repetition of rigid gender and age patterns and stereotypes in their actions can be avoided, and there are tools and strategies to know how to handle the cases.
- **Develop methodologies for psychological and psychosocial support.** To overcome the trauma, it is necessary to come up with specialized strategies and interventions enabling the recovery of survivors, in particular girls who, being in evolutionary development, are more affected given the learning stage in which they find themselves. And concomitant with this is the understanding that not all approaches are the same, but that each person needs a different, personalized and specialized approach.
- **Create meeting spaces and share experiences between the countries in the region,** to share good practices and generate spaces for professional growth and transnational protection mechanisms that aim to improve the care of survivors.
- **Strengthen and/or create immediate response teams** to provide individualized, comprehensive, accessible and sustained psychosocial



assistance processes that contribute to the creation of violence-free projects. These experiences already exist in the region and mechanisms can be created to share this information.

- **Generate knowledge and systematization of direct care experiences for women and girls**, especially in the human mobility context. The region has a wealth of experience in protecting trafficking survivors; this experience and knowledge must be capitalized on and systematized so that, based on this, new and improved intervention strategies based on experience can be built, which must be constantly updated.



2.4 Comprehensive care

- **Include the children of human trafficking survivors in the protection and comprehensive care.** Care and protection of the trafficking survivor must be comprehensive, which is why the children of women trafficking survivors must also be considered in the assistance, intervention and support plans, since they often do not have the means to guarantee their subsistence, and are used as an additional pressure and submission tool, thus also requiring protection and support.
- **Understand care from a comprehensive care point of view**, so that it addresses not only the current problem, but also understands the context, as well as integration of health measures (physical, mental, sexual and reproductive) and education for survivors and their families. Similarly, identify the needs for specialized care (psychiatric, addiction recovery, etc.) as a priority, to

considerably improve the particular situation of each person identified. **Do not condition or reduce the survivor's participation in the judicial process**, even less so without providing comprehensive protection. The voice of survivors must be heard, not only in the midst of a judicial investigation or used as a means to achieve a sentence, but so that both their experiences and vision allow the creation of better tools for support, care, prevention and research, and this can be part of a comprehensive protection process with gender, age and intersectional approaches.

- **Promote free legal assistance and representation of survivors**, both by State institutions and NGOs, to ensure that the crime does not go unpunished and also ensure the survivor's safety. Likewise, support and protect the organizations that provide these services. **Develop protocols and specific procedures for protection and care directed**

at women and girls at the local, national and LGBTQ+ levels with a gender, age and intersectional approach, especially for migrants, displaced persons and refugees, providing specific and specialized assistance mechanisms, in their language and in safe conditions without the condition of complaint.

- **All care programmes/projects must include the voice and participation of survivors**, in recognition of their negotiation skills, interests, desires, abilities and skills, and as a fundamental part in building support methodologies.

2.5 Reintegration in dignified conditions

- **Create support programmes that aim at the effective reintegration**

and/or integration of trafficking survivors. This requires investing resources to support women and girls in their recovery processes, as well as long-term socioeconomic integration.

- **Establish assistance coordination mechanisms at the regional/binational State and migratory levels of the different countries** that provide a comprehensive and coordinated response, which will require mapping the needs of survivors, medical needs and attention to cases.
- **Strengthen the system for the determination of refugee status and other forms of international protection.** This could be an operational protection gateway to the countries of the region for women and girls to approach the international protection system. Some of the trafficking survivors can be recognized as refugees under the 1951 Geneva Convention, the Cartagena Declaration or on the basis of international instruments for protection and asylum; even in cases where they fear being victims of human trafficking, and in line with CEDAW general recommendation no. 3. Persecution and risk have already occurred in their country of origin, in the countries of transit on their migratory route, or in the destination country.
- **Develop protection programmes that are based on family and community integration**, especially in the case of unaccompanied girls who are under alternative care systems within the child protection framework.
- **Establish mechanisms for effective migration regularization** that



do not get delayed and that guarantee a regular stay within the destination country without requiring a conviction for the trafficking crime, since the time between the beginning of the investigative process and the sentence can take several months, if not years, which would mean that during this time the living conditions of the survivor, far from improving, can deteriorate and even lead them to become a victim again, because they are in legal limbo and have limited access to rights.

- **It is important that States recognize the principle of non-refoule-**

ment to guarantee the protection of survivors, as well as confidentiality. Data should not be shared with embassies or consulates of their countries of origin or where they last resided, as this could put the lives of the victims at risk. The application of this non-refoulement principle must include preventing the deportation or return of trafficking victims in an irregular migratory situation, when they have been identified in anti-crime operations.



3. PERSECUTION- INVESTIGATION- SANCTION

3.1 Training

- **Training - education - sensitization with gender, age, human rights and intersectional approaches.** Justice operators on human trafficking require training processes through methodologies that allow internal reflection exercises and sensitization of the consequences and effects of trafficking on the lives of people and the differences with other crimes such as human trafficking. It is necessary to question the adult-centric, patriarchal, xenophobic and racist structures that are embedded within personal and institutional systems of institutions that should guarantee rights. It is necessary to sensitize public justice system officials to human trafficking.

3.2 Internal control

- **Establish mechanisms of internal control and institutional sanctions,** so as to enable monitoring between institutions and authorities and thus prevent commission of acts of corruption or abuse of authority

within the institutions in charge of investigating and punishing this crime, as is the case in all the investigative processes of organized crime as well as drugs, weapons and terrorism.

3.3 Investigative actions

- **Promote investigative processes in which victims are not the focus of the investigation.** Promote the protection of survivors by avoiding re-victimization processes, not adding stress to the trafficking situation, and minimizing the need to testify. The State must understand that the victim is not the only source of EVIDENCE, and that the State itself is responsible for the investigative processes. The criminal investigation must be focused on gathering evidence by means of the evidence battery and through sound criticism, giving a conviction. It is difficult for the judicial system to find trafficking evidence; justice operators commonly report a lack of evidence, and this is generally due to weakness and a lack of coordination in the investigative processes. **Inclusion in the Victim and Witness Protection System and activation of the reflection period.** Include as a mandatory measure the entry into the SPVT of persons





who are victims of human trafficking and include the period of reflection. These key elements will ensure the physical and emotional safety of the human trafficking victim.

- **Promote jurisprudence and legislation regarding the responsibility of the State for action or omission.** For example, in the case of Linda López vs. Venezuela, the responsibility of the State was determined and the broad concept of sexual violence was analysed, and it is through this analysis that the complexity of trafficking for sexual exploitation must be understood. Trafficking is no longer just a transcontinental phenomenon; the trend is that trafficking occurs mostly in countries that share a border and within each country. Under this premise, there are initiatives in the region that allow coordinated work such
- as the Ibero-American Prosecutors Network, which develops actions that help improve the ability to address criminal matters against human trafficking.
- **Avoid punishing the survivor for crimes committed during the trafficking process.** This is difficult since, given the very nature of the crime, the victim is generally used as a “scapegoat.” In addition to the vulnerable conditions of victims and, at times, their inability to communicate properly because they do not know the language puts them at a great disadvantage. Thus, the involvement of women in the trafficking crime is much higher than in other transnational organized crimes, due to how traffickers use the trust that a woman can generate to “convince” others. For all these reasons, it is important to restore the validity and use of the principle of non-punishment in judicial practice, which can be an important tool for victim protection. Likewise, ensure that the principle of non-criminalization of trafficking victims is applied correctly.
- **Initiate ex officio investigations proactively and ensure their confidentiality.** An adequate police investigation is necessary, which does not start and condition the complaint, the victim’s testimony and their participation, to act; rather, it should be initiated ex officio proactively, to guarantee the investigation and improve victim protection. Trafficking victims are naturally afraid to provide information, or they do not recognize themselves as victims; consequently, focusing a judicial process on one person implies

a major risk for the prosecutor actions. This element is key in the current context of migration and pandemics, since these same circumstances make it very difficult for victims to seek help or free themselves from their captors. It is in contexts such as the current ones that ex officio investigations guarantee protection of the population in vulnerable situations. Tackle corruption. An element present is corruption that affects the production of information: case reports are altered, evidence is lost, the actors of the crime are not found, or the processes do not reach the trial stage, and this occurs because other crimes such as drug and/or arms trafficking happen at the same time as trafficking crimes. It is necessary to stop the institutional corruption that occurs through action, omission or acquiescence at all State levels. Within the process of sanctioning and prosecuting the crime, anti-corruption mechanisms must be strengthened in all cases, since large trafficking networks are present because some authorities cover them up. The central element in the investigative processes of

human trafficking is corruption, as this sustains it and allows impunity, so the coexistence of trafficking with corruption of the authorities must be reduced.

- Analysing these risks that are observed on a daily basis in dealing with trafficking cases, it becomes clear that the main actions that should be included are: incorporating the gender perspective in public policies, and national and regional programmes in a transversal way; continuing to design and implement conducive strategies that leave no one behind in accordance with the provisions of the 2030 agenda; intervening in technical agendas within public policies and available resources; promoting joint actions to fight human trafficking; and mitigating the risks to which migrants are exposed on transit routes in countries of origin and destination. The relationship and linkage of public policy in the fight against violence against women and the trafficking crime must be strengthened, including trans women within these regulations.
- **Specialization of anti-trafficking units.** Having the units specialize in human trafficking is important so that people are selected specifically for that area. These processes must be highly efficient, have the legal declaration, criminal records and ensure investigative ability and empathy because the dignity of a trafficking survivor is attacked, and they specifically require quality care from the start of the approach. The creation of a special unit that is constantly in training and permanently monitored both internally and externally is mandatory.



- It should be incorporated and recommended that the technical reports of social and psychosocial work be evaluated to avoid re-victimization processes of the survivors. This information can also be shared with the investigative units to avoid multiple interviews, which generate greater stress to those who are in a process of physical and emotional recovery after the trafficking incident.
- Mechanisms should be incorporated to improve the investigation and avoid the victim's exposure, including: wiretapping, buying information, compensated denunciation, etc. This allows the investigator to have, on the one hand, more elements for the accusation and, on the other, it spares victims from participation and protects their integrity.
- It is necessary to generate protocols that guide investigations and consider particular measures so that human trafficking victims, women, girls, LGBTIQ+ people and people in a context of human mobility stop going through several interviews that have no clear objective.
- To compensate survivors, proposals are required for the seizure of property, and targeting women and girls to compensate. As a result of such seizure, the resources go to programmes for the prevention and protection of victims and their families, as well as for support in the investigative processes.
- It is important to emphasize that a good practice in the prosecution-sanction stage is for all actors to coordinate, and there are inter-institutional monitoring processes to identify the critical nodes, and based on these results, establish institutional adaptation plans and training programmes with a gender and intersectional approach.
- Promote comprehensive reparation for the victim and their families, as well as guarantees of non-repetition.



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