SEXUAL AND GENDER-BASED VIOLENCE

VIOLENCE

Toolkit
for Trainers

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Design and layout
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INTRODUCTION

*This *toolkit* aims to facilitate the task of support workers involved in the reception of refugees and asylum seekers to provide practical tools for identifying cases of sexual and gender-based violence (SGBV), assessing the specific needs of those who have experienced it, strengthening supervision, creating a multi-sector network of services and an agreed path for handling cases to guarantee survivors an integrated supervision that is responsive to cultural and gender differences.*

The theoretical part was developed following two seminars organised in Palermo and Catania in 2017, on the basis of the materials used in the classroom by teachers and trainers, and inputs and needs highlighted in the classroom by the participants, professionals in the psychosocial, health, law, cultural mediation sectors and officials of the respective cities.

The **MED-RES** project (*MEDiterranean Reception Systems' Coordinated REsponse for People in Migration – PiM – Victims of SGBV*) – the theoretical part has been updated and modules related to trafficking of human being have been developed according to the national context. Furthermore, practical sections have been added which have been formulated following sessions held with trainees in Italy, Spain and Malta between February and June 2019.

The project **MED-RES** is carried out by the Italian Association for Women in Development (Associazione Italiana Donne per lo Sviluppo or AIDOS) in partnership with the Women's Rights Foundation (WRF, Malta) and the Federación de Planificación Familiar Estatal (FPFE, Spain). It is co-funded by the European Commission under the Directorate-General for Justice and Consumers (DG Justice) and the United Nations Population Fund (UNFPA) as well as the Ministry for Education and Employment.

GENERAL CRITERIA FOR THE ORGANISATION OF THE TRAINING COURSES

STRUCTURE OF THE TRAINING

The proposed training course consists of five training modules corresponding to five specific topics to be explored over five days of training. Each day of training has an introduction followed by a main section (the longest part featuring most of the activities) and ends with a brief recap and conclusion during which the participants have the opportunity to discuss what they have learned.

Each training module is divided into:

- **Theory**
  Theoretical modules with associated bibliographies that participants can use to follow up on the topic in question (detailed in a separate document)
- **Workshop activities**
  Practical exercises in which participants play an active role
- **Bibliography**
  List of references according to the respective modules for trainers and trainees.

TIME MANAGEMENT

Excellent time management comes with practice and experience. We need to be flexible and consider the training course as a process that is under constant development, one which can be modified by adding or removing parts so long as the meaning is not lost. It is important to always keep your objectives in mind while at the same time being ready to deal with any impromptu changes. To do this, it is advisable to have new topics and additional materials in hand in case they are needed. Although changes may be made, it is nevertheless very important to broadly respect the structure of the training course that has been shared with participants.

BREAKS

Breaks are very important during a training course. When structuring a training plan, it is important to bear in mind that there should be a break between one activity and the next. On the other hand, interrupting an activity can be a risk, as this inevitably causes concentration levels to drop. In addition to these planned breaks, which participants are informed of in advance, you can also allow short "informal" breaks for participants to relax and recharge without running the risk of them losing their concentration and focus on the activity at hand. Finally, since everyone's ability to learn and retain information is better at the beginning and end of a training session, it is a good idea to schedule the most important content immediately after a break.

STAGE 1
Introduction to the training day and participants

1. *Group introduction*

This introduction should:

- allow each individual to establish a relationship with the other participants;
- allow participants to freely express their experience and skills.

Trainers should introduce themselves when their turn comes up, rather than at the beginning or end.

2. *Outline of the objectives of the training course*

The objectives of the training course should be outlined in a way that is clear to everyone taking part. Normally, there are multiple objectives:

- **general objectives:** defined by the organisation managing the training and expressed in terms of the results achieved by the organisation itself.

- **training objectives:** defined by the project coordinator and his/her team with technical support from specialists. These objectives are consistent with the general objectives and aim to develop the professional skills of those taking part in the training.

- **educational objectives:** defined by the trainer. These include the skills that participants should acquire as a result of the training and use in their work.

3. *Creating an open forum for discussion so that participants can share experiences*

As previously highlighted, it is essential to give participants the opportunity to share their experiences and to create a space for discussion; a training course is a chance to exchange knowledge and get up to speed on information and best practices in a specific field.

In order to keep concentration levels high, an appropriate amount of time should always be spent debating the topic in question; an initial exercise ("*Understanding expectations*") should be carried out for this purpose. This exercise aims to introduce a hands-on approach that participants can use to identify and verify their objectives as a group.

STAGE 2
Theoretical training and learning activities

For each module, the toolkit offers theoretical support materials with bibliographies to which the trainer should refer over the course of the day. Other materials such as online resources can be recommended for further study of the topic in question.

The proposed learning activities are designed to actively involve participants, helping them to understand and take on board the topic. For each learning activ-

ity, the toolkit recommends a specific method and suggests the equipment to be used to carry out the activity (whiteboard, flip chart, video projector, PowerPoint presentations, videos and other multimedia materials), as well as the process to be followed and the expected results.

Trainers can decide for themselves which activities to carry out in the classroom, provided that they achieve the expected results.

Various creative and interactive techniques can be used, with participants playing an active role. Trainers should facilitate learning, respect the opinions of attendees and encourage participants to share their experiences. The training material must be relevant and must allow the stated educational objectives to be achieved.

STAGE 3
Wrapping up: "what am I taking home?"

To ensure that participants leave with a shared understanding of the knowledge and skills acquired, the last stage features an exercise involving the whole group. The aim of this type of experiential exercise is to encourage each participant to explain, even in just one word, aspects and elements that the training course has helped them to develop with regard to their initial skill set.
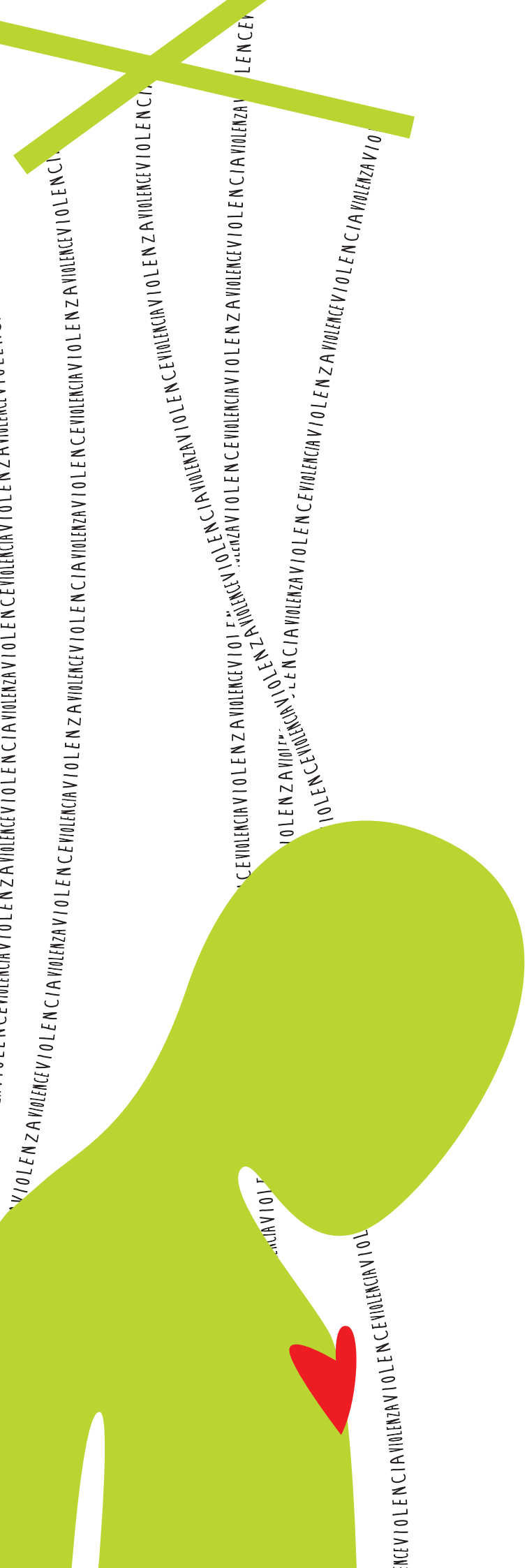
Sexual and Gender Based Violence (SGBV)

by

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THEORY

1.1 SEXUAL AND GENDER-BASED VIOLENCE: INTRODUCTION

Sexual and gender-based violence (SGBV) refers to any act perpetrated against a person's will and based on asymmetric gender norms and power relations. SGBV constitutes an **abuse of power** that causes physical, sexual or psychological harm, mainly to women and girls, but also to men, boys and LGBTI people. It also includes threats of such acts, forms of coercion and deprivation of liberty.

Definition adopted by the UNHCR and its operational partners based on Articles 1 and 2 of the UN General Assembly Declaration on the Elimination of Violence against Women (DEVAW 1993) and on Recommendation 19, par. (§) 6 of the 11th session of the Commission on the Elimination of Violence against Women (CEDAW).

1.1.1 Definitions and categories

SGBV comprises the physical, sexual, psychological and socio-economic violence that can occur in families, within communities, but also within institutions, thus including violence that is perpetrated, tolerated and/or unopposed by the state and its institutions.

SGBV constitutes a **violation of fundamental human rights** that contributes to perpetuating gender stereotypes, and can deny human dignity, deprive individuals of the capacity for self-determination and hinder human development. It is therefore not limited to rape and violence of a sexual nature.

The definition of **sexual and gender-based violence** is inclusive, and is used to distinguish between common violence and violence targeting individuals or groups based on their gender or gender identity. **Violence against women**, which includes sexual violence, is often considered synonymous with SGBV: it is in fact the most widespread form of gender-based violence.

SGBV survivors are mostly women and girls; although men and boys can also be victims of SGBV, and can be discriminated against, suffer sexual violence or abuse based on their sex or gender.

The perpetrators of SGBV are predominantly men; in most cases, the men are related to the women, linked to them or the women depend on them emotionally or materially. They may be partners, family members, influential community members (such as teachers, spiritual, religious or institutional figures: in these cases, women are even more reluctant to report violence due to the perpetrator's position of power); soldiers (including *peace-keepers*), who often find themselves in a position to offer privileges; humanitarian support workers (NGO, UN staff, etc.) who occupy an authoritative position in the refugees' environments; and institutions that adopt discriminatory practices in the provision of services and that, therefore, contribute to maintaining and reinforcing gender inequalities.

1.1.2 What are the most common forms of SGBV?

For practical purposes, and on the basis of what has been agreed upon by the United Nations Population Fund (UNFPA), the International Rescue Committee (IRC) and the United Nations High Commissioner for Refugees (UNHCR) with the objective of standardising existing definitions for reasons of data collection in the different social and health services operating in the field, it was decided to distinguish between six fundamental forms of SGBV[1]:

1. **Rape:** non-consensual penetration of the vagina, anus, mouth or other parts of the body, including with an object.

2. **Sexual violence:** any form of non-consensual contact that does not result in, or does not include, penetration. For example, this category includes attempted rape together with being kissed, caressed or touched on the genitals against one's will.

3. **Physical violence:** any act of physical violence that is not of a sexual nature. This category includes blows, slaps, cuts, pushing, burns, shots or the use of any weapon that produces discomfort or injury.

4. **Forced marriage:** contracts of marriage against the will of the person.

5. **Denial of resources, opportunities or services:** denial of legitimate access to resources/economic resources or means of subsistence, opportunities, education, health or other social services (for example, widows prevented from receiving an inheritance; women whose earnings are confiscated by a partner or family member by force; women prevented from using contraceptives; girls prevented from attending school, etc.).

6. **Psychological/emotional abuse:** inflicting mental or emotional pain or injury. Examples include threats of physical or sexual violence; intimidation; humiliation; forced isolation; persecution; harassment; unwanted attention; remarks, gestures or written words of a sexual and/or threatening nature; destruction of cherished objects, etc.

Please note that this list is not exhaustive. It should be emphasised that, despite the various categories, all forms of SGBV can be perpetrated in different contexts: within families; by individuals or entire communities; by states and institutions that do not penalise SGBV but, on the contrary, tolerate it. There are other forms of sexual and gender-based violence that are not among the six basic types of violence mentioned above, but that can also be included and considered. They include:

1. **Violence within intimate relationships** (*intimate partner violence*), otherwise referred to as **domestic violence**
2. **Sexual abuse of minors**
3. **Early marriage**
4. **Sexual exploitation** / *transactional sex*
5. **Sexual slavery**
6. **Harmful practices**.

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1 - The classification is taken from the "**Gender-Based Violence Information Management System (GBVIMS). User Guide**", published in 2011 by the International Rescue Committee (IRC), the United Nations High Commissioner for Refugees (UNHCR), the United Nations Population Fund (UNFPA), with the aim of contributing to greater uniformity and standardisation in the classification of forms of sexual and gender-based violence. For further information, see the document *Gender-Based Violence Classification Tool Appendix B* available at http://gbvims.com/wp/wp-content/uploads/Annex-B-Classification-Tool.pdf

The manifestations of SGBV that more directly concern cultural aspects include: forms of female genital mutilation; early and/or forced marriage; honour killings; selective abortion (called *gendercide*: it is estimated that more than 100 million selective gender abortion of girls, especially in China and India); the systematic neglect of girls (from reduced access to food, to denied access to education, perpetrated especially within families).

Although SGBV is often confused with sexual violence, it is a broader concept that mainly affects relationship dynamics and social power relations. For these reasons, it often remains invisible and, still today, there are many difficulties related to establishing and reporting it. SGBV-related **stigma** and **shame** also affects survivors, particularly in contexts where **gender norms are more prescriptive**, gender segregation is more pronounced and role expectations are stricter. In such contexts, there is a reduced possibility of criticising certain social asymmetries, and the SGBV phenomenon remains largely hidden. Although there is still some uncertainty with regard to the exact extent of the phenomenon, it is understood to be extremely widespread, including in contexts of forced migration.

To understand the roots of SGBV and its consequences, it is necessary to define and distinguish the concepts of **sex** and **gender**.

Sex refers to the *congenital biological* characteristics of **male and female**, whose differences essentially concern reproductive functions.

Gender denotes the *social characteristics* assigned to **men and women**, constructed and defined on the basis of various cultural factors, religious, ethnic and social. These characteristics define the identity, status, roles and responsibilities of men and women and structure **power relations** between the members of every society and culture. Gender diverges in different cultures and is learned through socialisation. It is not static or innate, but changes over time and responds to social, political and cultural change.

People, then, are born female or male (sex) and only progressively learn to be girls or boys first, and to become women and men later (gender). **Gender identity therefore indicates what it means to be a woman and a man in a particular society or culture**. Society teaches behaviours, roles, activities and expected inclinations defining what is appropriate or inappropriate on the basis of biological sex. Through different forms of socialisation, gender designates roles, responsibilities, constraints, opportunities and privileges of women and men in a particular historical-social context. This learning produces gender identity in a constellation of dynamic and changeable elements that reflect environmental and historical changes. It can differentiate itself over time, that is, change in successive periods within the same cultural environment, and can also differentiate itself in space, i.e. being structured differently in different places within the same temporal situation.

The spread of SGBV can be linked to the rigidity of gender norms and the segregation of the sexes, increasing in more conservative societies with stricter gender

prescription. **Gender relations** – man/woman, man/man and woman/woman – **are characterised and mediated by different levels of power. They perpetuate privilege and subordination among members of a society**. Negligence or unawareness of human rights and gender inequality or, on the contrary, democratic equality and non-violent means of resolving conflicts, contribute respectively to perpetuating or reducing forms of SGBV.

✓ **Key messages for staff dealing with SGBV survivors**

- Although women and girls make up the majority of survivors, men and boys can also be SGBV survivors.
- *Sex* refers to biological characteristics; these features differ only in their reproductive functions.
- *Gender* refers to what it means to be a man or a woman in a particular social and cultural context.
- Most acts of SGBV are committed by people who the survivors know and often depend on.
- Gender inequality and discrimination are the causes of SGBV: fair access to and control of material resources and equal participation of women in decision-making processes should be core to all SGBV programmes.

1.2 SGBV RISK FACTORS

Although SGBV has structural causes that reside in social inequalities and in gender discrimination, it should be emphasised that some events or **conditions contribute to the occurrence and perpetuation of SGBV, which we define as risk factors**. These are **important in elaborating strategies for preventing and combatting violence**; they can affect both survivors and perpetrators of violence and can manifest themselves on different levels, from the individual to the wider social and relational level.

SGBV risk factors:

- situations of dependence (both material and emotional)
- forms of disability
- low socio-economic status
- previous traumas that facilitate the revictimisation of survivors
- family and social disintegration
- limited knowledge of rights
- discriminatory cultural, social and religious norms and beliefs

SGBV risk factors in forced migration:

- armed conflict
- disruption of social and family structures that serve as protective elements

- the way in which camps and accommodation facilities are organised and located, often in isolated, overpopulated areas, or in high crime areas
- organisational leadership of reception centres based on gender stereotypes that can perpetuate situations of violence
- lack of food, work and primary resources
- lack of legal protection or access to important legal information, also due to language barriers
- hostility of the local population

During conflict or escape, anyone in a position of power can commit abuse and such abuse can be particularly serious due to the environment in which they occur. Harassment or sexual assault, sexual attacks by bandits or members of the opposing party, capture and imprisonment of migrants and enslavement by traffickers, abductions, rape used as a weapon of war, mass rape and forced pregnancies **can occur**.

In the country of asylum, sexual violence or coercion is possible in reception centres by persons in positions of authority; the sexual abuse of unaccompanied minors, who are particularly vulnerable because they are alone; domestic violence; forced prostitution induced by exploitation or for survival, for example in centres that receive a large number of people; sexual exploitation of those awaiting international protection or assistance, perpetuation of harmful practices.

1.3 THE IMPACT OF SEXUAL AND GENDER-BASED VIOLENCE

SGBV has a serious, often not evident, impact on physical and psychosocial health; SGBV survivors are generally at risk of disease, also due to negligence or self-harm. The effects of both medium and long-term SGBV should not be underestimated as they can be very serious and produce fatal outcomes that include suicide/homicide, infant and maternal mortality, AIDS-related mortality, etc.

Physical and psychological health are often considered separate, although they are closely linked and have mutual repercussions, with strong social repercussions, for example on the ability to work or on other family members and the entire community.

1.3.1 The impact of SGBV on health

Physical health. Physical consequences include infections – particularly all sexually transmitted diseases (STDs) – chronic pelvic pain, long-term sexual dysfunction, physical damage to the vagina and rectum, early or unwanted pregnancies, osteo-muscular pain, chronic pain and inflammation of the gastro-intestinal system, intense headaches and inability of survivors to take care of their health.

In general, there is a particular association between severe forms of violence and **chronic pain** at the osteo-articular, pelvic or digestive level, without it being possible to highlight an organic cause, for which we speak of **somatisation** and/or

so-called *unexplained pain*. This symptomatology, especially if chronic, is not very responsive to medical-pharmacological analgesic therapies and requires classification as complex post-traumatic psychological syndromes.

Mental health. Psychological symptoms include low self-esteem, loss of hope, trust problems, depression, anxiety, irritability, anger (including desire for revenge), numbing, *flashbacks*, nightmares, changes in activation states (*arousal*[2]), state of alarm, sleep and/or eating disorders, substance abuse such as drugs and alcohol and suicidal tendencies. They also include feelings of shame, humiliation, guilt, resentment, emotional detachment, difficulty with physical contact, isolation, social withdrawal, diffuse fear and fear of specific figures that may bring back the memory of the perpetrator. In particularly severe cases, intrusive thoughts and dissociative states may occur, with symptoms of depersonalisation and derealisation.

In conditions of high vulnerability due to different aggravating circumstances or in the presence of risk factors, the above symptoms may occur in **psychic disorders,** as indicated by the DSM-5, including mainly: **depressive disorders**, **post-traumatic stress disorder (PTSD)**, **dissociative disorders**, anxiety disorders, adaptation disorders and somatic symptom disorders.

Dissociation is a process of **dis-integration** in which the mind loses its ability to integrate some higher functions, and different clinical observations establish a cause-effect link between trauma and dissociation. According to the DSM-5, dissociative disorders are characterised by a discontinuity in the normal integration of consciousness, memory, identity, perception, body representation and behaviour. Dissociative symptoms can potentially compromise every area of psychological functioning.

Dissociative disorders include the following four types: dissociative identity disorder; dissociative amnesia; depersonalisation/realisation disorder; unspecified dissociative disorder. A dissociative disorder is a common result of trauma, and many of the symptoms, including embarrassment, confusion about symptoms or the desire to hide them, are influenced by the same traumatic experience.

Social health. The impact on social health can include an altered sense of self in relation to others and to the external environment, changes in behaviour and daily habits, difficulties in relationships with others (including family members), affective relationships (including abandonment from the partner, loss of respect, etc.), tendency to social isolation and experiences of stigmatisation in the community if the history of abuse becomes known, tendency to be impulsive and/or self-injurious behaviour, social relationships marked by a loss of confidence in oneself and the world and vulnerability to revictimisation and exploitation. The socio-economic impact of SGBV cannot be ignored either.

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2 - *Arousal* is an English term that literally means "awakening"; it indicates a particular state of *activation* of the nervous system, which produces changes in the equilibrium of an organism in the sense of greater vigilance with respect to the environment and reactivity to internal and external stimuli. Such changes involve different biological systems, and are detectable on the physical level (cardiac acceleration, sweating, increased levels of cortisol, etc.) and on the psychological level (more attention, concentration, memory, etc.).

1.3.2 The impact of SGBV on minors

Research shows that among the symptoms and disorders most commonly seen in minors/survivors of these experiences, **there are symptoms and regressive reactions with respect to the development phase**, marked dependence, the so-called conduct disorders, adaptation difficulties, chronic pain and psychosomatic disorders, depression and abuse of drugs and alcohol. Some symptoms are typical of PTSD, such as sleep disorders and nightmares, irritability and explosions of hetero and direct aggression directed at the self, avoidance[3] of stimuli and situations associated with trauma, isolation, emotional and social detachment and anxiety.

The age and development phase of minors have repercussions both on psychopathological onset and on adaptive strategies. **Traumatic experiences can affect the development of cognitive, affective, moral and relational processes and even physiological processes**, together with the development of related skills and competences. According to the literature, **with the same severity of abuse, the lower the age of the person the greater the impact of violence**, with particular consequences produced by adverse childhood experiences that have long-term negative effects on health (see Felitti, 2013). Supporting this result, in 2013 the WHO reiterated that exposure to stressful and traumatic events at a young age is certainly a risk factor for the onset of mental and physical disorders, with particular reference to harmful situations that represent violations of human rights.

A further risk is that of **revictimisation**, generally high in SGBV survivors; it increases in relation to young age and to the repetition of the abuses. Revictimisation can be defined as the possibility for survivors of again finding themselves in abusive relationships. It can be ascribed to a self-image that is debased and perceived as unworthy, which can develop in those who survive intentional interpersonal violence and that can cause the perpetuation of abuse.

1.3.3 The impact of SGBV on men: armed conflict and detention camps

SGBV is still under-reported, both in emergency and non-emergency contexts. If **survivors are men, unearthing the problem is more difficult and meets with greater resistance**; for this reason, it should be investigated with particular care.

The use of violence against women as a weapon of war is now recognised; however, the categories of SGBV perpetrated against men and boys are still little known or ignored. Especially **in cultural contexts where gender norms are particularly severe and binding, or where the law prohibits homosexual relationships**, it is used as an instrument of torture, subjugation and dehumanisation of the other, even

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3 - Avoidance is a behavioural defence strategy aimed at escaping anxiety-producing stimuli and exposure to feared situations or people. Through a mechanism of failure to cope with the stimulus, the subject tries to manage the negative emotions produced by the event perceived as dangerous or threatening.

more so in armed conflicts. In these contexts, although violence implies **non-consensual sexual acts or forms of sexualised torture** (including the violent use of objects), in practice it is treated as a form of homosexuality, which adds to the **risk of criminal conviction** for homosexuality.

Furthermore, for mechanical reasons, both an erection and sometimes an ejaculation can occur during non-consensual anal penetration. This physical reaction, which is particularly problematic for those who suffer and survive violence, is often used by perpetrators as an instrument of further violence, to deride and humiliate. In such cases, the experience of **shame**, dominant in general in sexual violence, becomes particularly strong.

In general, **uncovering SGBV among survivors is very difficult where gender norms are very strict and prescriptive**. Forms of **psycho-education**, explaining what may happen during or after one or more episodes of SGBV, are necessary in order to understand, decode and "normalise" **the psycho-physiological reactions of survivors, their emotional experiences and also the psychophysical symptoms that may develop in the long term**.

Some behaviours can reveal a state of unease and be considered symptomatic of past SGBV experiences. Particular features and behaviours, such as back or rectal pain, the inability to sit comfortably or the desire to stand, may provide **indicators of SGBV for experienced personnel**. Information provided by partners or family members can also be useful for exploring a hypothesis of SGBV.

However, with regard to the law, **the legal definitions of rape exclude male victims in some contexts**, and are specific to minors and women. This makes it impossible for adult men to legally claim rape: it should also be remembered that where homosexual relationships are criminally condemned, survivors are at risk if questioned about their sexual orientation. It is also necessary to include SGBV survivors in information and prevention programmes, and to provide specific responses to target populations.

1.3.4 Trafficking: impact and consequences

Human trafficking is a transnational crime defined by Art. 3 of the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*. The definition of trafficking includes the recruitment, transportation, transfer and/or hosting of persons through the use or threat of forms of coercion, kidnapping, deception, abuse of power or positions of vulnerability, or through giving or receiving sums of money or benefits to obtain the consent of a person who has authority over another for the purpose of exploitation. Exploitation can take many forms: prostitution of others or other forms of sexual exploitation; forced labour; slavery or similar practices; enslavement or organ harvesting.

The victims of trafficking for **sexual exploitation** in Italy are mostly Nigerian. Foreign women are kept in a state of enslavement through a special link with those who exploit them, which often involves the use of magical and/or religious prac-

tices that are part of the cultural traditions of the country of origin (*Voodoo*, *Juju*, etc.). In many cases, a sort of connivance of the families of origin that decide to "sacrifice" a daughter for economic return has also been documented. Victims of trafficking are frequently subjected to severe forms of SGBV, which include **enslavement** and subjection to the contempt of the whole community. For this reason, it is particularly important to pay attention to any reproachful responses, including on the part of support workers.

In addition, several prevention programmes have highlighted possible **indicators for recognising victims of trafficking**, such as: female sex and young age (often, they are unreported minors); submissive attitude and tendency to remain silent (so much so that they are often accompanied by someone who speaks for them); monitoring by other residents of the reception centre; low level of education; brief stays in Libya; major behavioural and psychological problems.

1.3.5 The impact of SGBV on LGBTI people

LGBTI people can suffer SGBV both in their country of origin and during their migration, especially where gender norms are strict and prescriptive.

LGBTI people often live their sexual lives clandestinely or semi-clandestinely in their countries of origin, having to protect themselves both from social reproach and from laws that forbid homosexuality and any sexual behaviour that does not comply with normative social expectations. **LGBTI people are therefore not only at risk of suffering violence, but also other forms of discrimination or marginalisation in the context of the group requesting** international protection, which adds to the abuses previously experienced in the country of origin. Forms of prostitution for the purpose of survival in migrant, detentive and emergency situations – both for women and minors and for men – should also be taken into consideration.

It is also important to remember that the various forms of SGBV are rarely reported immediately. Often, this happens after a long time, and only as a result of its physical and mental effects, sometimes even several years later, when dysfunctionality is chronic or very difficult to treat.

✓ **Key messages for staff, survivors(s) and their partner(s)**

- SGBV is a serious threat and should not be overlooked.
- Rape is rape in any case, regardless of gender, gender identity and sexual orientation of those who suffer.
- No survivor should be stigmatised, marginalised, or left without care.
- Stigma is the main obstacle preventing survivors of every sex and gender from speaking out.
- A lack of specific training amongst support workers can prevent survivors from opening up.

- Intrusive questions by staff or, on the contrary, a total absence of questions inhibits the survivors(s) in asking for assistance.
- Many survivors do not report violence suffered due to a lack of trust in the judicial system; failure in legal proceedings increases the risk of repetition of abuse, and the distrust of survivors.

1.4 A SPECIFIC FORM OF SGBV: FEMALE GENITAL MUTILATION (FGM)

1.4.1 What is it?

The World Health Organisation defines FGM as "all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs for non-medical reasons" (WHO, 2007). The WHO identifies four types of FGM:

I.   **Clitoridectomy:** partial or total removal of the clitoris or, more rarely, of the clitoral hood.

II. **Excision:** partial or total removal of the clitoris and the labia minora, with or without excision of the labia majora.

III. **Infibulation:** narrowing of the vaginal orifice with creation of a covering seal by cutting and appositioning the labia minora and/or the labia majora, with or without excision of the clitoris.

IV. **Other:** all other harmful procedures to the female genitalia for non-medical purposes, for example: pricking, piercing, incising, scraping and cauterization.

1.4.2 Extent of the phenomenon in the world

UNICEF estimates that around 200 million girls and women in **30 countries**[4] live with some form of FGM, though there are no global **estimates**. More than half of these live in 3 countries: Indonesia, Egypt and Ethiopia.

FGM is *also* **practiced in Africa, but not in a uniform and homogeneous way and** *not only* **in Sub-Saharan Africa**. For example, Egypt is one of the countries with the highest prevalence of women and girls with FGM, while it is not widespread in countries such as Algeria, Morocco, Tunisia, Botswana, South Africa and others. Furthermore, in some countries there are communities that practice FGM living alongside others who do not (e.g. Nigeria, Senegal, Kenya, etc.). The age, the way in which FGM is performed and the type of mutilation depend on various factors such as nationality, ethnicity or social group, the socio-economic situation of the family of origin and provenance from urban or rural areas.

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4 - According to the UNICEF report, Female Genital Mutilation/Cutting: A Global Concern, 2016, the list of countries includes: Saudi Arabia, Benin, Burkina Faso, Cameroon, Chad, Colombia, Ivory Coast, Egypt, Eritrea, Ethiopia, Gambia, Ghana, Djibouti, Jordan, Guinea, Guinea-Bissau, India, Indonesia, Iran, Iraq, Kenya, Liberia, Malaysia, Mali, Mauritania, Niger, Nigeria, Oman, Pakistan, Central African Republic, Democratic Republic of Congo, Senegal, Sierra Leone, Somalia, Sudan, Tanzania, Togo and Uganda. FGM is also widespread throughout the world through migrant communities.

In most countries for which information exists:

WHEN The age at which FGM is practiced has decreased in recent years; it is also performed on very small or newborn girls (in most cases under 5 years and then from 5 to 14 years).

HOW Most have "some flesh" removed (FGM types I and II), while infibulation is the least common form.

BY WHOM Mostly traditional practitioners.

WHY Social acceptance is the most frequently cited reason for supporting the continuation of the practice.

Those who practice FGM have articulated reasons that are consistent with the social environments in which they live. This applies to any practice on the body, anywhere and in any historical epoch. In fact, human beings enact a (de)construction of the physical body in different ways and in relation to the environment, to build a social body. **Understanding FGM means recognising that this practice represents a mode of (de)construction of the body** that is different from those in other societies, including ours (Fusaschi, 2015).

The reasons most frequently given to explain the perpetuation of the practice include, among others, religion, the rite of passage into adulthood, suitability for marriage, cleanliness, hygiene, alleged increase in female fertility, alleged increase in male sexual pleasure, purity and control of female sexuality (this is not an exhaustive list). A community can give one or more reasons to explain the continuance of the practice. Whatever the explicit reason, the important fact – and what unites the different reasons given – is that **the perpetuation of FGM derives from a set of elements rooted in a complex socio-cultural context, in which the perceived social advantages are commonly considered greater than the disadvantages that derive from not carrying them out**. Although FGM is linked to a different set of factors for each community, these factors also have common characteristics. In particular, **the practice** is perceived as a fundamental instrument of social differentiation with respect to biological sex: **it confers identity to women and girls and constructs the "social essence" of the female condition** (Pasquinelli, 2004). FGM **is therefore charged with a strong symbolic and social value**, which contributes to social cohesion and stability, defining a woman's identity and marking her place within the community. In this sense, this practice gives women the opportunity to recognise themselves and their role and to be admitted as members of their own community: for a woman or a girl, refusing the practice means condemning herself to exclusion and rejection[5]. FGM is therefore often experienced/accepted by women themselves as a positive practice which they hardly perceive as gender-based violence.

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5 - Taken from UEFGM online learning platform "Together to end Female Genital Mutilation" - Module 2 (www.uefgm.org).

1.4.3 Consequences of the practice on the psychophysical health of girls and women

The consequences of FGM on the health of girls and women vary greatly depending on the extent of the cutting practiced, the skill of the person who practices it, the conditions of hygiene and the health of the child or girl at the time of cutting.

The **short-term consequences** include:

- serious infection due to low hygiene, and severe pain that can cause *shock*
- tetanus
- urinary retention
- genital ulcers
- damage to adjacent tissue
- severe bleeding and infections that can lead to death

The **medium and long-term consequences** include:

- complications at the time of delivery (e.g. obstetric fistula, need to resort to caesarean section, tearing, etc.)
- menstrual problems
- painful sexual intercourse
- hepatitis B and C
- HIV/AIDS
- keloid
- infertility
- repetition of the practice, in case of non-healing
- psychological problems, including post-traumatic stress disorder and depression

Women are often not aware that the health or psychological problems they develop can be linked to FGM, and therefore do not report them as such.

1.4.4 FGM as an act of persecution

FGM is internationally recognised as a form of gender-based violence that can - if referable to the female asylum seeker - constitute an act of persecution both under the **1951 Geneva Convention** on the Status of Refugees intended by the United Nations and the **European Directives relating to asylum** on qualification, reception procedures and conditions.

The Council of Europe Convention on preventing and combatting violence against women and domestic violence, known as the **Istanbul Convention, is the first treaty to recognise the existence of FGM in Europe and the need to address it in a systematic way** (Art. 38). It requires states to increase preventive measures by addressing communities where the practice is widespread, professionals and public opinion. It also commits the signatories, to ensure that **violence against women based on gender**, including female genital mutilation and forced marriage, **can be recognised as a form of persecution** under Art. 1, letter. A, par. 2 of the 1951 Convention relating to the status of refugees, and as a form of serious injury that warrants subsidiary protection.

✓ **Key messages for the reception of girls and women with or at risk of FGM**

- **Enquire:** the age at which the girl was subjected to FGM, the way in which it was performed and the type of mutilation depend on various factors such as nationality, ethnicity or the social group to which they belong, the socio-economic situation of the family of origin and their provenance from rural or urban areas. It is therefore essential to enquire and to use information on the origin of the woman as a first indicator for establishing SGBV, **without taking anything for granted**. In fact, nationality is only one of the parameters while, for some countries, ethnicity may be more relevant (e.g. Nigeria, Senegal, etc.).

- **Networking:** consulting other professionals who may be in contact with girls at risk and with women with FGM. Find the referral centre, service, professional or association with specific experience closest to your area.

Interviewing woman

- Pay attention to language used: choose words carefully and, if possible, use a linguistic-cultural mediator; be careful to use the term used by the woman herself to define FGM (the term "mutilation" could be a source of misunderstanding and/or discouragement to speak).

- When possible, use a secluded, protected place to talk about it and dedicate an appropriate time to the interview.

- Listen to the woman without judging or being shocked by what she says.

If the support worker's profession and degree of preparation allow it and the environment is suitable for addressing the problem and providing an extended response:

- ask the woman or girl if she comes from a community where **body modifications** such as mutilation are practiced and if they have experienced it, asking the same about any girls accompanying her

- refer to the appropriate service for medical examination, awareness and protection

- inform the woman about her rights and about the possibility of receiving international protection both for her and for any daughters.

THE ONLINE PLATFORM **WWW.UEFGM.ORG**

1. A **course in Italian** on FGM with different pathways that give **specific and practical information and instructions**. There are six different pathways: health, asylum, legal/judicial and law enforcement, education, social services and child protection, media.

2. **11 factsheets** on the situation in **specific countries** (including Italy) with respect to FGM. The "MGF: la situazione in Italia" factsheet includes practical instructions on **referral within the region**, the legal context, the political framework and best practices.

3. The opportunity to **contact other professionals through a forum** and to view online training sessions.

All content is free.
It is necessary to register to access the course and the forum.

ACTIVITIES

CONTENT: this module explores and examines the issue of **SGBV**. The aim is to encourage a shared understanding of the topic, the meaning of *sex* and *gender*, and the impact of sociocultural expectations. Secondly, it offers an in-depth look at a particular form of SGBV: **female genital mutilation (FGM).**

OVERALL DURATION: 8 hours

PROGRAMME

9.00 - 9.45	Introduction to the course programme. Participants introduce themselves. Expectations of participants.
9.45 - 10.30	Workshop activity.
10.30 - 11.00	The most difficult forms of sexual and gender-based violence to bring to light. Risk factors and cultural facets of violence.
11.00 - 11.15	Coffee break.

11.15 - 11.45	Workshop activity.
11.45 - 13.00	The impact of SGBV on men, women, LGBTQI people and minors.
13.00 - 14.00	Lunch break.
14.00 - 16.15	An example of SGBV: female genital mutilation. Workshop activities.
16.15 - 16.45	FGM: what can be done?
16.45 - 17.30	Wrap-up.

Activity 1

"Sexual and gender-based violence (SGBV)"

Aim: to introduce a hands-on approach that can be used to identify and verify the topic of the course (i.e. SGBV) as a group.

Expected time: 10 minutes

Equipment: whiteboard or flip chart, markers

Method: brainstorming

Process: remember that in a brainstorming session
- everyone is free to express their thoughts
- there are no wrong answers
- personal opinions must not be criticised

Referencing the topic of SGBV, ask participants to name all the forms of gender-based violence of which they are aware, writing each one down on the flip chart. Once this is done, ask them if they think the resulting picture is complete.

Expected results: to verify the class's knowledge of SGBV using a hands-on learning approach and to encourage them to analyse the topic critically.

Activity 2

"Man and Woman"

Aim: to establish definitions of "sex" and "gender" as a group sharing exercise using free word association, starting from the terms "woman" and "man".

Expected time: 35/40 minutes

Equipment: flip chart or whiteboard, thick markers in three different colours (one for each column drawn)

Method: brainstorming

Process: draw three columns on a large sheet or on the whiteboard, naming the first column "woman" and the third column "man". The second (central) column should be left empty.

Invite participants to say whatever comes to mind when they think of a woman/girl, i.e. to identify the personality traits, skills and roles which are often associated with women and which can include the prevalent stereotypes in their respective communities or their own personal opinions. They should then do the same for men. The main aim is to highlight not only biological aspects relating to the two sexes (e.g. vagina, penis, menopause, etc.) but also personality traits and/or cultural expectations (e.g. strength, kindness, sensitivity, etc.).

After enough ideas have emerged, switch the titles of the first and third columns: cross out the word "woman" in the first column and replace it with "man"; cross out the word "man" in the third column and replace it with "woman". Go through the list word by word and ask participants which of the adjectives attributed to women are interchangeable and can therefore also be attributed to men and, vice versa, which of those attributed to men are interchangeable and can be attributed to women.

Write down the attributes and adjectives that **are not interchangeable** in the central column. Once you have finished discussing the words identified, ask the group: "which are the only terms that are not interchangeable?".

N.B. Only the biological attributes, i.e. the sex-based characteristics, **are not interchangeable**. These should be written down and placed in the central column.

Once you have finished writing column 2 (the central column), ask the group: "How can we define this list? What can we call it?". The aim is to get the participants to recognise that the words in this column refer to biological characteristics and therefore to SEX, while the words left in columns 1 and 3 refer to GENDER. Write the word "sex" at the top of column 2 (the central column).

When carrying out this activity, it is crucial that all the words written in the first and third columns **are discussed one at a time**. In doing so, the trainer gives the group time to discuss and become aware of the emerging (cultural) gender stereotypes, asking each time: "could this word also refer to a man/woman?". It is important to underline that participants are free to debate certain words at this stage, since different meanings can be attributed to most characteristics that are based on gender and on different types of sexuality. In addition to clearly distinguishing between the concepts of "sex" and "gender" as a group, this exercise also allows you **to address the topic of different types of sexual orientation**.

It is important to distinguish sexual orientation from gender and to provide simple definitions with regard to sexual orientation. In addition, it should also be emphasised that we need to go beyond a simple binary view of sex (male and female) and gender (male and female) and to be aware that there are many intermediate conditions (currently over 50, e.g. Klinefelter syndrome, forms of hermaphroditism, forms in which a person's phenotype and genotype do not match, etc.).

When wrapping up, explain that:

- the words written and left in the "MAN" and "WOMAN" columns refer to GENDER
- SEX is linked to biological aspects (genes, hormones, organs, etc.), while gender refers to social/cultural ideas, most notably the *roles* that women and men are *expected* to play in society. The characteristics attributed to each gender can vary depending on the culture and society in question and can change over time and space
- people often confuse *sex* and *gender*, failing to distinguish between the two concepts, and stereotypical ideas about male and female traits can be harmful because they limit or reinforce the development of a whole range of our potential capabilities as human beings. When people let stereotypes guide their behaviour, it prevents them from determining their own interests or skills, e.g. by discouraging men from participating in "women's work" (such as childcare) and preventing women from choosing traditionally "male" roles (such as engineering and sport). Moreover, **a more rigid definition of gender roles leads to a greater risk of sexual and gender-based violence (SGBV)**. This does not mean that showing qualities typically associated with one's own sex is a bad thing, but rather that it is important for everyone to be able to freely choose what to do and what to be.

At the end of the exercise, provide the following definitions of "SEX" and "GENDER" to the whole group:

> The word SEX refers to the physiological attributes that identify a person as male or female:
>
> - type of genes and sex organs (penis, testicles, vagina, uterus, breasts)
> - type of predominant hormones circulating in the body (oestrogen, testosterone)
> - ability to produce sperm or eggs
> - ability to give birth and breastfeed
>
> GENDER refers to widely shared expectations (norms) relating to men and women. These include "typically" feminine or masculine traits and skills and commonly shared expectations of how men and women should behave in different situations. People learn these ideas and expectations from families, friends, religious and cultural institutions, schools, workplaces, advertising and the media.
> They reflect and influence the different roles, social status and political and economic power that men and women have in society.
>
> Source: adapted from "Gender or Sex: Who Cares?", Ipas, 2001 - available online (https://www.k4health.org/toolkits/igwg-gender/gender-or-sex-who-cares-skills-building-resource-pack-gender-and-reproductive)

Expected results:

- noting the differences between "sex" and "gender" and recognising the roles shaped by individual societies and cultures

- prompting participants to reflect on social expectations and stereotypes linked to gender
- encouraging participants to share their personal experiences
- understanding how gender affects personal experiences and ways of thinking
- focusing attention on the main biases and misleading or limiting beliefs about sex and gender
- introducing the concept of gender-based violence and beginning to reflect on what really constitutes violence (physical, sexual or emotional) and on how some forms of violence are so deeply rooted in certain cultures that they are no longer recognisable as such.

Activity 3

"Violence in your community"

N.B. Trainers should decide whether to carry out the following activity based on the time available.

Expected time: 30/40 minutes

Equipment: posters, markers

Method: working in small groups

Process: divide the class into small groups of 3/4/5 people and ask each group to work on the following topics (you can ask each group to develop all of them or just one depending on the time available): "Gender-based violence in your community: the most frequent forms of violence, causes, facilitating factors, consequences".
A spokesperson for each group then presents their results to the whole class, and everyone discusses the issues raised.

Expected results: to acquire a shared understanding of the topic.

Activity 4

"FGM: what is it?"

Methodological notes for trainer training, to be read before teaching the module:

1. In order to teach this module, trainers **must** follow the **UEFGM online course**, particularly **Modules 1 and 2**. We strongly recommend that you continue on with the specific modules, choosing the pathway that most closely aligns with your profession and interests. The course is free and can be accessed at **www.uefgm.org**.

2. During the training course, it is possible that stereotypes, prejudices and consequently disparaging and/or highly stereotypical comments may emerge with respect to communities that practise FGM. It is important to highlight that these prejudices can interfere in trainers' work when it comes to reception and support services; you should also make it clear that the aim of acknowledging the complexity of a phenomenon like FGM is not to justify it, but rather to understand it so as to be best equipped to tackle it. It is also important to use non-judgemental language and not to show shocking images so as not to reinforce stereotypes and distract participants' attention and focus away from the matter at hand (see Module 14 of uefgm.org, particularly sections 2 and 3).

A "FGM: what is it about?"

Aim: to learn about the issue of FGM and to put the phenomenon into context.

Expected time: 45 minutes

Equipment: flip chart and marker, projector and PowerPoint presentation (optional)

Method: brainstorming

Process:

1. have the participants sit in a circle. Remember that in a brainstorming session:
   - everyone is free to express their thoughts
   - there are no wrong answers
   - personal opinions must not be criticised

2. ask participants what they know about FGM (definition, consequences, places where it is carried out, number of women affected, age at which the operation is per-formed) and write the answers on the flip chart, combining similar responses. Using these answers as a starting point, provide precise information on the phenomenon, possibly with the aid of a PowerPoint presentation, referring to the insights on "why it is performed" found in the next exercise.

   Example
   Participants might say that "FGM is practised in Africa", and the trainer could clarify this statement by explaining that: Africa is *one place* where it is practised, but not in all African countries; in the countries where it is practised, there is significant varia-tion between regions and ethnic groups; it is also practised in other continents (Asia, Europe, etc.); one of the top three countries in terms of the number of women and girls affected is Indonesia, which is not in Africa. The trainer can project the world map showing the prevalence of FGM and explain how these figures are calculated.

3. sum up the basic information on "who, how, where, when" (see the theoretical mod-ule for this toolkit and Module 1 of uefgm.org).

Expected results: to learn about the definition and the global extent of the phenom-enon and about "when", "how" and "on whom" FGM is practised. To be aware that the practice is internationally recognised as a violation of women's human rights.

B "De Retour au pays"

Aim: to understand FGM as

- a social norm deeply rooted in the societies in which it is practised; the decision to practise FGM is influenced by various people from the individual's "extended family" and community, including relatives who migrate
- a milestone in constructing gender identity
- a practice linked to power imbalances between men and women and the role of women in society
- a form of gender-based violence that is not perceived and recognised as such by the communities in which it is practised (and often by the women in question themselves).

Expected time: 60 minutes

Equipment: video projector and speakers, *"De Retour au Pays"* video with subtitles in the course language, PowerPoint with key information, flip chart and marker. The video is available on the *AIDOS Donne per lo sviluppo* YouTube channel: "DE RETOUR AU PAYS" [SUB FRA, ENG, ITA, SPA]

Method: active discussion

Process:

1. Watch the video. Inform participants that it was made in 2017 during a training workshop held in Ouagadougou (Burkina Faso) for young African men and women living in Africa and Europe. The workshop was run by AIDOS as part of the project "Building bridges between Africa and Europe to put an end to FGM", supported by the UNFPA-UNICEF Joint Programme on Female Genital Mutilation.

2. Have the participants sit in a circle.

3. Invite participants to have an active and hands-on discussion about the causes of FGM and the decision-making process behind the practice, prompted by questions about the video. Write the main answers on the flip chart, referring to the tables "Les blancs l'ont changée" and "Who thinks what?" (below).

Here are some possible questions to guide the discussion after having watched the video:

• Why does the aunt insist on having the girl cut? What reasons does she give to explain why this is important?

• Why does the mother not openly object despite being against it?

• What do the other characters think? How do they express their opinions? (If the participants do not point it out, emphasise that almost all the characters express their personal opinions in front of the camera and not in their dialogues with other people, highlighting the fact that FGM is a social norm about which it is difficult to express an opinion openly).

• What role do migrants play, and what characteristics are attributed to life in Africa and in Europe? How is migration viewed?

• What role do men play?

TABLE "LES BLANCS L'ONT CHANGÉE"

References to Africa	References to Europe
Immense joy in rediscovering this African warmth	They don't care about you
Here, human warmth reigns	No one's interested in what you do
	I feared that my brother had lost touch with our customs
	The whites have changed her

TABLE "WHO THINKS WHAT?"

	Abdoulaye (father)	Mariam (paternal aunt)	Aminata (mother)	Aissata (paternal grandmother)	Traditional village chief
What does Mariam think about…?	She doesn't know what his opinion on FGM is, but fears he might be against it. *I feared that my brother had lost touch with our customs.*		She doesn't know but assumes that Aminata approves, when in reality she's against it. *I wanted to convince her; her reaction surprised and saddened me.*	She's sure that Aissata approves, whereas she is actually against it. *I was sure Mum would help me convince Aminata.*	
What does Aminata think about…?	She doesn't know but suspects that he might be in favour of it and aware of Aunt Mariam's plans. *A doubt crept into my mind: what if all this was planned with my husband?*	She doesn't know. *I had no idea what her intentions were.*		She doesn't know, but perhaps imagines that Aissata approves. *I was very relieved to hear my mother-in-law object to it.*	She doesn't know. *I was very worried because I didn't know what my husband or the traditional chief thought.*
What does Abdoulaye think about…?		He doesn't even remotely suspect that his sister is planning to have the child cut. *When I saw my mother, my sister and my wife leave the house, I thought something was going on, but I honestly never imagined that they were talking about my daughter's excision.*	They've never talked about it, but he's surprised that his wife could think he was in favour of it. *Me? Have my daughter cut?! How could she think that about me if we've never even talked about it?*		
What does Aissata think about…?	We don't know what her feeling was before finding out the other characters' views.				She knows that he's against it, which is why she decides to involve him. *So I took the whole family to meet the traditional chief.*

Expected results: to learn that the root causes of the phenomenon are interdependent and cannot be separated from one another (for example, some reasons cited in support of the practice are tradition, the desirability of the young woman as a wife, cleanliness, beauty, religion, etc.), and to understand that FGM is a social norm and a gender issue (see Module 2 of uefgm.org).

In particular, it is important to reach **at least** the following conclusions:

- FGM is a **social norm** considered by those who practice it, or who come from communities that practice it, as a mandatory rule (on a par with legal and/or religious norms, if not more imperative). **Mutual expectations** can affect the behaviour of community members and even have more of an influence than personal convictions if the latter deviate from the assumed general consensus.

- FGM is a **subject** that is rarely discussed openly.

- FGM is a **pre-condition for becoming a woman**; moreover, it acts as a way to control women's sexuality. In particular, it often plays a role in a woman's desirability as a wife in contexts where marriage is seen as an essential aspect of being a respectable woman with a respectable family. It can even be a requirement in ensuring that a woman receives sustenance and security.

- In many contexts, FGM is a tradition perpetuated by women. Men are often excluded from organising the practice, even though women are subjected to FGM for men's benefit. **Although FGM is seemingly "a matter for women"**, men's position on the practice actually plays a fundamental role in perpetuating it. Conversely, it can also be decisive in encouraging a community to abandon the practice.

- Practising FGM **is generally not an individual choice**: decisions regarding FGM involve not only the family nucleus consisting of mother/father/children, but also the entire extended family. The mother's opinion does not necessarily count for more than the view of the girl's grandmother or aunt (migrant women and men follow specific family frameworks and are influenced by their communities in their home countries among other things).

C **"FGM: what can be done?"**

Aim: to learn how to receive, advise and support women and girls who have experienced or are at risk of FGM.

Expected time: 60 minutes

Equipment: sheets with descriptions of the characters to be played

Method: role-playing

Process:

1. ask two volunteers (including at least one woman) to take part in a role-playing game

2. give each one a brief description of the character they are playing and give them five minutes to read it and prepare

3. the volunteers play the characters while the rest of the group observes and listens

4. ask the group (including the volunteers) to comment on the scene that has just been acted out. Ask them to identify attitudes, phrases and behaviours from both

characters that they found positive and effective, and other aspects that could be improved upon (and how)

5. moderate the discussion by emphasising the most relevant comments and highlighting other important points that may not have emerged.

Situation 1

A young woman talking to a support worker in a reception centre

Migrant woman • You're a young woman who has recently arrived in Italy, Malta or Spain and is staying in a reception centre. You come from a community where FGM is practised. You yourself were subjected to the practice, and you think that this is also the norm in your new country. You have just given birth to a baby girl whose father died during the journey. Since there are no women from your own community who could help you organise the procedure at the reception centre, you decide to contact a support worker who you feel comfortable asking for information on the matter.

Support worker • You work at a reception centre for women with children. A woman staying at the centre asks where she can have her baby daughter "circumcised".

Situation 2

Gynaecological exam at a public facility

Migrant woman • You're a young woman who has recently arrived in (Italy, Malta or Spain). You were infibulated as a child; this is the norm for women in your home country. You are about to visit the gynaecologist in your new country for the first time, and you are quite tense because you know that the practice is not widespread there. You are aware that it is dangerous and is prohibited in many countries, including your own and the one where you live now. You had to leave your children, including a girl, in your home country. You know that your mother-in-law will arrange to have her infibulated. You would like to bring her to (Italy, Spain or Malta), but you don't know how to go about it.

Gynaecologist • You're a gynaecologist. A young woman who has recently arrived in (Italy, Malta or Spain) is referred to you with very strong pains that sometimes leave her bedridden. The woman doesn't speak any language you know. When you examine her, you notice that she has been infibulated.

Expected results:

• To get practical indications on how to tackle the issue of FGM with people affected and how to care for women living with it (see the theoretical module for this toolkit, particularly "Key messages for the reception of girls and women who have experienced or are at risk of FGM", and Module 9 of uefgm.org, particularly Section 3: "Guiding principles for social workers").

• To understand that we need to adopt a respectful attitude and use language in a culturally sensitive manner.

• To understand that although the subject is taboo, it is important to tackle it and provide women with all the information: the practice has harmful health effects, is prohibited by law, can be grounds for claiming asylum, etc.

• To learn that support workers play a fundamental role in terms of supporting women who have experienced FGM (whether they are taken in or referred to other facilities) and protecting girls who are at risk.

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Traumatic Experiences and their Impact on the Health of SGBV Survivors

by

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THEORY

2.1 THE TRAUMAS OF FORCED MIGRATION AND THEIR EFFECTS ON MENTAL HEALTH

The **trauma of migration** is defined by **the set of traumatic conditions present in the context of forced migration**, which affect both the living conditions that induce migration itself and those in the host country which can perpetuate the traumatisation process.

The condition of forced migrants is marked by numerous **vulnerabilities**. The first element to consider is the coercion and/or danger that induces a need for escape for survival reasons, from which the migratory process originates. It is therefore not a choice, but a necessary conclusion determined by the prevailing risks in the country of origin, such as armed conflict, famine, religious persecution, politics and gender among others.

Often, forced migrants experience severe and repeated forms of intentional violence, which may include torture. They suffer significant material deprivation and are unable to satisfy primary needs related to survival or health, they witness violence and have lost loved ones, they lose their homes, jobs and home communities. They are then compelled to abandon their home environment and suffer cultural isolation, they are marked by the impossibility of returning to their country and they fear for family members left at home.

In the majority of cases, the suffering induced by the traumatogenic condition suffered in the country of origin is compounded by particularly harsh conditions in the new host country. This is defined as **difficult post-migration living conditions** (PMLD), i.e. conditions of difficulty and inadequacy that characterise life in the host country, and that have the power to amplify previous painful experiences, compounding past traumatic experiences.

Post-migration difficulties include, for example, **lack of knowledge of the system in the host country, slow procedures for granting asylum, the constant fear of repatriation and the difficult living conditions in reception centres**. Daily life in reception centres can be very hard, mainly due to the waiting conditions imposed on the forced migrants, but also due to the lack of structured work activities that would create the sense of a planned integration into the new social fabric, which could reduce the time they have to think about their situations, or to recall the things they have experienced.

Living space in the reception centres is generally shared, often with unknown people who speak other languages and have different religions. Therefore they have few opportunities to experiment with achieving common aims and difficulties

also arise in building relationships of trust. Often, the residences are located in the city suburbs, far from the heart of the city, which exacerbates isolation, marginalisation and discrimination. In addition, they are subjected to restrictions imposed by the reception system, with few possibilities of accessing educational and labour systems. Failure to access the world of work has important psychological and social implications with respect to self-perception as it impedes the possibility, of developing relationships with others, economic independence and helping loved ones far away as well as precluding a sense of autonomy, the experience of achieving objectives and a feeling of being useful.

All this perpetuates a condition of vulnerability to mental health issues, which is already a significant risk. **The incidence of certain life problems in the host country can therefore lead to post-migration trauma**.

So-called **transculturation stress refers to the set of phenomena that affect migrants in their passage from one country to another** and, in particular, **the set of *stress factors* that accompany settling in a new social environment**. Together with the recurrence of traumatic events that compound the previous experience of suffering, migration itself contributes to forms of re-victimisation and re-traumatisation.

Specific **risks** that affect the ability to **adapt** include:

- a **de-culturing environment**, i.e. an environment that is different from home and produces a crisis of identity

- **social isolation**, i.e. the lack of emotional relationships and the imposition of close cohabitation with people who are very distant as regards language, culture, customs and habits

- **exposure to triggering stimuli** such as closed, rigid housing conditions that recall places of detention; the need to continuously repeat and then relive and confront again their own story as if it were in an interrogation centre; contact with institutions and representatives in uniform who can remind of past experiences, all of this reinforcing the feeling of impotence.

One can therefore speak of a real **migration trauma that is still in progress (*ongoing*)**, i.e. not concluded, which has important clinical implications in terms of treatment. **In fact, when the trauma is ongoing, a sense of security – a prerequisite for a process of emotional stabilisation – is missing and it therefore becomes difficult to treat the post-traumatic conditions therapeutically**.

2.2 PSYCHOLOGICAL SYMPTOMS OF SGBV AND SIMPLE AND COMPLEX POST-TRAUMATIC STRESS DISORDER (PTSD)

Recent research has generally shown that people exposed to severe trauma at different stages of the migratory process are more susceptible to mental disorders than both the population of the destination country and also economic migrants. In the process of diagnosing SGBV survivors amongst applicants for international

protection, the most frequently found psychopathological syndrome is **post-trau-matic stress disorder (PTSD)**, which often manifests itself in association with other psychological disorders, with symptoms of depression, anxiety, somatoform and dissociative disorders.

The etiology of PTSD can be traced back to particularly stressful, severe and repeated traumatic events that constitute a threat to the integrity of the person, which alter the normal psychological functioning of the individual and trigger different psychological symptoms. Its **incidence is very high among forced migrants, although there is evidence of a certain variability** depending on the individual characteristics and, even more, the specific problems encountered in the destination country. According to the literature, in the case of migrants who have experienced traumatic conditions and therefore exhibit increased psychological vulnerability, any variability in the development of the syndrome is mainly due to the quality of the **reception conditions** and the **pathways to integration in the post-migration phase**. In fact, research has shown that where these conditions are good and the risk of expulsion from the country of asylum is low, the prevalence of the disorder and the psychosocial issues related are reduced. Conversely, the prevalence increases when these conditions are worse, especially when they recall detention conditions both in the transit countries and in the host countries, thus confirming the severity of the impact of the experiences of secondary retraumatisation.

2.2.1 Diagnostic criteria of post-traumatic stress disorder (PTSD)

According to the **Diagnostic and Statistical Manual of Mental Disorders - 5th edition (DSM-5)**, there is no effective distinction between directly experienced events and events that have been witnessed, or of which one becomes aware, with respect to their traumatogenic potential.

These include military combat, violent personal aggression (including sexual violence), kidnapping, being taken hostage, terrorist attack, torture, imprisonment (as a prisoner of war or in a concentration camp), the death of others (especially if unexpected), the threat of death and accidents. For children, traumatic events of a sexual nature involve sexual experiences that are inappropriate from the point of view of development, even without actual or threatened violence or injury having occurred.

Traumatic events can be:

- events experienced by the person **directly**
- events experienced by the person as a **witness**
- events that the person **becomes aware of**.

Persons exposed to traumatic events such as SGBV may develop long-lasting, intrusive symptoms of avoidance and emotional hyperarousal that fall within the framework of post-traumatic stress disorder (PTSD). This disorder can manifest itself in severe or chronic form if the stressful event is prolonged, repeated and/or

intentional in nature, i.e. conceived and carried out by another human being, as in the case of torture or rape.

According to the nosographic classification in **the DSM-5, the criteria for diagnosing PTSD include**[6]:

1. Exposure to a traumatic event in which:

- the person has experienced, assisted in, or faced one or more events that involve death, the threat of death, serious injury or a threat to one's physical integrity or that of others
- the person's response included intense fear, feelings of impotence or horror. In children, this can be expressed through disorganised or agitated behaviour.

2. The presence of intrusive symptoms due to which the traumatic event may be relived in one or more of the following ways:

- unpleasant recurring and intrusive memories of the event, which include images, thoughts or perceptions. In young children, repetitive games in which the trauma is relived
- unpleasant recurring dreams of the event. Children may experience frightening dreams without any recognisable content
- acting or feeling that the traumatic event is resurfacing, including the feeling of reliving the experience, hallucinations, dissociative flashback episodes. For small children, the repetitive representations may occur during the game
- intense psychological distress when exposed to internal or external triggers that symbolise, resemble or recall some aspect of the traumatic event
- physiological reactivity or exposure to internal or external triggers that symbolise or resemble some aspect of the traumatic event.

3. Presence of symptoms of avoidance of the stimuli associated with the trauma and **general reactivity attenuation** (not present before the trauma) such as:

- attempts to avoid thoughts, feelings or conversations associated with the trauma
- attempts to avoid activities, places, or people that evoke memories of the trauma
- inability to recall an important aspect of the trauma
- marked reduction in interest or participation in significant activities
- feelings of detachment or estrangement towards others
- reduced affectivity (e.g. inability to experience feelings of love)
- feelings of diminished future perspectives (for example, expecting not to have a career, a marriage or children, or a normal life span).

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6 - Unless otherwise specified, the following criteria refer to adults, adolescents and children over the age of 6 years. For children under 6, the criteria are shown separately.

4. **Persistent symptoms of emotional hyperarousal** (not present before the trauma), such as:

- difficulty falling asleep or sleeping
- irritability or outbursts of anger
- difficulty concentrating
- hyper-vigilance
- exaggerated fear responses.

2.2.2 The origins of complex post-traumatic stress disorder (Complex PTSD)

The concept was first formulated in 1992 by the American psychiatrist Judith Herman for subjects who, undergoing severe and repeated traumatization, develop a particularly severe symptomatic picture. Already in the 1980s, an increasing number of studies showed that the phenomenological manifestations of those exposed to chronic and repeated trauma, especially of an interpersonal nature, are different from those who experience a single trauma event (Herman, 1992, 1997; van der Kolk, 2005). To the classical symptoms of PTSD we can add profound alterations in the way individuals perceive themselves, the world, relationships with others and the way they work and interact with others.

It is thought that the syndrome originates from **serious, prolonged and repeated traumas that recur over time, especially interpersonal traumas**, typical examples of which include imprisonment and torture, repeated child sexual abuse, severe parental neglect and domestic violence. The relational and intentional character of this type of violence makes these experiences profoundly different from other types of trauma.

From the symptomatological point of view, since **an extreme traumatic experience is not generally elaborated on the verbal and symbolic level**, it is relived through intrusive symptoms such as continuous *flashbacks*, nightmares, daily headaches, recurrent somatic pain, sudden states of despair and intrusive thoughts related to the trauma.

However, starting from clinical experience with adult patients in chronic abuse settings, Herman proposes the concept of complex trauma to better describe a further symptomatological constellation that characterises victims/survivors of recurring trauma. In **complex trauma**, dysfunctional symptoms affect the person's deeper and more structural aspects and include: a) dysregulation of affections, b) changes in attention and disturbances in consciousness; c) personality disorders; d) difficulties in relationships with others; e) vulnerability to revictimisation; f) somatisation.

More precisely, extreme traumatic events have the power to affect the person's sense of identity, to interrupt the sense of continuity of the experience and to alter the perception of the self. The following symptoms can therefore be consid-

ered: **dissociation, emotional instability, emotional dysregulation, disturbances of identity and personal boundaries**. These result in: painful experiences, conduct harmful to oneself and others, difficulty in modulating anger and the emotions in general, chronic involvement in dysfunctional and frustrating relationships, particularly severe intrusive symptoms, self-injurious behaviour, and risky impulsive and/or compulsive sexual behaviour. Some studies have more specifically assessed the association between torture and some typical manifestations of complex PTSD, showing a correlation between torture and the onset of dissociative disorders, psychotic symptoms and alterations in emotional regulation with increased suicidal risk.

2.2.3 Complex PTSD and somatisation disorders

The migrant population is heterogeneous and differs in many ways. There are differences in migration history, reason for migration (economic, political, religious, family, etc.), social, cultural and economic conditions, status (some may have a regular residence permit, others are asylum seekers, others are still irregular) and possibility of access to the national health system. However, one of the common aspects amongst this population of asylum seekers or refugees is the high incidence of experiences of extreme interpersonal violence or torture, often of a sexual nature, associated with the risk of developing **complex post-traumatic stress disorder**.

In addition to severe sleep disorders and dissociative symptoms with depersonalisation crises, in clinical practice there is a particular association between traumatic experiences of violence and chronic pain, particularly intense headaches and widespread osteo-articular and/or digestive pain that has no organic cause. In the literature, these are referred to as *unexplained pain* because they are not clear from the diagnostic and organic point of view, and are equally not very responsive to analgesic therapies. In these cases, a complex post-traumatic psychopathological picture appears more appropriate.

In some cases, this symptomatology is not observable in the form of psychological distress, and instead highlights high **somatisation rates, i.e. presence of somatic symptoms** that can be considered valid indicators of an undiscovered post-traumatic symptomatology. Somatisation is often related to a reduced capacity for reflection on one's internal states (called metacognitive capacity in the psychological literature), typical of situations of chronic neglect and high traumatisation. However, in many cultures, the body becomes a vehicle for the expression of emotional distress. In fact, it has been seen that some populations with a past of chronic deprivation from extremely poor countries in sub-Saharan Africa tend to carry psychic discomfort through the body. In the transcultural services of general medicine aimed at migrants, these patients often bring somatic symptoms to the attention of medical personnel that are sometimes incorrectly diagnosed as physical problems, although they can be traced back to post-traumatic symptomatology. Some research shows the impact of serious pre-migratory traumas on the increase in somatisation.

2.3 SIGNS AND INDICATORS OF SGBV

The problems typically associated with SGBV are very varied and often concern the psychological and behavioural aspects of the person; sometimes it is about thoughts, experiences or behaviours that function as defences against trauma. These aspects are often **indicators of SGBV for those who come into contact with survivors**. In particular, they include:

- **low self-esteem:** frequent in survivors, this is associated with the feeling of not being truly worthy of love

- **changes in the sexual sphere:** sexual dysfunctions generally emerge on the level of desire and behaviour, and confusion is perceived with respect to sexual orientation and gender identity. The most typical sexual problems include: difficulty in or impossibility of achieving orgasms (or anorgasmia), pain during intercourse (vaginismus), difficulty in letting go, pervasive absence of pleasurable sensation or presence of unpleasant sensations when experiencing sexual pleasure, a sense of excessive guilt, of inadequacy, a feeling of being unworthy or "dirty", a lack of desire and arousal disturbances

- **sexual promiscuity:** the possibility of promiscuous sexual behaviour in abused persons, and the tendency to be abused again (revictimisation) is recognised. There are, however, different theories about the pathogenesis of such manifestations: on the one hand, sexual promiscuity is interpreted as difficulty in separating affection from sex, on the other, it develops as a result of an extremely low opinion of oneself, and hence the tendency to promiscuous and unconsidered behaviour, i.e. to abuse one's own body

- **anxiety and depression:** these are very frequent, and can arise in childhood, becoming part of the individual so as to make victims believe that they cannot feel otherwise

- **somatisation and abuse:** in addition to eating disorders, alcohol abuse, drugs and narcotics, psychosomatic problems are relatively frequent among victims of sexual abuse

- **complicated interpersonal relationships:** this includes distrust, sexual difficulties, difficulties in managing anger, closeness and distance to other people that affect the management of interpersonal relationships.

2.3.1 The most typical reactions of male SGBV survivors

The stigma that SGBV survivors face is very strong and is generally linked to the theme of **sexual identity** and the **impairment of masculinity due to the experience of humiliation**. Survivors may experience confusion about sexual orientation, identity, and may also participate in acts of violence. This can depend on some physiological factors such as the occurrence of an erection and/or involuntary ejaculation of the survivor during sexual abuse. This event can be misinterpreted by the abuser, the judicial system, the medical community and especially by the person himself, and considered as a sign of consent to the coercive act or acceptance of the violent experience.

In fact, numerous studies on male sexual physiology and many accounts of survivors of sexual violence suggest that **such reactions have physiological roots and can occur through mechanical stimulation, even in non-consensual situations** – for example, the prostate being internally stimulated in anal intercourse. Similarly, other studies have shown that men can have an erection or ejaculate **even in extreme stress situations**. Understanding these physical responses is of immense importance to men who have been sexually abused **to avoid forms of self-blame**, to foster a process of **self-acceptance**, to investigate the reason for certain psycho-physiological responses and to **receive the psychological and/or legal support that they need**.

Shame is the dominant feeling among SGBV survivors, particularly survivors of sexual violence. The majority are deeply violated in their most intimate sphere, and ultimately consider themselves responsible for the violence suffered. They silently suffer the humiliation, derision and psychological blackmail of the perpetrator of violence, who may sometimes make use of video recordings of the abuse for this very purpose. The feeling of shame produces **strong feelings of inadequacy** and leads survivors to believe that their thoughts, emotions, behaviours and themselves in their entirety are deeply at fault.

The convictions below reinforce a **feeling of self-contempt**, the conviction of being an immoral, faulty, defective, bad, ugly, unlovable person. **In its greatest intensity, shame can lead to dissociation**. Since dominant culture usually defines heterosexuality as "normal" and homosexuality as "deviance", many LGBTI people grow up with internalised feelings of shame and experiences of inadequacy.

2.4 SURVIVOR DEFENCE MECHANISMS: DISSOCIATION

Dissociation is one of **the most frequent defence mechanisms** among survivors of sexual abuse and/or torture. It sometimes becomes necessary to face the physical suffering and emotional upheaval caused by abuse. **Often, dissociation becomes a means by which survivors protect themselves from the memory of the trauma suffered and from the shame connected to the abuse**.

The most widespread theories on its etiopathogenesis identify a close correlation between trauma and abuse, and consider **dissociation an attempt to control traumatic memories through detachment from them**. Faced with such situations of suffering and vulnerability, stress factors, sometimes even minimal, can worsen the symptoms and compromise psychological functioning, even in everyday activities.

The degree of dissociation varies along a **continuum** ranging from the mildest forms to the most severe. When configured in a symptomatic picture, it is possible to talk about **dissociative disorders** characterised by an **involuntary flight from reality** configured through a disconnection between thoughts, identity, consciousness and memory. This can affect people of all ages, races, ethnicities and socio-economic classes.

2.5 THE PROCESS OF *EMPOWERMENT*: INCREASING AWARENESS, SUPPORTING RESILIENCE AND AVOIDING RETRAUMATISATION

Only a minority of people forced to flee their country of origin and who survive forced migration seek psychological help in the host country. At the beginning, the process of requesting and granting international protection, the hearing before the Territorial Commission and the sourcing of documents take priority. **Reception or refusal of an asylum application can have a decisive impact on the psycho-pathological status of applicants**.

It has been seen that factors such as legal status, socio-economic opportunities, reception conditions, integration projects, the possibility to plan for a future, integration paths among other factors play a very important role in the development of psychological or physical disorders. They can act as **risk factors** with increased trauma exposure and vulnerability **status**. Or, on the contrary, if they work, they can act as **protective factors** and promote individual **resilience**, i.e. the ability for the survivor to modulate their responses, cope with traumatic events and positively reorganise their life.

As will be examined more closely in the next chapter, in interventions with traumatised persons, it is necessary to initially provide emotional stabilisation before contemplating the next step in processing the trauma. By **emotional stabilisation with respect to symptoms** we mean the **reduction of the most disturbing psychological and physical effects** – such as insomnia and repeated nightmares, dysphoric states, irritation, anger and impulsive crises – in order to achieve better regulation of emotional states and greater psychological and physiological stability. Apart from psychological and social support, this can be promoted by the use of medication or even breathing and relaxation techniques. However, it must be stressed that, for the purposes of emotional stabilisation, **the use of relaxation techniques that reduce arousal must be evaluated**. In fact, relaxation techniques can have the reverse effect and increase the state of alarm in those who have experienced interpersonal violence or victimisation. Therefore, the loss of control implicit in relaxation exercises can be perceived as very unpleasant and reactivate traumatic memories. However, the process of emotional stabilisation is often severely hampered by negative and uncertain living conditions. So, what can be done?

The therapeutic process is facilitated by interventions that allow **the patient's empowerment to be increased**, both through **work focused on the *here and now*** and work that respects the patient's experiences. With regard to the former, a **valid path of reception, information and referral to services** for the person and for their legal recognition is the most important part of the phase of emotional stabilisation that gives positive results. This includes information on language courses, rights, services and how to use them. With respect to the achieving emotional stabilisation, it is important to **respect the patient's time** and avoid forcing the story of the traumas suffered if the patient does not want to talk about them, allowing her/him to interrupt when she/he wants to, and if time allows. It is also important to support the person in their **examination of reality** with respect to the new

environment of the host nation, exploring their expectations to make them more adequate, congruous and balanced with respect to that environment.

In addition, specific training in **emotional modulation and creating a state of safety, while maintaining control over reactions and environment, is useful**. Practices such as *mindfulness* **or self-awareness techniques**, in which the person is asked to note, learn to observe and to tolerate their physical reactions, have therefore proved to be very useful, also because of the possibility they offer to consciously experience the transience of those reactions. **Increased awareness with respect to one's internal states** can be a valid preliminary tool for secure "re-visitation" of the past while on the contrary, avoidance increases the feeling of being overwhelmed by traumatic memories.

In the same way, the task of identifying and promoting the **person's resources** is very useful: those skills, abilities, objects, relationships that offer support to preserve and increase the sense of security and identity, that identify connection with and, vice versa, differentiation from others. Emotional stabilisation and the development of psychosocial resources go hand-in-hand as is shown through Levine's "pendulum technique": going back and forth from the past to the present to re-enter the window of emotional tolerance (D. Siegel).

The main tool to support *empowerment* and resilience is always the **interpersonal relationship**. For severely traumatised people, **the first ability to be restored is the basic ability to trust**, a capacity severely compromised in interpersonal trauma. As will be discussed in more detail in the next chapter, this can only happen if the support worker has an empathic attitude and authentic trust in the recipient's resources. The type of relationship established can either promote the development of resources or hinder it thereby amplifying the patient's vulnerability. If the support relationship is dysfunctional, it will risk retraumatisation. Offering and establishing a **sufficiently secure relationship** is essential in support work with people who are victims of multiple and prolonged trauma.

Another fundamental element is attention to the **body**. In this type of population, in fact, and in general in those suffering from complex PTSD, **somatic variations** represent the underlying theme of the whole process of change, the tangible demonstration of a transformation underway in the direction of improvement. The essence of the trauma, in fact, is the continuous perception of absolute impotence that is inscribed in the body. The path of overcoming this feeling of impotence is to help the person feel that they have actually survived.

2.6 BUILDING RELATIONSHIPS WITH SURVIVORS: PHYSIOLOGICAL, PSYCHOLOGICAL, CULTURAL AND RELIGIOUS ASPECTS

Regardless of cultural differences, **neurophysiological correlations common to different origins and traumatic experiences** have been identified and this indicates a red thread to follow.

More precisely, these include:

- **cerebral disorganisation** with interruption of the connection to areas of the brain which preside over language, and consequent difficulty in narrating experience

- **hyperarousal of the amygdala**, a nucleus located deep in the subcortical areas of the brain (between the reptilian brain and the limbic brain) involved in fear, alarm states and memory

- **reduced activation of the prefrontal cortex**, with the consequent reduction of its modulation function of the sub-cortical systems involved in primary emotions (such as fear and anger).

It is precisely this disorganisation of the brain, typically post-traumatic, which makes the **traumatic memories fragmentary and often incoherent**, and therefore **also impedes the ability of survivors to successfully relate their stories**. Awareness of this is of fundamental importance, especially amongst the legal counsel and committee members at the hearing. To be able to relate traumatic experiences to an unknown person in logical form, the patient must develop sufficient capacity to regulate their emotions, control their impulses, engage in a therapeutic relationship, to have relative confidence and to develop at least a positive sense of self and of their own lives.

To modify post-traumatic reactions and integrate them so that normal operation is returned to cerebral function, it is necessary **to access the emotional brain and "repair" the alarm system**. It is therefore necessary to restore a balance in psycho-physiological arousal, in order not to be catapulted – by external stimuli (acting as *triggers*) outside the tolerance and normal functioning window – into a state of hyper-arousal or hypo-arousal (*arousal*) that develops a condition of extreme reactivity and disorganisation.

In contrast to traditional exposure therapies, it may be useful to spend less time on the "re-visitation" phase of the trauma, as it is not sustainable for the person in cases of very severe trauma. **The focus of support must be to stimulate and open up new associative processes, avoiding or limiting dissociative responses as much as possible**.

The most recent empirical and clinical evidence garnered from confirmed cases of complex PTSD point to the need to first create a condition of **psychological stabilisation** so that the patient can retrace the traumatic events on the basis of their ability to emotionally withstand this regression. The person can expose her/himself to the powerful emotions connected to them only if she/he has developed greater degrees of tolerance.

Together with stabilisation and the gradual remission of symptoms, the first phase should always be dedicated to the construction of a **good therapeutic alliance**. This entails on the one hand, **collaborative work** based on sharing objectives between two people, each active in their own role and with their own tasks and on the other, the construction of an emotional **bond** between patient and therapist as a non-specific element constitutive of the support relationship.

However, it is very difficult to start real clinical work as long as living conditions are marked by insecurity and serious uncertainty, as often happens in cases of survivors of torture seeking asylum or international protection. **Processing memories related to the traumas suffered may eventually take place later**, and does not always happen together with work on **the integration of the person and relational rehabilitation**.

People who survive multiple, prolonged and interpersonal traumas (such as torture) are so **annihilated** that personal, social and cultural differences no longer exist. The main therapeutic objective therefore becomes that of allowing them to rediscover themselves as "people who have the right to live." In this sense, it is very important to make them feel in a **sufficiently secure relationship**. This is the basic condition that allows those who have suffered inhumane and degrading violation to regain the desire to rebuild an identity in the new environment that harmonises what has been with the present. As one of the most prominent trauma scholars, Van der Kolk, says, the challenge is not to learn to accept the terrible things that have happened, but to learn to master the emotions and sensations.

However, one of the difficulties in working with people from other cultures is the risk that their **interpretation of symptoms is filtered by the cultural system** and explanatory models of referral – such as animism, polytheism, supernatural beings, magical world, mythical world and related psychisms – that risk obscuring reflection on the post-traumatic origin of the symptoms themselves.

As in the case of victims of trafficking, systems of thought that draw on magic, witchcraft, manipulation and care in the sacred sphere – as in *Voodoo*, *Juju*, etc. – often keep the survivor in a condition of subjection to the perpetrators, and prevent true therapeutic processing.

Transcultural **clinical** intervention allows forced migrants – especially those who have suffered violence during escape – to be approached therapeutically by fusing psychic universalism with the cultural specificity of individuals, resting on the assumption of a psyche permeated and shaped by the culture of belonging. Supporting the correspondence between the psychic and cultural apparatus, Nathan (1996) clarifies that the psyche is structured among the meshes of culture, and affirms that **psychic functioning exists only within a cultural system**. Culture interprets representations of the environment, structures knowledge and perception of the world, organises the ability to feel and adapt in a specific and different way, depending on the context. In a transcultural perspective, it is about creating contacts between worlds and ways of thinking and of feeling distant and different. To this end, where possible, it also makes use of specialised professionals such as anthropologists and **cultural mediators**.

Transcultural practice therefore not only aims to enhance the symbolic system of reference of the migrant, but mainly to help her/him **relate the interpretative system of their place of origin with that of reception** in a process that merges different universes, creates hybridisations and produces redefinitions of the representational world. This supports the person in the elaboration of the traumatic experience of forced migration, in the separation from their origins and in the the

encounter with other cultural codes, mitigating their impact in terms of potential psychological suffering. If other traumatic experiences such as SGBV are added to the pain of detachment and escape, any even moderate difficulty can produce further traumatization, which can become a catalyst for painful, deeper and often silent experiences.

In this sense, the mediator in *clinical* settings has to create an element of connection in order to concretely create the possibility of inhabiting two worlds, though different and distant, and of belonging simultaneously to two different ways of giving meaning to reality. The mediator should conduct the meeting primarily through **language**, and play a **role as a faithful translator** of language. They should also **mediate between divergent interpretative systems** and offer a **reassuring function**, through the possibility of mirroring as far as possible to the migrant with the receiving country.

Cultural mediation should offer professionals/health professionals a fundamental aid to establishing a relationship with survivors of traumatic experiences of violence, providing cultural keys to access the applicant's world.

In the reception centres, besides mediators who are very effective in their function, there are others who, coming from the same painful history of unprocessed migration, cannot fully perform their function of translation or of reassurance to establish a true relationship of trust. This is often a critical element. In clinical practice, it happens that some recipients perceive the mediators as figures to observe and judge, especially when SGBV experiences are highly stigmatised in their culture of origin. It also happens that the translation is not faithful when it comes to sensitive themes of a sexual and gender nature, and that the embarrassment of the mediator prevents support workers from understanding what the migrant is trying to say. Finally, there is the risk of a vicarious (re)traumatisation of the mediator through listening to extreme stories. This is an important problem that is often not sufficiently considered.

✓ **Key requirements for support workers who interact with SGBV survivors**

- **Training on the cultural aspects of SGBV**: the key to programmes for the prevention of SGBV and for referring survivors is that staff are adequately trained on SGBV and aware of their own convictions, limiting beliefs and stereotypes with respect to survivors.

- **Training on the signs of SGBV**: staff should always receive specific training to **recognise the signs of SGBV**, and to be able to overcome the barriers that prevent them from talking about it.

- **Awareness, information and knowledge of legal aspects**: all the staff, including support workers who have less direct contact with survivors, should be made **aware** of SGBV and know the main laws in this regard.

2.6.1 Techniques and tools for psychological and social support

Group work is very useful for various reasons, including within the reception centres. This is because, in general, there are many users and few support workers and the group dynamic offers the possibility of emotional sharing and containment. Group work helps to build a cooperative attitude and aids in gradual personal exposure with respect to the individual setting. Offering space for the points of view of the users, the group allows them to ask how they would treat the symptoms in the country of origin so as to maintain the link with the culture of origin.

Group work is also useful for psychopathological screening (including secondary to individual interviews, because it allows us to see the person in a relational context).

The most recent reviews on the psychological treatment of asylum seekers and refugees show the effectiveness of therapies specifically focused on trauma, such as:

- **trauma-focused cognitive-behavioural therapy (TF-CBT)**: cognitive psychotherapy using traditional cognitive-behavioural techniques to identify patterns of thinking about the self and the world that have been distorted by a traumatic event, and intervening to modify them with the aim of managing the symptoms

- **Narrative Exposure Therapy (NET)**: short psychotherapy that addresses traumatic events through their narration in order to reduce the trauma-related symptoms and to achieve a coherent and conscious reconstruction of one's own story

- *Eye Movement Desensitisation and Reprocessing (EMDR)*: a psychotherapeutic technique based on ocular desensitisation in order to remember the traumatic event and re-elaborate one's emotional experience

- **Body therapies**: therapeutic methods that include the somatic component of the traumatic experience, with *bottom-up* processing: you can often start from the body, go through the emotions and finally reach cognition promoting a process of access, remembrance, re-elaboration and integration of traumatic experiences

- *Mindfulness*: a meditation practice that reinforces awareness of the experience of oneself, one's own body and the surrounding environment based on "intentionally paying attention in a particular way to the present moment in a non-judgmental way" (Kabat-Zinn, 1994)

- **Pharmacological treatment**: a method which can present a high risk of abuse, both by medical personnel in emergencies when other forms of treatment or linguistic-cultural understanding are not available, and by the patients in particular conditions of suffering

- the **Ethnopsychiatric Approach**: a therapeutic method that simultaneously uses psychological techniques and ethno-anthropological models to deal with traumatic symptoms and psychopathological disorders, taking into account the different symbolic contexts and systems of cultural belonging.

ACTIVITIES

CONTENT: this training module aims to provide participants with knowledge designed to help them understand who SGBV survivors are and what they have been through.

OVERALL DURATION: 8 hours

PROGRAMME

9.30 - 10.15	Introduction to the course programme. Participants introduce themselves. Expectations of participants.
10.15 - 11.00	What are the traumas of forced migration and their effects on mental health? Post-traumatic stress disorder (simple and complex).
11.00 - 11.15	Coffee break.
11.15 - 13.00	The main defence mechanisms employed by survivors of SGBV. Cultural and religious aspects to consider. The most difficult signs of SGBV to identify.

	Raising awareness of SGBV survivors.
13.00 - 14.00	Lunch break.
14.00 - 14.45	Establishing a relationship with SGBV survivors. Avoiding the risk of retraumatisation and revictimisation when working with SGBV survivors.
14.45 - 15.00	Workshop activity.
15.00 - 15.45	Workshop activity.
15.45 - 16.00	Coffee break.
16.00 - 16.45	Whole group sharing and discussion.
16.45 - 17.30	Wrap-up.

Activity 1

"Barriers to effective listening"

Aims: to get the group's opinions on barriers to effective listening in order to establish empathic relationships and encourage *disclosure*.

Expected time: 20 minutes

Equipment: whiteboard and marker

Method: active group discussion

Process: the trainer invites participants to share the barriers to effective listening that they encounter most often and that they find most troublesome.

The most common, which the trainer keeps to himself/herself and uses as a guideline, are:

Acoustics

- Noise
- Interruptions

Physical environment

- Lack of privacy in the room

Body language

- Eye contact (*depends on the culture in question. In some cultures, it is considered rude to look someone directly in the eye while speaking to them*)
- Anxious eyes that dwell on various details in the room
- Arms crossed or generally closed-off posture
- Head in hands

Tone

- Clashing with the other person's tone in terms of emotion

Language

- Too wordy
- Use of medical or overly technical terms
- Too distant, register too different from the other person's

Appearance

- Unusual clothing

Other barriers

- Tiredness
- Worry
- Disinterest
- Being prejudiced against a person
- Being prejudiced about the issue of SGBV
- Making assumptions about a person
- Inappropriate physical contact

Expected results: to make participants aware of obstacles that may prevent them from establishing an empathic relationship.

Activity 2

"What to do and what not to do"

Aims: to work on behaviours that support workers should and should not apply in order to encourage rather than hinder SGBV victims in their *disclosure*, i.e. in bringing SGBV to light.

Expected time: 45 minutes

Equipment: flip chart, large sheets of paper (one or two per group), large markers in various colours

Method: working in sub-groups

Process: the trainer divides the class into four groups made up of four/five people, or into two larger groups, each with representatives from different professions (e.g. a psychologist, a social worker, a support worker, a lawyer, etc.).
Some groups work on "*What to do*" and others work on "*What not to do*".
Allow 30 minutes for the groups to discuss and properly develop their thoughts. Subsequently, a representative from each group illustrates the points developed by their group to the entire class. In this final sharing section, it is important to stimulate debate and active discussion and avoid simple explanations and passive listening.

Expected results: to understand the practical application of the theoretical points learned, verifying and correcting any unclear aspects where necessary.

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The Relationship between Support Workers and SGBV Survivors

by

PAOLA CASTELLI GATTINARA

THEORY

3.1 THE RELATIONSHIP WITH AND SUPERVISION OF SGBV SURVIVORS: METHODOLOGICAL ASPECTS AND EMPATHIC LISTENING

For severely traumatised persons, the first faculty to be restored is the basic ability to trust. As was discussed in the previous chapter, this can only become possible through the **empathic attitude of the support worker** and their authentic trust in the patient's resources. In fact, working through the trauma involves helping **the person to remember how she/he survived**, rather than in dealing with what went wrong. The feeling of impotence and loss of control over one's life, characteristic of extreme stress conditions, is first of all countered by the possibility of mirroring themselves as a subject of their own experience through the relationship with the other person. For this reason, it is essential that the support worker considers the survivor as the *primary expert on her/himself and as the first agent of his/her recovery* (Paparo, 1990).

Depending on their roles and functions, the task of support workers is to welcome, inform, guide, mediate, accompany, listen, "care" and refer. The goal is to promote a **process in which the survivor becomes able to use their resources for new discoveries and connections in order to recover their psychological and social well-being**.

> By **resources**, we mean **the skills, abilities, relationships or objects that offer support to maintain the sense of security, trust, a sense of self, connection with and differentiation from others,** regardless of what happens in the environment.

One of the main resources that promotes psychosocial well-being is the possibility for the SGBV survivor to feel in a **sufficiently secure relationship** that allows them to anchor themselves to the present without being continuously overwhelmed by their traumatic history. In other words, the victim is no longer alone in the face of the horror of what happened to them.

> We can define **empathic relationships** as **relationships in which the support worker is able to recognise and accept the vision of the world of the other and her/his affective experience, at the same time as remaining aware of the cultural, psychological and social distortions in their relationships with others**.

More precisely, for **listening** to be empathic, the support worker must be able to **understand** the feelings and thoughts of the patient, and be able to **communicate** this understanding using similar language.

This entails:

- the ability to keep one's own emotions in check
- the ability to recognise the emotions of the other
- the ability to tune in to the other person's needs
- an authentic interest in the other
- appropriate emotional involvement

3.1.1 Dealing with SGBV survivors: how to address SGBV

Most SGBV survivors do not speak spontaneously about what happened to them; in most cases, in fact, they have never spoken to anyone about their terrible experiences, and no questions have been asked about it. If the support worker is sufficiently prepared, and if they are in a protected environment, including with respect to the services available for possible referrals, it is important that they ask the asylum seeker if they have suffered violence when and if they suspect it.

Asking questions is a way to break the silence and offer hope. Some survivors will be able to answer 'yes', others will deny it because they need more time to develop trust. In any case, **through a simple question, they received the message that the door is open** and may decide to cross that threshold in the future, once they feel ready to do so.

When survivors decide to talk about their SGBV experience, the role of the support worker is to **support, validate, confirm and provide information**. It is not necessary to listen to the whole story, but it is essential that the support worker be sensitive to and not judgmental of what is revealed.

In particular, the support worker must show empathy and understanding:

- when starting to address the topic with the survivor
- if the survivor accepts to talk about it
- when she/he states that no one deserves to be beaten up or abused
- when she/he talks about the possible physical and psychological consequences of SGBV
- when she/he informs the survivor of the usefulness of referral to other services

3.2 AVOIDING THE RISK OF RETRAUMATISATION AND REVICTIMISATION

When approaching forced migrants applying for asylum, it is essential to have a thorough knowledge of oneself and, above all, a good **awareness of one's cultural, social and personal biases**. Awareness of oneself, of one's own convictions and attitudes towards oneself and others, and keeping in mind how culturally determined this is, allows support workers to decentralise away from their own perspective to grasp and focus on that of the patient, with **a sensitive intervention focussed on the survivor's cultural background and value system**.

When **dealing with** forced migrants, it is important to:

- be aware of the **emotional responses elicited due to cultural differences and the diversity of belief systems and values**
- feel at ease in the face of **cultural, social and religious differences** with respect to survivors
- understand how certain **negative reactions**, expressing, for example, distance or rejection, can be detrimental to support if not adequately elaborated and managed
- know how to recognise **the limits of one's own skills and experience**
- be able to discern in oneself **attitudes, myths, prejudices, limiting beliefs and personal experiences that can represent an obstacle** to recognising and/or talking about SGBV

Some examples of prejudices:

> *Migrants bring diseases.*

> *If a woman does not oppose domestic violence, it means that this is all right for her.*

> *It must be accepted that forced marriages are the norm in some cultures, so they are not a form of violence.*

To facilitate the process of **unearthing traumatic suffering, avoiding the risk of harm and, above all, of retraumatisation**, particularly with respect to previous experiences of SGBV, it is important to take some precautions and follow some rules. It is therefore necessary to:

- create a **protected environment** in which the person can feel safe, and in which the message that "it's OK to talk about SGBV" prevails
- maintain **privacy and confidentiality**
- **listen to and validate** the story, taking into account that sometimes the narrative form can be different from the one with which the support worker is familiar
- always offer **comfort** and support
- **inform** the patient, for example, by explaining the link between their symptoms and the SGBV they have suffered
- **not use negative or allusive language** that can make the person feel confused or guilty; avoid, for example, questions such as "what were you doing before he beat you?", because they can be guilt-inducing for women who have suffered domestic violence
- provide information on **what violence is** and **what inviolable rights** are
- know how to wait and **respect the person's need for time, not to force answers** or to insist but, if violence is suspected, to explain that it takes time to face up to certain things
- **feel comfortable in asking questions about SGBV**, otherwise, the support worker's difficulties or embarrassment might be noticed, which can hinder the processing of traumatic experiences
- **work in a coordinated way**, particularly with other support workers, in order to avoid the person having to repeat their own experiences more than once, thus becoming overwhelmed by traumatic memories

- **refer patients to** appropriate services with professional skills suitable for working through and treating certain experiences, which can, if necessary, involve supervision, possibly in the long-term
- **not** have an attitude of **voyeuristic** curiosity

3.2.1 The main defence mechanisms employed by support workers dealing with SGBV

Supervising people who have suffered torture, rape and other forms of extreme violence puts support workers in contact with suffering and activates painful emotions that are difficult to bear. To avoid discomfort, support workers can activate a range of defence mechanisms in an involuntary and automatic way. The most common include[7]:

Rationalisation: feeling inadequate when facing such sensitive issues, support workers can react by seeking reassuring explanations. However, by doing so, they do not address the problem of violence and, on the contrary, leave the survivor with a feeling of inautability.

- *But that's not my job*
- *The victims do not want to talk about it*
- *They might suffer if I talk about it*
- *I can't do anything about it*

Denial: denial is one of the most common mechanisms for managing the sense of impotence that support workers may experience, especially if they have also survived this type of violence. Acting as if the violence never happened or is not credible can make the survivor feel as if they were the only one to have experienced certain things and, consequently, increase their feelings of loneliness and isolation.

- *These things do not happen to the people I see*
- *If she managed to get to Italy, it cannot really have happened to her*

Minimisation: minimising is a way of reducing the severity and intensity of the traumatic experience so as not to feel overwhelmed by the problem. In this way, however, we risk ignoring the gravity of the violence and diminishing the suffering of the victim, who remains confused and uncertain.

- *It happened in the past, the person cannot still be suffering*
- *There are no obvious signs, so it's not a serious thing*

Distancing: sometimes, support workers can identify with some experiences of the survivor, especially when they feel they have something in common, such as the same cultural background or gender. For example, a support worker may feel troubled or frightened to realise that all women are potentially vulnerable. When this happens, they can try to distance themselves from the disturbing sensations and find incorrect reasons to explain what happened to the survivor in order to put a distance between themselves and that experience.

- *It could not have happened to me*
- *It's their fault if it happened to them*

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7 - The following overview of the most widespread defence mechanisms among support workers is taken from the manual of the United Nations Population Fund (UNFPA) of 2001: "*A practical approach to gender-based violence: A program guide for health care providers and managers*." For a more exhaustive discussion on the topic, see the manual.

3.3 DEVELOPING THE RESILIENCE AND PSYCHOLOGICAL RESOURCES OF SURVIVORS

3.3.1 The capacity for resilience

Recently elaborated in the field of psychology, the **concept of resilience** is borrowed from the metallurgical sciences to **indicate the process of adaptation in the face of adversity, trauma, tragedy, threats or other significant sources of stress**. People who exhibit resilience can survive particularly difficult experiences, are able to heal and take control of their lives again without getting stuck in the role of victim, and without being dominated by their anger or pervaded by recurring experiences.

Individual capacity for resilience following stress factors, even extreme stress, can be compared to the ability of a green twig to bend without breaking. This **ability to protect one's integrity despite difficult or even hostile circumstances** seems to be a **product of the interaction of biological, environmental, social and cultural factors**. It is not simply a characteristic that the person possesses: it is about behaviours, thoughts and actions that can be learned and developed in each person, in every moment of life. It is therefore important to understand and identify the various conditions of vulnerability and to recognise the resources of the person in order to respond effectively to the needs of survivors and to promote their capacity for resilience.

By the term **vulnerability**, we mean the possibility of being psychologically injured and a condition of difficulty due to which we cannot achieve psychosocial well-being. Forced migration from one's own country, the violence suffered, unfulfilled dreams and expectations, an excess of motivation can become elements of vulnerability. Moreover, **the person's sense of not belonging to the social and cultural environment in which they find themselves exposes them to the risk of psychological distress due to the difficulty of recognising themselves in that environment, or of feeling recognised by others**. The degree of vulnerability is also linked to previous experience in terms of personal and family history.

In receiving survivors of traumatic events such as forced escape from their country or SGBV, contextual elements such as legal status, the socio-economic situation, reception conditions, the possibility of building an integration path or developing a plan for the future may strongly affect the psychological state of the asylum seeker. Depending on the direction in which they develop, the living conditions in the reception phase may constitute risk factors that facilitate vulnerability or, on the contrary, protection factors that promote resilience.

3.3.2 Helping people to tell their own story

To help survivors explore their traumatic experiences and develop active self-healing and growth, it is useful to refer to the phased intervention model proposed by several scholars for the treatment of complex traumas, with emphasise the development of resilience in each phase (for further information, see Herman, 2005; Liotti and Farina, 2011).

The first phase is called **the stabilisation and symptom reduction phase**. In this first phase, it is important that each intervention is tailored to the specific needs of the survivor. It is divided into three phases:

- preparation and stabilisation of the patient through a preliminary phase of **information and psycho-education**

- an early and prolonged phase of **resource activation** with the aim of better managing anxiety and building a more coherent narrative, useful for preparation for the hearing before the Territorial Commission for granting refugee status

- finally, **an elaboration of particularly disturbing aspects** of traumatic memories

In this first phase, normalisation and contextualisation of discomfort and recognition and validation of emotional reactions promotes resilience, helping survivors to **expand the interpretative horizon of their crisis**.

The **objectives** of this first phase are:

- to **regulate negative emotions**
- to **reduce somatic symptoms**
- to enable the person to **develop a coherent narrative** of their own story, especially for the Territorial Commission
- to develop the **capacity for integration** in the new social and cultural environment

The subjective experience of people who feel overwhelmed is that they have lost control over their reactions and their mind. **The body is the site of traumatic experience: it reacts and over time, reproduces the same defensive responses as at the time of trauma**. The body therefore remains aroused, even in non-dangerous situations, and remembers the trauma both in the direction of hyperarousal and alarm, and of hypoarousal and extinction, which can become chronic. For this reason, traumatised people fear their physical sensations and try to avoid their sensory world in any way possible. The difficulty of being in contact with one's sensory perceptions and listening to the signals of the body is one of the main causes of the inability to regulate emotions.

Since most traumatic experiences occur in an interpersonal context and involve the violation of boundaries and the loss of autonomous reactions, it is extremely important to help people **regain a physical feeling of control and ability to protect themselves, working on creating boundaries and exploring ways to regulate *physiological* arousal**. Survivors of extreme traumas must learn to consider the body a resource, and to become familiar with their bodily sensations in the *here and now*.

Several exercises help to promote emotional regulation and help the body learn that the suffering and danger have passed (for further details, see Ogden et al., 2012):

- orientation exercise
- grounding
- finding and consolidating resources
- analysis and strengthening of borders
- the safe place
- exercising the four elements

The **orientation exercise** helps survivors to anchor themselves in the present and to focus on the *here and now*:

Exercise

Experience the 5 senses

Vision: identify an object and note its shape, colour, size, etc.

Hearing: identify sounds: high, low, intermittent, pleasant, etc.

Touch: touch an object and identify its characteristics: rough, smooth, hard, soft, etc. Or press your feet to the floor, hold hands to feel their warmth.

Taste: note taste sensations, whether pleasant or intense.

Smell: identify different smells.

Invite the survivor to repeat the exercise several times a day.

Grounding is a technique borrowed from bio-energetic analysis, based on breathing and posture, which supports self-regulation by providing a sense of physical and psychological stability.

Exercise

Grounding

- Stand as relaxed as possible, flexing your knees slightly while remaining upright.
- Focus on your legs and feet.
- Focus completely on the way the soles of the feet adhere perfectly to the soles of the shoes and the ground.
- Feel the weight of the body supported by legs and feet.
- Imagine having roots that start from the feet and go deep into the earth.
- Feel the way these roots make you stronger and anchor you firmly to the ground.
- Breathe deeply and harmoniously, and connect with the feelings of strength and solidity that you experience.

The "**safe place**" is a psychological task that promotes an experience of tranquillity and security when one is too activated by traumatic memories.

Exercise

> ### The Safe Place
>
> - Imagine a "safe place", real or imaginary, in which the person feels serene and protected, and therefore able to experience wellbeing and safety.
> - Once remembered or imagined, the experience of the safe place must be internalised through associations with smells, sounds, images, bodily sensations, emotions and convictions.
> - For it to be internalised, it must be narrated (internally or shared).

Another exercise aimed at reducing and combating the cumulative effect of stress during the day is that of **the four elements**.

Exercise

> ### The four elements
>
> These are four short sequential activities (**earth**, **air**, **water** and **fire**) that facilitate relaxation by progressively involving all parts of the body.
> Before starting, evaluate the level of stress present on a scale from 0 to 10.
>
> **Earth:** *represents the idea of taking root in the present and gaining awareness that now you are safe*
> Focus your attention on your contact with the ground under your feet, push the soles against the floor. Carefully note the contact with supporting surfaces: the chair, the armrests, the backrest. Imagine being a firmly-planted tree and that your legs are roots that go deep into the earth, appear firm and stable and tie this feeling to the word "earth".
>
> **Air:** *represents a feeling of strength and balance*
> Take three or four breaths, focusing on the air that you inhale and exhale. Try to deepen the breath or slow it down, following your own personal rhythm. Extend exhalation in particular so as to make room for the new, energising air and notice the sensations you feel.
>
> **Water:** *search for a feeling of tranquillity and control*
> One of the responses to stress is that the mouth becomes dry. Actively increasing salivation by moving the tongue against the palate helps to counteract stress.
>
> **Fire:** *access a positive resource*
> Go with the mind to a positive moment in your life in which you felt good, or in which you achieved a goal. Remember all the elements of that situation: colours, smells, sounds and sensations. Focus on the part of the body where you feel the most pleasant feeling and focus on the feeling for a few minutes.

Next to emotional stabilisation, it is very important to help the survivor to **organise the telling of their story for the hearing in the Territorial Commission**. This organisation is particularly difficult for those who have suffered SGBV precisely because the traumatic nature of experiences modifies memory processes and therefore interferes with the ability to situate memories of events in time.

Narrative exposure therapy (NET) has proven to be an effective way of re-articulating mnemonic processes in post-traumatic stress disorders (see Schauer et al., 2011). In particular through **the life-line exercise**, this type of therapy helps the survivor build a coherent narrative of their own story. The exercise consists in symbolically representing one's life story: the survivor stretches the path of their life along a rope that symbolises the continuous flow of time, placing in chronological order flowers for happy events and stones for fearful/negative/traumatic events. The therapist helps her/him to stay within "cold memory" and to focus only on facts, names, dates, etc., rather than emotions and sensations, in order not to trigger fear.

The line starts with birth and is about half a metre in length for every ten years of age. A part of the rope remains rolled up to symbolise the not yet revealed future. The whole exercise must take place in a single session and end with the storage of the materials (rope, flowers, stones) in a box (protection, not exposure to others). In this way, the survivor, helped by the therapist, can get a general picture, a map of his/her own story that will help her/him at the hearing.

3.4 SUPPORT WORKERS: EXPERIENCES AND DIFFICULTIES

As explained above, creating a safe atmosphere and building a relationship of trust are key elements in helping the person develop feelings generally associated with resilience, such as a sense of security, personal relevance and openness towards the others.

Some forms of interpersonal relationship can facilitate resource development, while others may promote vulnerability. **It is therefore important that support workers are aware of the type of relationship they establish with the survivor, and are able to modulate the relationship in a way that is appropriate to their needs**.

Supervising survivors of extreme traumas forces support workers to experience complex emotions and relationships: daily contact with the experiences and suffering of these people easily activates emotional states that are difficult to manage in the other. For this reason, it is essential that those who carry out support work are aware of their approach to the suffering and inner resonance produced by the experience of those who survived.

In fact, we are predisposed to build relationships with others from birth according to pre-established modalities, which are innate and have the function of facilitating adaptation and survival. These predispositions implicitly organise interpersonal exchange and emotional experiences.

The main ones are:

- **attachment** that activates itself in conditions of vulnerability and danger and leads to the search for protection
- **care** given when one perceives the other as vulnerable and leads to the offer of care and protection

- **the competitive spirit/competition** activated in the presence of a limited resource desired by several group members
- **sexuality** aimed at couple bonding and reproduction
- **cooperation** activated by the perception of common objectives

Knowing these predispositions helps support workers to understand the type of relationship and the perception that one has of oneself and of the other. It is above all the non-verbal signals in themselves and in the other, together with the environment in which they find themselves, that allows such recognition and makes change possible where interaction is dysfunctional. For example:

- *We see an asylum seeker alone who is crying, and know that she/he lost her/his whole family to war. We feel encouraged to console her/him* (activation of caring).
- *We see an asylum seeker raise his/her voice, and ask why the date of his/her hearing has not yet arrived; we feel unjustly accused of negligence and respond in an abrupt manner* (activation of competition).

The form of relationship that, more than any other, promotes the development of resources in the individual and her/his ability to face adverse conditions is **cooperation**, i.e., mutual collaboration to achieve a shared goal. This form of relationship is defined by a shared perception of oneself and the other, it allows motivations to be shared and the explicit understanding of co-collaboration with respect to the tasks of each of the parties, promoting the development of reflexive capacities, the regulation of emotions and of a sense of mastery (see Liotti and Farina, 2011 for more information).

The perception of pain, danger and vulnerability leads survivors of extreme traumas to activate an attachment relationship aimed at receiving protection and care. However, if the condition of traumatic violence is prolonged and accompanied by the feeling of not being able to be helped and/or protected due to a sense of powerlessness, a peculiar and pathological mode of relationship tends to be structured: **the dramatic triangle** (for more information, see Liotti and Farina, 2011, Losi and Papadopolus, 2004). This is a relational configuration in which the representation of oneself and the other continuously, and in a fixed way, oscillates between **three roles: executioner, saviour and victim**. Support workers can easily find themselves in the role of *executioner/persecutor* when, for some reason, the expectations of welcoming, protecting and defending fail; or, they may be in the role of *saviour* and continually subjected to requests, while the survivor tends to be a resourceless victim; they can, again, also find themselves in the role of *victim* when submitted to unacceptable requests, which make her/him feel impotent.

To begin to understand one's interpersonal position, and to ask oneself what kind of dynamics have been established, is very important to avoid repeating this relational, pathological and suffocating *pattern*. This is not easy. Identifying with the persecutor can make the survivor feel able to exercise control and therefore have power; identifying with the victim can, on the contrary, allow them to take responsibility for themselves. Sometimes, even the support worker interacts in a way that facilitates the activation of this relational constellation and the defence mechanisms in the face of painful emotions or the same motivations that underlie the choice of support work can trigger certain roles in the relationship.

Learning to manage one's own fear and aggression, becoming aware of one's role in the aggressor-victim-saviour dynamic, is a step necessary for facing the complexity of the relationships in which one is involved.

To avoid falling into this suffocating triangle, you need to:

- observe the behaviour of the other person without expectations and judgments
- recognise their emotions, activated by the situation, and recognise their impulse to act immediately, but try to suspend action (often acting on impulse serves more to eliminate the tension that is being felt than to intervene effectively)
- note what the other person feels, without confusing them with one's own feelings
- act only after having reflected
- promote a collaborative relationship

To avoid falling into this suffocating triangle, the support worker needs to:

- not take the motivations for the survivor's behaviour for granted
- not activate immediately to calm or distract her/him
- not act immediately on the basis of the emotion experienced by the support worker
- not attribute to the other their own emotions
- not treat what they perceive as if it were absolutely true

3.5 PROTECTION FACTORS FOR SUPPORT WORKERS: AVOIDING THE RISK OF VICARIOUS TRAUMATISATION AND *BURN-OUT*

Being continuously in contact with traumatic experiences, as well as being involved in stereotypical roles in the victim-saviour-persecutor triangle, can lead to high levels of stress and thus to vicarious trauma.

The term **vicarious trauma** refers to the transformation, in the negative sense, which occurs in the inner experience of the support worker following repeated exposure to the pain and suffering of survivors (McCann and Perlman, 1990). This transformation is pervasive, it affects the identity of the individual and their vision of the world. It is precisely the possibility of an empathic relationship that produces a possible 'contagion' of pain and suffering, both consciously and unconsciously, as a survivor/support worker. The most recent data from neuroscience show us how empathy with the suffering of others means really experiencing suffering that, if not properly managed, is absorbed and accumulated, producing a series of negative effects.

Support workers can feel a sense of emptiness and emotional exhaustion; they may feel that they no longer have confidence in others and that they have no control over their lives. It may become difficult to manage emotional reactions and they may even experience intrusive thoughts or images of the survivor's traumatic experience. Symptoms such as fatigue, irritability, depression, somatisation and feelings of inadequacy and uselessness are common.

Risk factors for vicarious trauma are young age, inexperience, dysfunctional coping strategies, such as the tendency to avoid or get too involved in the relationship

with the survivor, but also a dysfunctional and uncooperative work environment. Excessive workloads, isolation, lack of recognition of the role both by survivors (sometimes due to cultural factors, especially relating to female figures) and by the institutions in which the support worker works, lack of a sense of personal safety (for example, in situations where there is a high level of aggression on the part of the recipients) and a feeling of confusion about how to help the survivors of SGBV are all conditions that can lead to high levels of traumatic stress.

At the individual level, a series of attitudes, skills and beliefs about themselves and the world are protective factors.

- **Commitment:** an attitude characterised by the desire to know and the tendency to involve people and events.

- **Control:** the certainty that it is possible to influence events and the will to act according to this conviction rather than feeling victims of the circumstances; the exact opposite of the attitude taken by those who feel powerless.

- **Challenge:** the certainty that the challenges of life stimulate personal growth, that life is more fulfilling when one continues to learn from one's own experiences, whether positive or negative; this attitude inhibits a negative experience of change, limiting the perception that it is a threat to the status quo.

At a socio-cultural level, protection factors include: the ability to build a solid network of social relationships, a sense of belonging to the community, sharing values and participating in a network of relationships. Engagement in spiritual and religious practices, as well as in individual forms of expression such as art and literature, help to create a protective shield.

The prevention and treatment of vicarious trauma follows two paths: **the first concerns the identification of personal and institutional risk factors; the second concerns the improvement of working conditions**.

To treat and prevent the negative impact of traumatic experiences, it is necessary to:

- **avoid an excessive workload** and diversify the activity that takes place so that psychological fatigue does not build up due to being in constant contact with suffering and pain

- develop a working methodology that allows the **sharing of emotional experiences** related to the traumatic experiences of survivors **with colleagues**

- find the right **balance between work and private life**. In fact, it is necessary to avoid work that suffocates the individual if it leads them to neglect their family, friends and personal interests

- take advantage of **supervision** through which the support worker can express fears, inadequacies and apprehensions. In this way, the experiences and their harmful effects can thus be contained, addressed and normalised

- invest in **training** (discussion groups, team work, etc.) in order to increase awareness of the possible emotional and relational difficulties that can characterise the profession and to acquire the strategies necessary to overcome them.

ACTIVITIES

CONTENT: this training module aims to provide participants with tools and techniques that can be used to build relationships between support workers and SGBV survivors.

OVERALL DURATION: 8 hours

PROGRAMME

9.30 - 10.00	Introduction to the course programme. Participants introduce themselves. Expectations of participants.
10.00 - 10.30	Relationships with survivors of violence: empathic listening.
10.30 - 11.00	Empathic listening using personal experience as a starting point. What risks do myths, prejudices, limiting beliefs and personal experiences pose for support workers? How to talk about SGBV. Identifying defence mechanisms used by support workers when talking about SGBV.

11.00 - 11.15	Coffee break.
11.15 - 11.45	Helping asylum seekers to develop their own resources for the committee hearing (supporting people in telling their own story).
11.45 - 13.15	Workshop activity.
13.15 - 14.15	Lunch break.
14.15 - 15.30	Emotional issues faced by support workers in their relationships with survivors.
15.30 - 16.00	Workshop activity.
16.00 - 17.00	Protecting yourself from vicarious traumatisation and avoiding the risk of burnout as a support worker.
17.00 - 17.30	Wrap-up.

Activity 1

"Empathic listening"

Aim: the objective of this exercise is to help participants understand the topic in more depth by acknowledging their own personal experience.

Expected time: 15 minutes

Equipment: flip chart and marker

Method: active discussion

Process: the trainer asks participants to think of a personal experience in which they felt like they were listened to and to identify what it was about the person with whom they were talking that gave them this feeling (in terms of verbal and non-verbal behaviour) and what feelings and thoughts they noticed. Ask participants to close

their eyes and give them 5/7 minutes to think. Then ask them to open their eyes and share what they pictured with the group. On the flip chart, write down the points highlighted by the group as indicators of feeling listened to.

Expected results: to develop empathic listening skills, i.e. to be able to understand feelings and thoughts and communicate this understanding using a language similar to that used by those receiving support.

Activity 2

"How to talk about SGBV and identify the defence mechanisms used by support workers when discussing SGBV"

Aim: to identify the right questions that can break the silence and offer hope.

Expected time: 15 minutes

Equipment: flip chart and marker

Method: active discussion

Process: the trainer invites participants to talk freely about the topic before showing the related slide and writes the results of the discussion on the flip chart; finally, the trainer shows the slides, commenting on them alongside participants.

Expected results: to actively involve everyone present and to gather information on what they think and already know about the topic.

Activity 3

"An experiential body exercise"

Aim: to clearly demonstrate to participants the connection between thoughts, emotions and bodily responses.

Expected time: 15 minutes

Equipment: none

Method: experiential exercise

Process: the trainer invites participants to stand up and asks them to close their eyes and pay attention to what their body is feeling. After 1 minute, he/she says: "now open your eyes, take a deep breath, close them and say 'my needs will never be fulfilled', and notice what happens to your body". After 2 minutes, he/she says: "now open your eyes and take another deep breath, close your eyes again and notice what happens to your body when you say 'I have to be able to be loved'". After 2 minutes, he/she asks them to open their eyes again and sit down. The trainer then asks the participants what they felt and invites them to put their emotions into words.

Expected results: to learn useful techniques to help survivors of violence to root themselves in the present and focus on the *here and now*.

Activity 4

"Grounding"

Aim: to demonstrate a technique borrowed from bioenergetic analysis which is based on breathing and posture and reinforces a person's ability to self-regulate by giving them a sense of physical and psychological stability.

Expected time: 15 minutes

Equipment: none

Method: experiential exercise

Process: the trainer invites participants to stand up and gives the following instructions, speaking slowly: "you can keep your eyes open or closed, as you prefer; focus your attention on your legs and feet; focus all your attention on the way the sole of your foot perfectly grips the sole of your shoe and the ground; feel the weight of your body resting on your legs and feet; now imagine having roots that start from your feet and push down deep into the earth; feel the way these roots make you stronger and anchor you solidly to the ground; breathe harmoniously and deeply and connect with the feelings of strength and solidity that you are experiencing".

Once the exercise is complete, the trainer asks participants what they felt.

Expected results: to show participants a technique that is useful when they are afraid of not being able to manage or scared of losing control because it provides a sense of internal physical and psychological stability. They can use it with migrants to help them calm down and feel more physically and emotionally stable.

Activity 5

"Boundaries"

Aim: to demonstrate to participants that each of us has boundaries that do not involve physical contact.

Expected time: 20 minutes

Equipment: an object (e.g. an empty plastic bottle)

Method: experiential exercise

Process: the trainer asks two volunteers to take part in the exercise, inviting them to stand facing each other on opposite sides of the room. He/she then picks an object (e.g. an empty plastic bottle), gives it to one of the two, and asks the one not holding the object to imagine that the participant who has the object represents an unwelcome person (someone who is hostile, intrusive, etc.). He/she then invites the person playing *the invader* to slowly approach the other participant. At the same time, the trainer asks the participant standing still to stop the other person when he/she feels that *the invader* is the right distance away. The trainer then asks *the invader* which body language signals revealed that this was the right distance and how he/she feels at that distance. Next, the trainer invites *the invader* to move one or two steps closer

and asks both the participants to note their body language signals and the feelings they are experiencing. He/she then invites the two participants to go back to their starting positions and repeat the exercise, switching the roles.

The other participants observe. At the end of the exercise, the trainer asks them what body language signals they noticed. If time allows, this exercise can be repeated with another pair of participants.

At the end of the activity, the trainer initiates a discussion on boundaries and on the importance of picking up on body language signals so as not to violate them.

Expected results: to ensure participants recognise bodily responses to boundaries being violated in order to make them reflect on the importance of respecting these limits when interacting with survivors of SGBV, whose boundaries have been violated in the past.

Activity 6

"The four elements"

Aim: to reduce and combat the cumulative effect of stress over the day.

Expected time: 15 minutes

Equipment: none

Method: full group exercise

Process: this is a sequence of four short activities (*earth, air, water* and *fire*) that encourage relaxation by progressively involving all parts of the body.

Begin by asking participants to rate their current stress level on a scale from 0 to 10.

Earth: *represents the idea of rooting yourself in the present and becoming aware that you are safe.*
Focus your attention on the contact between the ground and your feet. Push the soles of your feet against the floor. Take care to note the contact between you and the surfaces supporting you: the chair, the armrests, the backrest. Imagine being a firmly-planted tree and that your legs are roots that stretch deep into the earth. Visualise yourself as solid and stable and link this feeling to the word "earth".

Air: *represents a feeling of strength and balance.*
Take three or four breaths, focusing on the air that you inhale and exhale. Try to take deep breaths or to slow your breathing down, following your own personal rhythm. In particular, breathe out for longer so as to make room for the new, energising air coming in, and take note of the sensations you feel.

Water: *moving towards a feeling of calmness and control.*
One response to stress is a dry mouth. Actively increasing salivation by moving your tongue against the roof of your mouth helps to counteract stress.

Fire: *accessing a positive resource.*

Visualise a positive moment in your life in which you felt good or achieved a goal. Remember every detail of the situation: colours, smells, sounds and sensations. Focus on the part of the body where you feel the most pleasant sensations and do a *Butterfly Hug* for thirty seconds to reinforce these pleasant sensations. Stop for a few seconds, then repeat the Butterfly Hug.

The *Butterfly Hug* involves participants crossing their arms and lightly tapping each forearm in turn to reinforce their pleasant sensations. The trainer shows participants the technique.

At the end, invite them to open their eyes and return to the present, asking them to rate their stress level once again from 0 to 10.

Expected results: to illustrate a technique that can help limit and reduce stress levels, allowing you to deal with it immediately through simple activities.

Activity 7

"The safe place"

N.B. Trainers should decide whether to carry out the following activity based on the time available.

Aim: to demonstrate a psychological exercise that provides a calm, safe experience when a person feels overly triggered by traumatic memories.

Expected time: 15 minutes

Equipment: none

Method: experiential exercise

Process: ask participants to build a "safe place" in their imagination. The place can be real or imaginary, as long as they feel calm and protected and therefore able to find wellbeing and safety there. Once they have remembered or imagined it, participants should internalise the experience of their safe place through associations with smells, sounds, images, bodily sensations, emotions and beliefs. Ask them to focus on the pleasant sensations accompanying this image and to reinforce it with two 20-second sets of *Butterfly Hug*-style stimulation.

Talk to participants about the experience.

Expected results: to help support emotional regulation and to help the body realise that suffering and danger are in the past.

Activity 8

"The drama triangle and collaboration"

Aim: to help participants recognise dysfunctional and functional interactions based on their own experiences of relationships.

Expected time: 30 minutes

Equipment: none

Method: working in small groups

Process: ask participants to form small groups of 3 or 4 people and to identify at least one situation from their lived experience in which they have found themselves in the *drama triangle*, paying attention to their bodily sensations. Next, ask them to identify situations when they have collaborated with those receiving support, again paying attention to their bodily sensations. Allow 15 minutes. Bring the participants back together and ask each small group to explain the elements they took into consideration when choosing the two situations and what difficulties they had in identifying them.

Expected results: to provide participants with tools to manage fear and aggression within themselves, helping them become aware of their role in the *persecutor-victim-rescuer* dynamic, a necessary step in order to handle the complexity of the relationships in which they are involved.

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To find out more:
https://www.stateofmind.it/2015/07/trauma-vicario-terapeuta

Effective legal supervision tools for support workers

by

Dr **STEPHANIE CARUANA**

THEORY

4.1 OVERVIEW OF INTERNATIONAL AND NATIONAL LEGAL FRAMEWORKS ON ASYLUM

4.1.1 The United Nations

The **Universal Declaration of Human Rights (UDHR)**, which was adopted by the United Nations General Assembly in 1948, provided the foundations of international asylum law. Article 14(1) of the UDHR recognizes the right of a person to seek asylum from persecution. In 1951, the United Nations (UN) also established the **Convention relating to the Status of Refugees (the 1951 Geneva Convention)** which is still the centrepiece of international refugee protection[8]. The Convention entered into force on 22 April 1954, and it underwent only one amendment in the form of a 1967 Protocol which mainly removed the geographic and temporal limits of the 1951 Convention[9].

The 1951 Geneva Convention defines a 'refugee' as any person who:

> "***owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion***, *is outside the country of his nationality and is unable, or owing to such fear, is unwilling, to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it*".

4.1.2 The Council of Europe

The **Council of Europe (CoE)** introduced standards of refugee protection that improved on the UN Convention. In its **Recommendation 773**, the 1976 Parliamentary Assembly of the CoE expressed its concern with regard to the situation of *de facto refugees* defined as "*persons who either have not been formally recognised as convention refugees (although they meet the convention's criteria) or who are unable or unwilling for other valid reasons to return to their countries of origin*". Regrettably, this recommendation was implemented only partially since the CoE only acknowledged the legitimacy of the claim for protection of a bigger number of refugees but has not moved on to formally formulate their status or rights.

The CoE also adopted several legislative instruments governing the treatment of refugees, namely: Resolution 14 (1967) on 'Asylum to Persons in Danger of Persecution'; Recommendation R (81) 16 on the 'Harmonization of National Procedures

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8 - United Nations General Assembly resolution 429(V) of 14 December 1950, available at http://www.unhcr.org/refworld/docid/3b00f08a27.html

9 - The Protocol of 1967 is attached to United Nations General Assembly resolution 2198 (XXI) of 16 December 1967, available at http://www.unhcr.org/refworld/docid/3b00f1cc50.html

Relating to Asylum (1981); Recommendation R (84) 1 on the Protection of Persons Satisfying the Criteria in the Geneva Convention Who are Not Formally Recognised as Refugees (1984); and the Dublin Convention (1990).

Another landmark legislation was the **European Convention on Human Rights** (ECtHR) adopted by the CoE in 1950. In contrast to the Geneva Convention, the ECtHR provides for an international supervision procedure obliging the member states of the CoE to guarantee every person, including asylum seekers, within their jurisdiction the rights established by the ECtHR; and it is within this context that European Convention on Human Rights (ECHR) jurisprudence imposes certain limitations on the right of States to turn a person away and refuse the granting of asylum.

4.1.3 The European Union

One of the primary legal instruments of the European Union (EU) that deals with asylum is the **Treaty on the Functioning of the European Union** (TFEU) wherein Article 78(1) states that the EU

> "...*shall develop a common policy on asylum, subsidiary protection and temporary protection with a view of offering appropriate status to any third country national requiring international protection and ensuring compliance with the principle of non-refoulement. This policy must be in accordance with the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees, and other relevant treaties...*".

Consequently, if a MS does not comply with the provisions of the Geneva Convention or the 1967 Protocol, it will be in breach of Article 78(1) TFEU and it can lead to the revocation of the MS's secondary legislation and/or at least impose that the interpretation of the secondary legislation is in conformity with the Geneva Convention[10].

Moreover, Article 78(2) TFEU obliges the European institutions to "*adopt measures for a common European asylum system comprising...*" of **a uniform status on asylum** in favour of third-country nationals, which is valid throughout the EU; **common procedures for granting and withdrawing asylum or subsidiary protection status**; **uniform criteria and procedures for determining the Member State (MS) responsible for examining the application for asylum or subsidiary protection**; and **common rules concerning the general reception conditions for asylum seekers**.

The European Charter of Fundamental Rights recognises the right to asylum as a fundamental human right and requires MS to guarantee this right by complying with the provisions of the Geneva Convention its 167 Protocol and the treaties of the European Union (Art. 18); and promulgates the principle of non-refoulement as it requires protection by MS in the event of removal, expulsion or extradition, and prohibits MS from returning a person to a State where s/he has a well-found-

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10 - Hailbronner K. & Thym D. (Eds.), *EU Immigration and Asylum Law: A Commentary*, 2nd Edition, Munich, C.H.Beck (2016); and Battjes H., *European Asylum Law and its Relation to International Law*, VU Migration Law Series No 3, Amsterdam (2006).

ed fear of being persecuted or runs a real risk of execution, torture or other inhuman and degrading treatment or punishment[11].

Several legislative instruments have been adopted by the EU to implement Article 78 TFEU thereby establishing the components of a **Common European Asylum System (CEAS)**. The main objective of this legislation is to ensure that all EU Member States protect the rights of asylum seekers and refugees, and furthermore protects them from refoulement. The CEAS comprises six legislative instruments:

I.   Directive 2013/32/EU which provides for common procedures for granting and withdrawing international protection (the *Procedures Directive*)

II.   Directive 2013/33/EU which lays down standards for the reception of applicants for international protection (the *Reception Conditions Directive*)

III.   Regulation (EU) No 604/2013 which establishes the criteria and mechanisms for determining which Member State is responsible for examining an application for international protection (also referred to as the *Dublin III Regulation*)

IV.   Regulation (EU) No 603/2013 which provides for and governs a system for comparing fingerprints for the effective application of the Dublin III Regulation, as well as requests for the comparison of data submitted by Member States' law enforcement authorities and Europol (the *Eurodac*)

V.   Directive 2011/95/EU establishing standards for the qualification of third-country nationals or stateless persons to the status of international protection beneficiary, for a uniform status for refugees and beneficiaries of subsidiary protection, and for the content of the protections granted (the *Qualification Directive*)

VI.   Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals (the *Return Directive*)

Due to the unforeseen large numbers of people requesting asylum and protection during the past three years, the EU and its MS had to enforce various measures to cope with this unprecedented situation and on 6 April 2016, as part of a long-term strategy, the European Commission published a Communication entitled '*Towards a reform of the Common European Asylum System and enhancing legal avenues to Europe*'.

4.1.4 Malta

The Maltese government transposed the aforementioned Community directives thereby creating a national regulatory legal framework with regard to international protection:

•   The **Refugees Act**, Chapter 420 of the Laws of Malta, regulates access by refugees to support and protection; the beneficiaries of subsidiary protection; asylum applicants; rejected asylum seekers and beneficiaries of Temporary Humanitarian

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11 - One should note that Article 47 of the European Charter of Fundamental Rights establishes an autonomous right to an effective remedy and to a fair trial. The principle of judicial review provided for under this Article requires the provision of an effective remedy before an independent and impartial tribunal, previously established by law, with a fair and public

Protection New (THP/N). This Act was recently amended to implement the Procedures Directive (Directive 2013/32/EU) and the Dublin III Regulation (Regulation (EU) No 604/2013).

- The Reception Conditions Directive (Directive 2013/33/EU) relating to the reception of asylum seekers was transposed into Maltese legislation by means of the amended **Reception of Asylum Seekers (Minimum Standards) Regulations, SL 420.06**. The Directive was introduced into national legislation to determine the reasons as to why an asylum seeker may be detained; to provide alternatives to detention; to formalise a system of regular reviews of detention decisions; the provision of free legal aid during the reviews of detention decisions; and the regulation of specific aspects of material reception, particularly vis-à-vis the classification of detainees.

- The Procedures Directives was also implemented into Maltese law through the adoption of Subsidiary Legislation 420.07 entitled **Procedural Standards for Granting and Withdrawing International Protection Regulation**.

- The **Common Standards and Procedures for Returning Illegally Staying Third Country Nationals Regulations, SL 217.12** transposed the provisions of the Return Directive (*Council Directive 2008/115*) into Maltese law and provides for the return of irregular migrants, including the detention of such migrants with a view to returning them to their country of origin.

4.2 QUALIFYING FOR HUMANITARIAN AND INTERNATIONAL PROTECTION ON THE BASIS OF SEXUAL AND GENDER-BASED VIOLENCE (SGBV) UNDER INTERNATIONAL, EUROPEAN AND MALTESE LEGISLATION

4.2.1 International Laws

International protection legislation has evolved considerably over the years and it currently gives greater scope to the right of protection to members of **specific social groups**, and thereby more protection on the basis of **gender and sexual orientation**. Several legislative instruments were adopted by various international institutions with the aim of combatting and preventing SGBV, and providing enhanced protection and support services to victims and survivors of SGBV. The legislative instruments increased the scope of protection on the basis of the following: sexual violence is perpetrated as a form of persecution and as a form of generalised violence in situations of conflict; trauma is suffered by asylum seekers during the migration process; human trafficking, particularly trafficking for sexual exploitation, is connected to international protection used instrumentally for this purpose.

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hearing within a reasonable time. This provides broader protection than Article 13 of the ECHR which' guarantees the right to an effective remedy before a national authority' that is not necessarily a judicial body. The EU thus adopted a more humanitarian interpretation of the fundamental human rights than that established under the ECtHR.

A The United Nations

Although the Geneva Convention did not contain any explicit reference to the terms "gender" or "sex", the UNHCR conceded that it is "*widely accepted that [these attributes] can influence or condition the type of persecution or harm suffered*"[12]. Consequently, Article 1 of the **1951 Convention** was reinterpreted whereby the 'gender' and 'sex' were accepted as being characteristic of particular social groups, thereby potentially constituting possible grounds for persecution[13].

In 1979, the United Nations General Assembly adopted the **Convention on the Elimination of All Forms of Discrimination against Women** (CEDAW). The Committee responsible for overseeing the implementation of the Convention reviews the performance of Member States on a periodic basis, and issues General Recommendations (GR) to them drawing attention to specific aspects of their obligations under the CEDAW Convention. The Committee has adopted various GRs that incorporated violence against women into a framework that combats discrimination and human rights violations; formulated measures to combat such gender violence; and underlined the Member States' responsibility to act with due diligence in eliminating violence against women. **General Recommendation No. 32**[14] focuses on gender-related aspects regarding refugee status, asylum, nationality and statelessness with particular reference to women. This GR was adopted to remedy the lack of understanding by State Parties regarding the meaning and implications of gender-based violence against women which hitherto had 'often [been] justified on the basis of tradition, culture, religion and/or fundamentalist ideologies'. Thus, Recommendation No. 32 requires State Parties to adopt measures in the areas of prevention, protection, prosecution, punishment and redress; data collection and monitoring; and international cooperation to accelerate the elimination of gender-based violence against women.

The UN General Assembly adopted another landmark legal instrument, namely the 1998 **Rome Statute of the International Criminal Court (ICC)** which entered into force in 2002 with the establishment of the ICC. Article 7 ICC defined "**crime against humanity**" as an act committed in the context of an extensive or systematic attack (including the act of being aware of the attack) against civilians, and encompasses rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilisation and other forms of sexual violence of similar gravity. Article 7 ICC also stipulated that "*persecution of a group or a community endowed with its own identity, inspired by political, racial, national, ethnic, cultural or religious reasons or for reasons of gender*" is considered a "crime against humanity." Moreover, the ICC defined the term "**war crimes**" to include "*rape, sexual slavery, forced prostitution or pregnancy, forced sterilisation and any other form of sexual violence constituting a serious violation of the Geneva Conventions.*"

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12 - UNHCR, 2002, p. 3

13 - UNHCR, Guidelines on international protection No. 1, Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, May 7, 2002, available at http://www. refworld.org/docid/3d36f1c64.html

14 - Available at http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx

B **The Council of Europe**

The Council of Europe has been actively engaged in the development of policy and legislation to **address sexual and gender-based violence**. The instruments most relevant to SGBV against women are:

1. the 2011 Convention on Preventing and Combating Violence against Women and Domestic Violence (the **Istanbul Convention**)

2. the 2005 Convention on Action against Trafficking in Human Beings

3. the 2002 Recommendation Rec(2002)5 on the Protection of Violence against Women

These legal mechanisms provide a comprehensive framework to address SGBV, to protect victims, and to end the impunity of the perpetrators. The Istanbul Convention obliges State Parties to take the necessary legislative and other measures to exercise due diligence to prevent, investigate, punish and provide reparation for acts of violence covered by the scope of the Convention (Article 5(2)), and to "*take the necessary legislative or other measures to protect all victims from any further acts of violence*" (Article 18). The Convention was the first international legislative instrument to refer to **gender persecution**. The Convention enshrined the principle of international protection for female migrants and asylum seekers together with action regarding gender-based asylum applications (Article 60) and the principle of *non-refoulement* (Article 61). Moreover, the Istanbul Convention requires State Parties to ensure that gender-based violence against women is recognised as a form of persecution under Article 1 of the 1951 Geneva Convention and that a **"gender sensitive" interpretation** is adopted in recognition procedures.

Moreover, in the context of the **European Convention on Human Rights** the diverse Judicial Courts of the Member States have developed a large body of specialised case-law on the interpretation and application of the Convention marred by an unavoidable lack of uniformity of approach which has resulted in a confusing patchwork of disparate decisions. Since it lacks an express provision relating to asylum and SGBV, the European Convention might appear to have only marginal relevance to the rights of those seeking asylum in Europe but this is manifestly offset by the substantial body of jurisprudence developed by the European Court of Human Rights (ECHR) which now sets the standards with regard to the rights of asylum-seekers across Europe[15].

4.2.2 EU legislation: the Qualifications Directive from a Gender Perspective

EU legislation gives great importance to the gender dimension and establishes it as a critical aspect in the assessment of claims for international protection by asylum seekers. EU Directive 2011/95/EU of 13 December 2011 established 'standards for the qualification of third-country nationals or stateless persons as

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15 - *Asylum and the European Convention of Human Rights*, Nuala Mole, available at https://www.echr.coe.int/LibraryDocs/DG2/HRFILES/DG2-EN-HRFILES-09(2000).pdf

beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted', known as the Qualifications Directive. Article 4 provides that the consideration of individual and personal circumstances of the applicant are to be an integral part in the assessment process of the application for international protection. This means that an individual's sex, age and extraction need to be taken into consideration to establish whether acts of persecution or grave harm were experienced by the individual on the basis of the aforementioned personal attributes. Moreover, Article 9 establishes that under the Geneva Convention an act of persecution must 'be sufficiently serious by its nature or repetition as to constitute a severe violation of basic human rights'[16] and includes physical, mental and sexual violence, legal and administrative discriminatory measures, disproportionate or discriminatory prosecution or punishment, and acts of a 'gender-specific' nature.

Furthermore, Article 10 of the same Directive stipulates that notes that 'a group shall be considered to form a particular social group' where a group is 'based on a common characteristic of sexual orientation' and 'gender related aspects, including gender identity shall be given due consideration'[17] when assessing the grounds for the granting of refugee status. On the basis of these provisions Member States are required to treat different forms of SGBV – including domestic violence, forced slavery and female genital mutilation as acts of gender-based persecution qualifying for international protection.

Moreover, Article 15 (Qualification for subsidiary protection) establishes that female victims or survivors of SGBV who request asylum but do not qualify as refugees can be considered as eligible for subsidiary protection if it is assessed their returned to their country of origin (or in the case of stateless persons, to their country of former habitual residence) would cause them to face a real risk of suffering serious harm as defined in Art. 15 namely: harm resulting from the 'death penalty or execution; … torture or inhuman or degrading treatment punishment of an applicant; serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict'[18]. Female asylum seekers frequently describe grave experiences of serious harm resulting from situations of kidnappings, familiar persecution, molestation and sexual violence committed in countries afflicted with political instability or civil strife.

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4.2.3 The Gender Dimension of the Welcome Directive

SGBV and the concept of "gender" are taken into consideration in EU Directive 2013/33/EU[19] establishes the requisite minimum standards for the reception of asylum seekers who are applicants with special reception needs on the basis that

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16 - Article 9, Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted.

17 - Article 10, ibid.

18 - Article 15, ibid.

19 - EU Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection.

such applicants are vulnerable persons who need special guarantees for their protection. Under this Directive, female applicants for asylum [are to be] accommodated separately from male applicants, unless the latter are family members and all individuals concerned consent thereto. [This] may also apply to the use of common spaces designed for recreational or social activities, including the provision of meals[20]. Moreover, Member States must oversee the modalities for material reception conditions to ensure the provision of adequate premises to accommodate the asylum seekers and take into account gender and age-specific concerns (while protecting family unity) and 'take appropriate measures to prevent assault and gender-based violence, including sexual assault and harassment within the premises and accommodation centres'[21].

The Directive stipulates that 'Member States shall take into account the specific situation of vulnerable persons such as minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation, in the national law implementing this Directive'[22]. To ensure that these dispositions are applied effectively, EU Directive 2013/33/EU stipulates that the personnel and organisations providing reception services receive adequate training regarding the needs of applicants of both genders, especially the survivors of SGBV.

4.2.4 SGBV in the "Procedures Directive"

EU Directive 2013/32/EU lays down common procedures for granting and withdrawing international protection[23] for asylum applicants. Recital 29 states that the Directive is needed to ensure that survivors of SGBV and other vulnerable applicants are protected by means of 'special procedural guarantees due, inter alia, to their age, gender, sexual orientation, gender identity, disability, serious illness, mental disorders or as a consequence of torture, rape or other serious forms of psychological, physical or sexual violence'.

In such cases, adequate support must also be provided including for the purpose of presenting the elements needed to substantiate their application for international protection. Moreover, recital 32 states that to ensure 'substantive equality between female and male applicants, examination procedures should be gender-sensitive. In particular, personal interviews should be organised in a way which makes it possible for both female and male applicants to speak about their past experiences in cases involving gender-based persecution.

The complexity of gender-related claims should be properly taken into account in procedures based on the concept of safe third country, the concept of safe

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20 - Article 11, ibid.

21 - Article 18, ibid.

22 - Article 21, ibid.

23 - EU Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection.

country of origin or the notion of subsequent applications. Furthermore, the Directive provides for the requirements for decisions by the determining authority and stipulates that such decisions on applications for international protection are to be 'a single decision, covering all dependants, unless to do so would lead to the disclosure of particular circumstances of an applicant which could jeopardise his or her interests, in particular in cases involving gender, sexual orientation, gender identity and/or age-based persecution. In such cases, a separate decision shall be issued to the person concerned'[24]. To examine an applicant's case appropriately, the Directive stipulates the requirements for personal interviews and requires the determining authority to 'ensure that the person who conducts the interview is competent to take account of the personal and general circumstances surrounding the application, including the applicant's cultural origin, gender, sexual orientation, gender identity or vulnerability'[25].

4.2.5 Various Resolutions of the European Parliament

EP Resolution on the Commission communication on immigration, integration and employment (COM(2003) 336 - 2003/2147(INI)) 'stresses that women and minors are the main victims of human trafficking and/or sexual exploitation and they therefore need appropriate protection and assistance; stresses the need to address the issue, to promote measures to prevent trafficking, to eliminate sexual exploitation and to ensure the integration of victims; insists that the Member States should take measures and adopt appropriate legislation so as not to penalise these victims'[26]. Furthermore, this European Parliament Resolution 'stresses the need to look into the causes and consequences of illegal as well as legal immigration and refuge, especially for women immigrants and asylum seekers, who might be emigrating because of gender discrimination or persecution'[27].

EP Resolution on women's immigration: role and status of immigrant women in the European Union (2006/2010(INI)) states that 'whereas women immigrants are more exposed to abuse, both psychological and physical, either because of their financial and legal dependence or because women immigrants with no legal status are more susceptible to abuse and sexual exploitation in the workplace and to human traffickers; whereas, in the case of immigrant women whose status is irregular, this lack of legal status within the territory of the State where they reside particularly exposes them to the risk that their fundamental rights may be denied, and for the same reason they are more frequently victims of discrimination and violence in everyday life'[28].

The European Parliament called on the Commission 'to collect gender-related data on immigration into the EU and to arrange for the analysis of that data by the European Institute for Gender Equality in order to highlight further the particular

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24 - Article 11, ibid.

25 - Article 15, ibid.

26 - C 92 E/394-395 Official Journal of the European Union EN 16.4.2004 Thursday 15 January 2004, Art. 14.

27 - C 92 E/394-395 Official Journal of the European Union EN 16.4.2004 Thursday 15 January 2004, Art. 38.

28 - C 313 E/121 Official Journal of the European Union EN 20.12.2006, Point F.

needs and problems of women immigrants and the most appropriate methods of integrating them into the societies of the host countries'[29]. The EP also urged 'the Council and the Commission, in the framework of a European common immigration and asylum policy, to include the risk of being subjected to female genital mutilation among the reasons for requesting the right of asylum, in accordance with the international guidelines issued by the United Nations High Commissioner for Refugees affirming that the international definition of refugees *covers gender-related claims*'[30] and urged 'the Member States which have not done so to ensure that effective and deterrent penalties apply under their criminal codes to all forms of violence against women and children, particularly forced marriage, polygamy, so-called crimes of honour and female genital mutilation, and to increase the awareness of police and judicial authorities of those issues'[31].

EP Resolution on undocumented women migrants in the European Union (2013/2115(INI)), of 4 February 2014, called on

> *'the Member States to ensure that all migrant women, including undocumented migrant women, who have been victims of abuse or gender-based violence, including migrant women exploited in the prostitution industry, are provided with protection and support and considered to have particular reasons to be granted asylum or residence permits on humanitarian grounds'* [32].

Furthermore the EP called on 'the Member States to strengthen their collaboration with NGOs and civil society organisations working on this issue in order to find alternatives to detention centres, and to strive to ensure that undocumented women migrants need not be afraid to interact with the people who should be providing them with support'[33].

EP Resolution with recommendations to the Commission on combatting violence against women (2013/2004(INL)), of 25 February 2014, emphasised that 'women victims of gender-based violence and their children often require special support and protection because of the high risk of secondary and repeat victimisation, of intimidation and of retaliation connected with such violence'[34]. Furthermore it affirms that 'gender-based violence involves victims and perpetrators of all ages, educational backgrounds, incomes and social positions and is linked to the unequal distribution of power between women and men and to ideas and behaviours based on stereotypes in our society which need to be combated at the earliest stage with a view to changing attitudes'[35].

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29 - C 313 E/124 Official Journal of the European Union EN 20.12.2006, Point 29.

30 - C 313 E/125 Official Journal of the European Union EN 20.12.2006, Point 34.

31 - C 313 E/125 Official Journal of the European Union EN 20.12.2006, Point 35.

32 - European Parliament resolution of 4 February 2014 on undocumented women migrants in the European Union (2013/2115(INI)), Recommendation 21.

33 - European Parliament resolution of 4 February 2014 on undocumented women migrants in the European Union (2013/2115(INI)), Recommendation 28.

34 - European Parliament resolution of 25 February 2014 with recommendations to the Commission on combatting violence against women (2013/2004(INL)), Recital K.

35 - European Parliament resolution of 25 February 2014 with recommendations to the Commission on combatting violence against women (2013/2004(INL)), Recital B.

It notes that 'sexist attitudes amongst the younger generation about gender roles are persistent; young women who are victims of violence continue to be blamed and stigmatised by their peers and the rest of society'[36]; reiterates that 'violence is a traumatic experience for any man, woman or child, but gender-based violence is more often inflicted by men on women and girls, and both reflects and reinforces inequalities between men and women and compromises the health, dignity, security and autonomy of its victims'[37].

The Resolution emphasises that 'there is a need for education and training from a very young age to combat violence against women and gender based violence in general as it develops the skills for young people to treat their partners with respect regardless of their gender and to be aware of the principles of equality'[38]; and also stresses that 'violence against women can leave deep physical and psychological scars, damage the general health of women and girls, including their reproductive and sexual health, and in some instances results in death, also called feminicide'[39]. It also underlines that 'violence against women is assuming ever more unacceptable forms, including membership of women in groups organising the trafficking of women for sexual exploitation'[40]; and emphasises that 'studies on violence against women estimate that one-fifth to one-quarter of all women in Europe have experienced physical acts of violence at least once during their adult lives, and more than one-tenth have suffered sexual violence involving the use of force'[41].

The EP Resolution on combatting violence against women refers to the preliminary results of the European survey on violence against women, issued by the Fundamental Rights Agency in March 2013, which shows inter alia that: four in five women did not turn to any service, such as healthcare, social services, or victim support, following the most serious incidents of violence by people other than their partners; women who sought help were most likely to turn to medical services, highlighting the need to ensure that healthcare professionals can address the needs of victims of violence; two in five women were unaware of laws or political initiatives to protect them in cases of domestic violence, and half were unaware of any preventative laws or initiatives'[42].

EP Resolution on sexual exploitation and prostitution and its impact on gender equality (2013/2103(INI)), of 26 February 2014 considered that 'EU data show

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36 - European Parliament resolution of 25 February 2014 with recommendations to the Commission on combatting violence against women (2013/2004(INL)), Recital H.

37 - European Parliament resolution of 25 February 2014 with recommendations to the Commission on combatting violence against women (2013/2004(INL)), Recital I.

38 - European Parliament resolution of 26 February 2014 on sexual exploitation and prostitution and its impact on gender equality (2013/2004(INL)), Recital O.

39 - European Parliament resolution of 26 February 2014 on sexual exploitation and prostitution and its impact on gender equality (2013/2004(INL)), Recital N.

40 - European Parliament resolution of 25 February 2014 with recommendations to the Commission on combatting violence against women (2013/2004(INL)), Recital P.

41 - European Parliament resolution of 25 February 2014 with recommendations to the Commission on combatting violence against women (2013/2004(INL)), Recital Q.

42 - European Parliament resolution of 25 February 2014 with recommendations to the Commission on combatting violence against women)), Recital S.

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that the current policy to combat human trafficking is not effective and there is a problem to identify and prosecute traffickers so that the investigation of sex-trafficking cases and the prosecution and conviction of human traffickers need to be strengthened'[43]; it considers that 'pressures under which prostitution takes place can be direct and physical, or indirect, for example by means of pressure on the family in the country of origin, and […] such pressures can be psychological and insidious'[44]. Moreover, the Resolution 'condemns any policy attempt or discourse based on the notion that prostitution can be a solution for migrant women in Europe'[45] 'draws the attention of the national authorities to the impact of the economic downturn on the growing number of women and underage females, including migrant women, forced to enter prostitution'[46]; and 'urges the Member States to fund organisations operating on the ground with support and exit strategies, to provide innovative social services for victims of trafficking or sexual exploitation, including migrant and undocumented persons'[47].

EP Resolution on the situation of women refugees and asylum seekers in the European Union (2015/2325(INI)), of 8 March 2016, calls on 'all Member States, in collaboration with the EU, to guarantee specialised trauma counselling and psychosocial care for women who have experienced gender-based harm, with the direct involvement of qualified women who are specialists in the field, and which is available at all stages of the asylum process'[48].

4.2.6 Maltese Laws

In terms of national legislation, Malta has adopted numerous laws dealing specifically with SGBV and asylum-seekers. This has resulted in a significant improvement in the protection provided to migrants who due to their unfortunate circumstances are already very vulnerable.

Recently, in May 2018, Malta adopted the **Gender-Based Violence Act, Chapter 581** of the Laws of Malta which introduced various amendments to Maltese law, especially in the Criminal Code, to reflect the principles enshrined in the Istanbul Convention and to broaden the protection provided to victims of SGBV. It also removed the derogation in terms of Article 59 to provide more safeguards to victims of SGBV whose status depended on that of their spouses and partners. Moreover, the Act included the creation of a Commission for Gender-based Violence and

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43 - European Parliament Resolution of 26 February 2014 on sexual exploitation and prostitution and its impact on gender equality (2013/2103(INI)), Recital Q.

44 - European Parliament Resolution of 26 February 2014 on sexual exploitation and prostitution and its impact on gender equality (2013/2103(INI)), Recital S.

45 - European Parliament Resolution of 26 February 2014 on sexual exploitation and prostitution and its impact on gender equality (2013/2103(INI)), Point 35.

46 - European Parliament Resolution of 26 February 2014 on sexual exploitation and prostitution and its impact on gender equality (2013/2103(INI)), Point 44.

47 - European Parliament Resolution of 26 February 2014 on sexual exploitation and prostitution and its impact on gender equality (2013/2103(INI)), Point 47.

48 - European Parliament Resolution of March 8, 2016 on the situation of women refugees and asylum seekers in the European Union (2015/2325(INI)), Point 6.

Domestic Violence which was required to define and coordinate the implementation of a dedicated Action Plan in coordination with civil society. In this context, "gender-based violence" is defined as:

> "...*all acts or omissions that are directed against a person because of their gender, that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.*"

The **Criminal Code, Chapter 9 of the Laws of Malta**, lays down the punishments relating to SGBV transgressions including sexual abuse and harassment, stalking, human trafficking, forced marriage, female genital mutilation, and hate crime on basis of gender. The **Code** was also amended recently with regard to the definitions of SGBV offences to ensure that the victim is better protected.

The **Refugee's Act** stipulates that acts which are gender-specific in nature constitute 'acts of persecution'. Moreover, through the adoption of Article 60 of the Istanbul Convention under Maltese law the definition of gender persecution has been extended to specifically include acts of gender-based violence and domestic violence to ensure that SGBV victims are granted protection, including subsidiary protection. As this principle was introduced only recently into Maltese law, its impact is yet to be felt in terms of the assessment of asylum applications and the awarding of subsidiary protection.

Article 12 of SL 420.06 lays down the modalities for asylum reception and specifically stipulates that, when accommodating applicants, due regard shall be given to gender and age-specific concerns, as well as the situation of vulnerable persons. Article 14 of SL 420.06 requires that special assistance and support should be given to vulnerable persons and that they should not be detained under any circumstances.

Article 14 of SL 420.06 and Article 3 of SL 420.07 defines "vulnerable persons" as:

> "...*persons in need of special care, support, or protection because of age, disability, or risk of abuse or neglect, including minors, unaccompanied minors, disabled people, elderly people,* **pregnant women**, **single parents with minor children**, **victims of human trafficking**, *persons with mental disorders and* **persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence**."

Article 6 of SL 420.06 states that the Refugee Commission may decide to prioritize an examination of an application for international protection, where the applicant is vulnerable or is in need of special procedural guarantees. Article 8 of SL 420.06 allows the Refugee Commissioner to consult experts on aspects of health, cultural, religious, gender or developmental age and may, with consent, carry out medical examinations to ascertain the results of persecution or serious harm, as well as to order the translation of the documentation produced by the applicant. Article 10 of SL 420.06 stipulates that the person who conducts the interview of the applicant is sufficiently competent to take account of the personal or general circumstances surrounding the application including the applicant's cultural or-

igin, gender, sexual orientation, gender identity or vulnerability. Applicants may arrange medical and legal appointments at their own expense, or if not the Commissioner may appoint a free legal aid to represent him. Article 20 of SL 420.06 lays down the rights of refugees and persons granted subsidiary protection status. It also states that those applicants who are considered as vulnerable persons must be provided with adequate health care. Moreover, once the Refugee Commission identifies a vulnerable person as a 'victim' of SGBV, that person cannot be detained and shall be granted all the rights provided under the Victims of Crime Act. Under this Act, a 'victim' is defined as anyone who has 'suffered harm ... which was directly caused by a criminal offence'; and such 'harm' includes 'physical, mental or emotional harm or economic loss'.

4.3 REFUGEE COMMISSION: IDENTIFYING SGBV VICTIMS OR SURVIVORS

The aforementioned laws ensure that SGBV victims or survivors are protected, both in terms of asylum reception and in the context of the process for granting international protection. Moreover, the term 'gender' is included among the vulnerable categories listed under Art. 14 SL 420.06, and 'gender' is also considered a characteristic of a specific social group that can be subjected to persecution and therefore such a group merits the recognition of status. The two considerations are interconnected and need to be evaluated sensitively during the process of reception, whose function is to establish, possibly through a multidisciplinary approach, whether the violence experienced was gender-based and its relevance to the application for international protection being examined.

As already mentioned, the **Qualification Directive** stipulates that refugee status can be granted to persons who demonstrate that they have survived, or have well-founded fear of, physical or psychological violence, including sexual violence. Such acts of persecution need to be examined to determine whether they were aimed primarily at a particular social group which, in particular countries of origin, may be evaluated as having gender membership or sexual orientation as their main characteristic.

Some critical voices insist that the definition of 'refugees' under the Geneva Convention is limited to a specific model of an individual: male, heterosexual, persecuted by an oppressive state mainly for political reasons. Over the years, the notion of refugee has been widened to be also inclusive of gender so that gender itself has been established as a characteristic that identifies a person as belonging to a particular social group. On the basis of this evolution in concepts, the UNHCR Guidelines of 2002 underlined that "*sex can properly be within the ambit of the social group category, with women being a clear example of a social subset defined by innate and immutable characteristics, and who are frequently treated differently than men*"[49].

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49 - UNHCR Guidelines of 2002, p. 8

However, the reality is that during the process of examining requests for protection, the experiences of women seeking asylum are marginalised or undervalued, and frequently divested of their inherent social, cultural or political character. For example, forms of female political resistance, such as the refusal to obey discriminatory laws, are often mistakenly interpreted as personal, individual actions without any political underpinnings. This can affect the outcome of the examination to determine eligibility for refugee status, and perhaps even for humanitarian protection. To ensure an effective gender perspective by the Refugee Commissioner, there is a persistent and self-evident need to eliminate the division between public and private spheres, and consider SGBV as a form of socially determined persecution. Domestic violence, sexual abuse and rape can no longer be reduced to a mere private experience having specific features without implications and repercussions, both social and/or political. In this context, it is crucial to point out **the persistent lack of protection of women by the state in order to empower them to identify the agent of persecution**.

Another shortcoming that needs to be addressed is that SGBV frequently fails to be immediately established partly due to the reticence of asylum seekers. This is often due both for reasons relating to psychological trauma and also relating to a lack of awareness regarding their rights as victims of persecution. Another contributing factor is that forms of violence rooted in cultural traditions, such as forced marriages or female genital mutilation, are often not perceived as SGBV by the persons in charge of the reception processes of the host state and also by the asylum seekers themselves both for an innate fear of exposing one's experiences to strangers due to threats and also well-founded fears, for example in the case of victims of human trafficking.

Studies have revealed that women are often hardly aware of the deprivation of liberty as some forms of abuse are a feature of their everyday lives. SGBV is considered by them as being an integral, unavoidable part of their destiny, and therefore they do not present themselves as victims newly arrived in a host country. In such contexts, it is **necessary to take particular precautions** during interviews held under the auspices of the Refugee Commissioner, to utilise the interviewing process as an instrument aimed at obtaining information in cooperation with the asylum seeker.

It is important to emphasise to the applicant that such interviews are not malicious interrogations and that the questions asked do not have the objective of trapping the applicant into contradiction. The interviewers need to be sensitive and well-trained individuals who desist from making judgments on the history of the person or on the persons themselves because very often the applicant feels reluctant to recount experiences of abuse and violence due to the resultant trauma and shame of what had happened. Thus, when addressing the women during the interviewing process, it is necessary to empower them to feel reassured and safe by emphasising the confidentiality of the process, clarifying the protection being provided and pointing out the absence of a risk of retaliation against her.

In particularly serious cases, it is preferable to prevent the interview from being videotaped, especially if this undermines the possibility of the applicant recount-

ing her story without trepidation. It is always commendable that the reception support worker informs the applicant in advance of the possibility of refusing video recording. Moreover, in numerous cases, the interviews should take place on an individual basis and not in the presence of other family members, in order to avoid the possible conditioning of the applicant. It is also laudable and effective for the interviewer to be a person of the same gender in order to foster empathy and sensitivity during the interviewing process. Moreover, the interviewer needs to **create a reassuring environment and establish a climate of trust** by presenting herself at the outset and explaining her role, maintaining an attitude that is as neutral and objective as possible, starting with open questions and then proceeding to specific questions regarding personal experiences and fears. It is also fruitful for the Refugee Commission to **utilise external experts** such as doctors, anthropologists, psychiatrists and psychologists whenever this is considered as advantageous to the applicant – a decision which is expressly provided for by the law. In rare cases, the applicants may be able to produce medical or other relevant documentation which they had managed to carry from their country of origin.

4.4 THE ROLE OF THE SUPPORT OFFICER IN CASES OF MENTAL DISORDERS AFFECTING PERSONS WHO HAVE EXPERIENCED SGBV

SGBV often has a severe impact on its victims and this may include psychic and emotional repercussions including post-traumatic stress, depression, anxiety, fear, anger, shame, insecurity, self-hatred, self-reproach and suicidal behaviour. The psychological traumas and psychopathological disorders produced by SGBV are important aspects that need to be addressed in the context of reception and the processes aimed at granting protection. In the field of reception, it is very easy to allow the emergence of misunderstandings, tensions, conflicts and failures both in the relationship with the support worker and in cohabitating with the other applicants in the asylum reception centre. Subconsciously, **a person's suffering may constitute an obstacle to the attainment of that person's individual social inclusion plan,** whereas the reception support workers unwittingly find themselves faced with situations that fall beyond their competences. In cases where mental disorders constrain the applicant's capacity for self-determination, besides initiating long-term clinical and community support in the reception facility, the determining authority can also consider another instrument provided for by legislation, namely **the appointment of a curator or tutor by the Maltese courts to carry out the necessary acts to meet the needs of everyday life**. Such a curator or tutor can be bestowed with the powers stipulated in the Maltese Civil Code and which are not de facto conferred to reception support workers or health care personnel in charge of SGBV survivors affected by mental disorders.

4.5 THE IMPORTANCE OF PROVIDING SUPPORT AND LEGAL INFORMATION TO ESTABLISH SGBV AND GRANTING PROTECTION

As described above, traumatic SGBV experiences are generally difficult to elicit and determine fully because victims often feel threatened and insecure thereby requiring long interventions to achieve mediation and openness. In this context, legal assistance and psychological support can play a pivotal role in making asylum seekers aware of the support services and protection measures that are available, and in informing the applicants about the application procedure to be followed in such cases. It is manifest that asylum seekers come from very disparate socio-cultural contexts and have different levels of education, and therefore some may not possess the cognitive and cultural tools to fully understand the complexities of the asylum application process. Thus some applicants may not differentiate between the roles of the members of the Refugee Commission, policemen, lawyers or other support personnel, and they may also not comprehend the implications of certain rules or behaviours.

It is therefore **necessary to explain clearly** the roles of the various professionals and the principle of confidentiality underpinning the application process, and expounding the benefits that such persons can offer to the applicants in the assessment of their applications. Thus, the clarification of the roles and procedures involved in the application process can overcome the initial, natural reluctance of the applicants and promote the development of **a holistic mediation path**; for example, by explaining to the applicant that some forms of SGBV – such as rape, violence, being a victim of trafficking – are grounds for granting protection and entitlement to remain in Malta, hence **the applicant can be empowered to assume a more active role in the process** of qualifying for international protection and discard the notion of being a passive, powerless object. Moreover, by being made aware of women's rights in Malta and being informed about the possibility of being included in protection and work placement programmes, can generate an applicant's empowerment and the affirmation of her personal rights. Such approaches enable asylum seekers to gradually gain trust in the support professionals and ultimately start confiding in them their experiences, fears and aspirations. Once trust has been established, the professionals can collect the necessary information for the process of application to proceed.

In this regard, the European Parliament Resolution of 2009 urges MS to support the reception and psychological rehabilitation of female victims of violence "*also for the purpose of their reintegration into the labour market, thus fully recovering their human dignity.*" It also calls for ensuring that female victims of violence receive legal assistance and protection irrespective of their nationality and the nature of their involvement in police investigations.

4.6 PRACTICAL TOOLS USED TO IDENTIFY SGBV

As mentioned above, the **Refugee Commission can utilise external professionals** in order to obtain expert opinions or certification **(medical, anthropological, psychological)** on certain aspects of an applicant's circumstances related to requests for international protection related to SGBV. If the applicants are able to produce the requisite **information or certification**, when it is in their possession and ability to produce, the Commission does not need to avail itself of external professionals.

4.6.1 Medical and Legal Certifications

Both in the administrative phase of the application for protection and in the potential judicial process before the Refugee Appeals Board or court (in cases of judicial review), medical and/or legal examinations are important tools available to the asylum seeker and also to the determining authority to identify *possible past persecution or serious harm*. Pursuant to Regulation 9(7) SL 420.07, on the basis of the information provided by the applicant, "*where the Refugee Commissioner deems it relevant for the assessment of an application, the Commissioner shall, subject to the applicant's consent, arrange for a medical examination for the applicant concerning signs that might indicate past persecution or serious harm*". Such medical examinations shall be paid for out of public funds but Regulation 9(9) contends that if the Commission declines to authorise a medical examination, the applicant can request one to be held at her own expense and then submit the results to the Commission during the assessment of her application. No requests were made for medical examinations in 2017[50]. Furthermore, medical certification can also be utilised to inform the Refugee Commission or an adjudicator regarding the **psychological trauma suffered by the applicant in the course of narrating particularly disturbing events** evoking repressed feelings of fear, shame, self-blame or dissociation. In very serious cases, medical certification can serve to inform the determining authority about the incapacity of the applicant to cope with the hearing or about the need for the applicant to be provided with assistance during the hearing.

The Istanbul Protocol establishes minimum standards for the medical/legal certification of torture cases. An essential condition is the provision of supervision in a multidisciplinary programme of treatment and support undertaken by specially trained personnel. The certification serves as a tool that provides an evaluation of "*whether, and to what extent, the physical or psychological symptoms found are congruent with the description of events provided by the applicant in relation to the traumas suffered*" and, in the assessment of the application for international protection, "*must be considered together with statements made by the applicant.*" Such medical certification must therefore include: (a) the statements of the SGBV survivor regarding her experience (or her story as told to the operators); and (b) the support workers' observations on the behaviour and abilities of the survivor on arrival in

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50 - See also https://www.asylumineurope.org/reports/country/malta/asylum-procedure

the reception centres and subsequently. These inputs serve to document the consistency of the applicant's emotional state with what is reported and described (the congruence judgment). The preferred methodology to be adopted by the medical professional is to sensitively utilise diagnostic and evidence-collecting tools that are in line with the evaluation criteria of applications for international protection.

4.6.2 Tools that Identify Relevant Ethno-Clinical Factors

Violence based on gender often results from socio-cultural actions emanating from the applicant's context of origin and producing SGBV acts like forced or early marriages, or female genital mutilation. In such cases, anthropological and/or ethno-clinical studies can describe how a **specific practice is typical of the ethnic background of the applicant's geographical or social origin** and can be **manifestly relevant at the administrative phase administered by the determining authority and/or at the judicial review** undertaken by the court. The identification of such ethno-clinical relationships can be achieved by a process of cultural mediation with the applicant and often starts from the narration of the persecution story and gradually extend the narrative to contextualise the gender-based violent acts within the ethnic and/or cultural milieu of the applicant, thereby documenting the experiences of the victims. When the ethno-clinical mediation process is accompanied or preceded by a legal/medical examination aimed at documenting the survivor's experiences and/or trauma, the **two processes should be implemented in a holistic manner** so that the final reports/certification contain mutual references which produce a more comprehensive picture of what the SGBV survivor experienced.

4.6.3 Health Support Services

It is important to note that SGBV may entail the need for access to certain medical services, which may have norms and timescales established by law. Within this context, support workers should inform the survivors about medical practices which are not permitted in Malta, like female genital mutilation and abortion, as they may constitute criminal offences. Moreover, the host institution should inform SGBV survivors about the range of medical services available under the national health system and they, as asylum seekers, can access to address medical issues.

ACTIVITIES

OUTCOMES: the training module aims to provide an understanding of effective management tools, encompassing legal and emphatic approaches, to support migrant survivors of SGBV.

DURATION: 8 hours

CONTENT OF THE TRAINING PROGRAMME

8.15 - 8.30	**Registration of participants**	To formulate a list of participants receiving training.
8.30 - 9.00	**Introductions; overview of the programme**	To foster an atmosphere of mutual trust and understanding as the basis for the development of learning experiences. Emphasis on confidentiality, the right to express oneself, respect for others. At the end of this session the participants will be more at ease to assimilate new learning experiences and present their own experiences objectively.
		First Activity: SGBV in the context of the International Protection Procedure and Asylum Seekers.
9.00 - 10.00	**Overview of the International and National Legal Frameworks on Asylum**	To establish an understanding of the social contexts and legislative factors that underpin the conceptualisation and regulation of asylum law, regulatory definitions, legislation and procedures.
10.00 - 10.20	**Coffee Break**	
10.20 - 11.15	**Qualifying for humanitarian and international protection on the basis of Sexual and Gender-Based Violence (SGBV) under International, European and Maltese Legislation**	To discuss the diverse legislative frameworks which govern effective approaches to SGBV and humanitarian/international protection. To identify how such frameworks operate, their weaknesses and also their benefits for SGBV survivors.
		Second Activity: Gender Persecution.
11.15 - 12.00	**Refugee Commission: How to Identify SGBV Victims or Survivors**	To examine critically the Role and Powers of the Refugee Commission. To identify and assess critically the tools available to identify victims and the effects of SGBV.
12.00 - 13.00	**Lunch Break**	
13.00 - 13.45	**Role of the support officer in cases of mental disorder affecting persons who experienced SGBV**	To achieve a better understanding of the causes and effects of mental disorders affects SGBV survivors. To discuss the most effective approaches that can support SGBV victims in their applications for protection.

13.45 - 14.30	**The importance of providing Support and Legal Information to establish SGBV and Granting Protection**	To reinforce awareness about the benefits that can be gained by empowering applicants who have undergone experiences of SGBV.
		Third Activity: SGBV Protection Instruments.
14.30 - 16.40	**Using Practical Tools to identify victims or survivors of SGV**	To discuss various tools (legal/medical certifications; ethno-clinical relations and certifications; registration with the national health system; health services to protect women's health) that can be utilised to protect and empower SGBV survivors.
16.40 - 17.00	**Questions**	To discuss and clarify any queries raised by the participants.
17.00 - 17.05	**Closure**	

Activity 1

"SGBV in the context of the International Protection Procedure and Asylum Seekers"

Expected Outcomes: participants feel more comfortable and at ease and are ready to commence the training.

Estimated time: 30 minutes

Learning Materials: none

Key Messages and Tasks:

1. Ensure that this is done as a participatory introspection and not as a judgmental evaluation because that might result in participants closing up rather that opening up on the issue. Trainer needs to be very careful with the choice of words and body language.

2. Trainer displays a chart with numbers 1 to 10 and gives the participants the following instructions:

   • Consider how much you know about the problems relating to SGBV, the International Protection Procedure and Asylum Seekers.

   • Rate your knowledge level about SGBV, international protection procedure and asylum seekers on a scale from 1 to 10 where 1 means little or no basic knowledge and 10 means that one know's everything there is to know about trafficking in persons.

3. Ask the participants to judge where they are on the scale and place a check mark under the appropriate number on the flipchart.

4. Lead a discussion using the following questions to guide the group:

- What does the scale indicate about this group's awareness of the issue?
- How much exposure have you had to information about SGBV, the international protection procedure and asylum seekers during the last year (through mass media, social media or other means)? Have you been engaged in discussions about the issue before today's session?
- What impact has this information or discussions had on you?

Activity 2

"Gender Persecution"

Learning Outcomes: the participants consolidate their knowledge of international, European and Maltese legislation regarding asylum applications and reception with specific reference to gender persecution.

Estimated time: 30 minutes

Learning Materials: power point presentation, flip chart and video clips

Key Messages and Tasks:

Ask small groups to formulate a definition of Gender Persecution and the legal tools available (using a flipchart in order to promote sharing among the whole training group). General discussion and formulation of a common definition.

- Encourage everyone to express themselves freely.
- Emphasise that are no wrong or unique answers.
- Personal opinions must not be criticized.

Within the context of the International Geneva Convention (1951), the Istanbul Convention (2011) and other normative texts, ask the groups to list different forms of gender persecution and the protection available for applicants.

After encouraging the participants to express their opinions, ask them (i) to classify the individual forms of persecution in various categories; and (ii) to think about what forms of protection can be beneficial to SGBV survivors; and record the responses.

> *E.g. 1:* a woman who is forced to help a group of rebels, performing acts of caring for the wounded, is imprisoned by the regular army and experiences various forms of violence. What kind of persecution does one identify?
>
> 1) for political reasons; 2) for gender reasons; 3) for both reasons?
>
> *E.g. 2:* A woman flees from a particular country whose government imposes certain modes of clothing (e.g. the wearing of the burqa, etc.) and prohibits women from doing certain things (eg: to study, to drive a car, etc.). What kind of persecution can one identify?
>
> 1) for political reasons; 2) for gender reasons; 3) for reasons of religion;
> 4) for all three reasons?

Ask the participants:

- If during the activities, they had thought of a single form or of multiple forms of persecution; what are the possible protections that can be provided and what is

their legal basis? It is important to underline that according to the type of persecution there can be different methods of interviewing/examining the person aimed at identifying appropriate forms of protection.

- To identify the relevant aspects of the different forms of persecution. The trainer emphasises the importance of the victim/survivor's story and the need to ascertain the credibility of the survivor's initial story as the starting point of the interview/examination. From the initial story, how can the support worker empower the victim to narrate her experiences?

- To identify how the cultural background of the survivor limits the development of the interview or examination used to identify the protection required by the survivor.

- How support workers and other external professional can raise awareness among the applicants with regard to their fundamental rights?

Expected results: participants acquire more understanding and skills to utilise relevant tools for identifying different types of persecution and potential means for providing protection to the SGBV survivor.

"SGBV Protection Instruments"

Learning Outcomes: the participants identify which professional skills can be utilised to generate concrete and practical solutions based on current legislation with regard to the topic under consideration. The outlines of a competence-based approach are drawn up with regard to an actual case and/or a fictional scenario involving applicants for international protection.

Estimated time: 30 minutes

Learning Materials: power point presentation, sheets and markers

Methodology approach: case study

Key Messages and Tasks:

The trainer uses a power point presentation to illustrate a case study for discussion.

The groups of participants is animated to discuss the case study and to share their insights regarding possible solutions to the problems presented.

In conclusion, the trainer recapitulates the outcomes of the various discussions.

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Self-Evaluation Form

Date: ....

Name of participant (optional): ....

Kindly answer the following questions by underlining the correct answer:

1. Which law defines 'refugee' as "*owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling, to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it*"?

   a. European Convention on Human Rights
   b. Universal Declaration of Human Rights
   c. Convention relating to the Status of Refugees

2. Which Directives constitute the CEAS?

   a. Procedures Directive, Reception Conditions Directive, Dublin III Regulation, Eurodac, Qualification Directive, and the Return Directive

   b. Procedures Directive, Reception Conditions Directive, Dublin III Regulation, Qualification Directive, and the Return Directive

   c. Procedures Directive, Reception Conditions Directive, Eurodac, Qualification Directive, and the Recovery Directive

3. What does the Refugee Act regulate?

   a. Access by refugees to support and protection; the beneficiaries of subsidiary protection; asylum applicants; rejected asylum seekers and beneficiaries of Temporary Humanitarian Protection New

   b. Access by refugees to support and protection; the beneficiaries of subsidiary protection; rejected asylum seekers and beneficiaries of Temporary Humanitarian Protection New

   c. Access by refugees to support and protection; the beneficiaries of subsidiary protection; asylum applicants; and beneficiaries of Temporary Humanitarian Protection New

4. What is the objective of the Qualification Directive?

   a. To adopt standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted

   b. To provide for common procedures for granting and withdrawing international protection

   c. To adopt common standards and procedures in Member States for returning illegally staying third-country nationals

5. What should do an interviewer do during an examination?

    a. Create a reassuring environment and establish a climate of trust and utilise the experts

    b. Create a reassuring environment and insist on being trusted by the applicant

    c. Utilise the expertise of academic researchers

6. In reality, what happens during the examination of applications?

    a. Undercover detectives ask the applicant about her entry into the country

    b. Women cooperate fully with the authorities

    c. The experiences of women seeking asylum are marginalised or undervalued, and frequently divested of their inherent social, cultural or political character

7. Which law states the following: 'to support the reception and psychological rehabilitation of female victims of violence "*also for the purpose of their reintegration into the labour market, thus fully recovering their human dignity*"'?

    a. General Recommendation No. 32

    b. Resolution of 2009 of the European Parliament

    c. Recommendation Rec(2002)5 on the Protection of Violence against Women

8. Which are the practical tools utilised by the Refugee Commission?

    a. Legal/medical certifications, ethno-clinical certifications, registration with the national health authority and health services to protect women's health

    b. Legal/medical certifications, ethno-clinical certifications, academic qualifications certificate, registration with the national health authority and health services to protect women's health

    c. Legal/medical certifications, ethno-clinical certifications, and registration with the health and wellbeing association

9. What should the medical certification include?

    a. The academic supervisor's observations on the academic abilities, behaviour and skills of the survivor on arrival in the reception centres

    b. The statements of the survivor regarding her dental history

    c. The statements of the SGBV survivor regarding her experience (or her story as told to theoperators); and the support workers' observations on the behaviour and abilities of the survivor on arrival in the reception centres

10. How can the interviewer create final certification which contains mutual references?

    a. By a process of cultural animation to change the ethno-clinical relationships of the survivor

    b. By a process of cultural mediation to identify the ethno-clinical relationships achieved, accompanied or preceded by a legal/medical examination aimed at documenting the survivor's experiences and/or trauma

    c. By a legal/medical examination aimed at discrediting the survivor's experiences and/or trauma

Human Trafficking

by

Dr **STEPHANIE CARUANA**

THEORY

5.1 INTRODUCTION: WHAT IS HUMAN TRAFFICKING?

Human trafficking is generally understood to refer to the process through which individuals are placed or maintained in situations wherein they are exploited for economic gain. Trafficking can occur within a country or may involve movement across borders. Women, men and children are trafficked for a variety of purposes, including forced labour in factories, shops and private households, sexual exploitation, and forced marriage. Human trafficking in its diverse forms affects all countries and has existed since time immemorial.

While it is difficult to collect precise and reliable information regarding patterns and numbers, our understanding of the root causes of human trafficking has improved during the last half century. These causes include material inequalities within and between countries, increasingly restrictive immigration policies and the growing demand for cheap, disempowered labour. At the same time, increasing levels of poverty, violence and discrimination had increased individual vulnerability to the forces of human trafficking.

The exploitation of individuals for profit has been practised for many centuries in all parts of the world and international efforts to address this widespread and systemic exploitation of human beings only began to appear in the eighteenth century, decades before the birth of the modern human rights system. Nevertheless, it is only over the past decade that human trafficking has become a major international concern and this growing awareness has been accompanied by the development of a comprehensive legal framework aimed at addressing this issue.

These changes indicate clearly that a fundamental shift has taken place in how the international community regards human exploitation and they also show that there is an increased expectation of what governments and others institutions should be doing to deal with and to prevent trafficking.

5.1.1 Legal Definitions

International agreement on what constitutes "trafficking in persons" (THB) is a recent development and it was only in the late 1990s that international institutions began to differentiate between trafficking and other practices, such as migrant smuggling, with which it had been commonly associated.

The first definition of trafficking in persons was incorporated into the *2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* (Palermo Protocol). Trafficking in persons, recognised as a crime in the

Maltese legal system under the Criminal Code, implies the criminal activities that incorporate the recruitment, transportation and subsequent exploitation for the purpose of gain of human beings.

Article 3 of the **Palermo Protocol** provides the following definition:

> "*(a)* `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*[51]..."

Moreover, international law provides a separate and distinct definition regarding the **trafficking in children** (i.e. persons under 18 years of age). The "means" element is not required in this case and it is necessary to show only: (i) an "action" such as recruitment, buying and selling; and (ii) that this action was for the specific purpose of exploitation. In other words, the trafficking of a child exists if the child is subjected to some act, such as recruitment or transport, the purpose of which is the exploitation of that child.

The Council of Europe (CoE) has established a comprehensive definition of the phenomena of THB in its **2005 Convention on Action against Trafficking in Human Beings**. Article 4 of the Convention provides that THB is:

> "... *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**"*[52].

A similar definition is provided in Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA. Article 2(1) of **Directive 2011/36/EU** states that:

> "*The **recruitment, transportation, transfer, harbouring** or **reception of persons**, including the exchange or transfer of control over those 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**"*[53].

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51 - Article 3 states that "*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*".

52 - Similarly to the Palermo Protocol, the 2005 Convention describes exploitation as including "*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.*"

53 - Article 2(3) defines exploitation as including "*... as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs.*"

In Malta, the **Criminal Code** provides for a more detailed definition of human trafficking under Article 248A, wherein it states that:

> "*(1) Whosoever, **by any means** mentioned in sub-article (2), **traffics** a person of age **for the purpose of exploiting**[54] that person in: (a) the production of goods or provision of services; or (b) slavery or practices similar to slavery; or (c) servitude or forced labour; or (d) activities associated with begging; or (e) any other unlawful activities not specifically provided for elsewhere under this sub-title, shall, on conviction, be liable to the punishment of imprisonment from four to twelve years*".

> "*(2) **The means** referred to in sub-article (1) are the following: (a) violence or threats, including abduction; (b) deceit or fraud; (c) misuse of authority, influence or pressure; (d) the giving or receiving of payments or benefits to achieve the consent of the person having control over another person; (e) abuse of power or of a position of vulnerability*".

Furthermore, Article 248E(1) defines the terms **"trafficking a person"** or "trafficking a minor" as

> "*… the **recruitment**, **transportation**, **sale** or **transfer of a person**, or of a minor, as the case may be, including harbouring and subsequent reception and exchange or transfer of control over that person, or minor, and includes any behaviour which facilitates the entry into, transit through, residence in or exit from the territory of any country for any of the purposes mentioned in the preceding articles of this sub-title, as the case may be*."

The description and definition of THB under the Criminal Code defers from the standard form used in the corresponding international and European instruments, since different elements of THB are addressed under diverse Articles.

Another characteristic of trafficking which is worth noting is **transnationality**. This concept resides in the ability to work in a network of specialised structures located in different countries, while the leaders of the organisation reside elsewhere, protected and unrestricted in their countries of origin.

5.1.2 The Core Elements of Trafficking in Human Beings

The aforementioned definitions refer to three (3) common elements that are considered as essential for THB to exist. These are:

- **Action**
- **Means**
- **Purpose**

Action **(the First Element)**: includes the acts necessary for the recruitment of people through various methods ranging from kidnapping, abduction, and deception.

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54 - Article 248A(1) "*… For the purposes of this sub-article exploitation includes requiring a person to produce goods and provide services under conditions and in circumstances which infringe labour standards governing working conditions, salaries and health and safety*".

The act of 'recruitment' can be carried out by whatever means is available, including orally, through the internet or by other means of communication. Other acts, such as 'transportation' can be carried out both nationally and transnationally and thus the crossing of a border is not a prerequisite for human trafficking to subsist. Articles 248A(1) and 248E(1) of the Criminal Code give a comprehensive list of the acts constituting THB.

Means **(the Second Element)**: covers the 'handling' of the victims of trafficking, starting from the moment of recruitment and continuing until the achievement of the last phase, namely, the purpose of the whole process. Abuse of vulnerable persons occurs when the victim of such abuse has no tangible alternative but to submit to it. The abuse per se may take various forms and may range from psychological pressure to economical or coercive forms of compulsion. For example, one's health, financial situation or relatives may be put under threat in order to compel the targeted victim to submit to exploitation. Fraud and deception are frequently employed by traffickers in order to lure their victims into entrapment and exploitation. Some are deceived into believing that attractive job prospects await them in a foreign country, only to realise that they had been misled when it is too late. In Malta, the means by which trafficking is exercised is provided for under Article 248A(2) of the Criminal Code.

Purpose **(the Third Element)**: is related to the criminal exploitation of the victim of trafficking after having been transported or transferred to the place of destination. The term 'purpose' also refers to the objective behind the act and the means used to traffick human beings. Thus, the 'purpose' represents the end for which the means had been adopted. The 'purpose' underpins the true character of human trafficking which is the exploitation of the person or victim entrapped. Article 248A(1) of the Criminal Code lists the purposes for which trafficking may take place. Moreover, Articles 248B[55] and 248C[56] of the Criminal Code define the purposes of trafficking for sexual exploitation and the removal of organs in more detail.

5.2. SIMILARITIES AND DIFFERENCES BETWEEN TRAFFICKING IN HUMAN BEINGS AND SMUGGLING OF MIGRANTS

5.2.1 What is implied by 'Migrant Smuggling'?

The international definition of the term 'migrant smuggling' is established under the 2000 Protocol against the Smuggling of Migrants by Land, Sea and Air Supplementing The United Nations Convention Against Transnational Organized Crime (entered into force on 28 January 2004) (**the Smuggling Protocol**). Article 3 of this Protocol stipulates that migrant smuggling "*shall mean **the procurement**, in order to*

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55 - *Whosoever, by any means mentioned in article 248A(2), trafficks a person of age for the purpose of exploiting that person in prostitution or in pornographic performances or in the production of pornographic material or other **forms of sexual exploitation** shall, on conviction, be liable to the punishment laid down in article 248A(1).*

56 - *Whosoever, by any means mentioned in article 248A(2), trafficks a person of age for the purpose of exploiting that person in the **removal of any organ of the body** shall on conviction be liable to the punishment of imprisonment for a term from six to twelve years.*

*obtain, directly or indirectly, **a financial or other material benefit**, of the **illegal entry of a person** into a State Party of which the person is not a national or a permanent resident*".

The EU dedicated a specific instrument of legislation to address the smuggling of migrants, namely Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence (**Directive 2002/90/EC**). Article 1(1) of this Directive states that the facilitation of illegal immigration (or migrant smuggling) subsists when a person:

> "***intentionally assists** a person who is not a national of a MS **to enter, or transit across**, the territory of a MS **in breach of the laws of the State** concerned on the entry or transit of aliens*" or

> "***for financial gain**, intentionally assists a person who is not a national of a MS, to reside within the territory of a MS in breach of the laws of the State concerned on the residence of aliens*"[57].

Under Maltese law, there are two legal instruments which provide for a definition of migrant smuggling: the Criminal Code (Chapter 9 of the Laws of Malta) and the Immigration Act (Chapter 217 of the Laws of Malta). The Criminal Code does not use the term 'migrant smuggling' but describes the action as 'trafficking persons to enter or leave Malta illegally'. The Code also includes provisions regarding the subject matter of the crime of migrant smuggling, the jurisdiction of the courts, the possibility of corporate liability, and the aggravating circumstances of the crime. Article 337A states that:

> "*any person who with **the intent to make any gain** whatsoever **aids, assists, counsels or procures** any other person **to enter** or to attempt to enter or to leave or attempt to leave or to transit across or attempt to transit across Malta **in contravention of the laws** thereof or who, in Malta or outside Malta, conspires to that effect with any other person*."

Article 32(1)(a) of the **Immigration Act** defines the act of smuggling a migrant as "*any person who (a) **aids or assists** any person to land or attempt to land in Malta, or to reside in Malta, contrary to the provisions of this Act, or any person to land or attempt to land, or to reside in, or to leave any other State **contrary to the law on entry, residence and exit of that State**...*". However, this Act does not include the purpose of gain / material benefit which is a defining feature of the international definition of migrant smuggling – and similarly to EU law and the Maltese Criminal Code, this Act does not utilise the term 'smuggling'.

Therefore, a migrant smuggler may be involved in the unlawful transportation, or the facilitation of the unlawful transportation of migrants from a particular State to Malta and alternatively, migrant smugglers may also facilitate the unlawful transportation of migrants from Malta to another State. Thus a smuggler facilitates irregular migration, and his or her relationship with the smuggled person is based on the payment of a fee by the smuggled person in return for the aforementioned provision of unlawful transportation.

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57 - Article 1(1) of the Directive.

5.2.2 Similarities and Differences: Key Elements

Smuggling migrants is not synonymous with human trafficking. However, the concepts are relatively close and often interconnected when, for example, a smuggled person ends up being trafficked and exploited. According to the legal definitions cited above, smuggling needs to include (a) consent from the migrant to enter a country illegally; and (b) the crossing of a transnational border. Consequently, while on one hand, human trafficking does not require a cross-border element, implying that a person can also be trafficked within a particular country, on the other, migrant smuggling contains the illegal crossing of a border as one of its key components. Moreover, smuggling may result subsequently in the exploitation of a migrant, but exploitation is not a component factor of smuggling as it is with trafficking.

Despite the widespread misuse of the terms 'smuggling' and 'trafficking', the two terms account for distinct criminal offences under both international and domestic law. While trafficking is understood to be substantially coercive and exploitative, smuggling can be a consensual act, whereby the migrant and the smuggler enter into a 'mutually beneficial' agreement under which the smuggler facilitates the migrant's illegal crossing of a border in exchange for compensation. Accordingly, although the UN Protocol on Trafficking makes reference to 'victims' and considers a vulnerable person's consent to exploitation as irrelevant, the UN Protocol on Smuggling avoids victimising the person smuggled and prefers to use the term 'migrants' instead.

Moreover, in contrast to trafficking which implies an ongoing exploitative relationship between the trafficker and the trafficked person, the smuggler's relationship with the migrant ends once the border crossing and the payment have been made. Moreover, while smuggling is by definition transnational in nature, trafficking can occur even within one particular country.

5.2.3 Similarities and Differences: Protective Measures

Trafficking and smuggling also differ in terms of protection measures and practical support granted to smuggled migrants and trafficked persons. The **UN Protocol on Trafficking** includes several Guidelines on the provision of assistance to trafficked persons. It encourages Member States to protect the victims' privacy and identity; to provide them with information concerning their case; and assist them in presenting their views during criminal proceedings. Furthermore, the UN requires States to ensure the victims' physical, psychological and social recovery, by offering them assistance in securing decent housing, access to counselling, medical/psychological care, and employment. The UN also recommends that State actors take action to raise awareness of trafficking, to prevent re-victimisation, and to tackle the multiple factors that underpin trafficking including poverty, underdevelopment and lack of equal opportunities which expose children and women to the risks of trafficking in the first instance. International protection has also been further developed by the Council of Europe (CoE) and the European Union.

The **UN Protocol on Smuggling** comprises significantly fewer safeguards regarding smuggled migrants but emphatically stipulates that migrants should not be criminalised for having been the objects of smuggling. It also urges States to ensure the migrants' safety during search and rescue operations, and to respect their right to life and not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

5.2.4 Overlapping Elements between Human Trafficking and Migrant Smuggling

The divergent definitions of 'smuggling' and 'trafficking' can be challenged since distinguishing between 'trafficking' and 'smuggling' on the grounds of consent creates an illusory image of migrants as subjects with free will, thereby ignoring the vulnerabilities which they endured both in their countries of origin and in the course of their perilous, often life-threatening, journeys. The terms 'consent' or 'voluntariness' associated with migrant smuggling is problematic and misguided, and should in actual fact be understood in the context of there being only one option available to those escaping persecution, war, human rights violations, famine and poverty, namely the option of resorting to use the 'services' of people smugglers.

A related issue concerns the circumstances in which consent is given. In most cases, smugglers demand exorbitant fees at the point of departure, thus putting migrants in a desperate situation to pay and then, once they have arrived at the point of destination, they may end up being trafficked and exploited because of their financial difficulties. Since the law does not provide guiding principles on when or how to determine a person's consent, it is not always clear whether a person was trafficked or smuggled into a country, or both. While by definition smuggling can be distinguished from trafficking in that the smuggler's relationship with the migrant is not ongoing, migrants are often exploited and subjected to threats from the smuggler, even after they arrive in the country of their choice. Moreover, the fees charged by smugglers and the risks they force migrants into undertaking can also be considered as being exploitative. Increased costs for the smugglers can result in 'travel now and pay later' arrangements imposed on the migrants for a duration determined by the smuggler, thus transforming the whole situation into one of trafficking (bearing in mind that 'abuse of a position of vulnerability' is one of the means of trafficking). Furthermore, in practice, traffickers sometimes use the services of smugglers in order to move persons across international borders.

There are also evident gaps between the spirit and the practice of the law. Strict border controls and a lack of legal opportunities to enter Europe have proved to be a windfall for the migrant-smuggling industry, increasing the numbers of persons being exploited and trafficked, while leaving the root causes of migration and displacement unaddressed. Not only are migrants embarking on costly, life-threatening journeys, but they are also being forbidden entry into the country of their aspirations. In fact, even if the Protocol on Smuggling promotes the decriminalisation of smuggled migrants, public policies and practices in numerous States are in conflict with international law and human rights standards.

Thus, the distinction between 'trafficking' and 'smuggling' is of crucial importance, mainly because it allows the victims of these crimes to receive the appropriate protection, support and assistance. The overlapping issues with regard to the two concepts suggest that the current understanding of consent and vulnerability need to be revised and clarified, for example by adopting common guiding principles which are based on a human rights approach to both smuggling and trafficking accompanied by a more humane treatment of migrants and asylum seekers.

5.3. LEGAL FRAMEWORKS TO COMBAT TRAFFICKING IN HUMAN BEINGS

5.3.1 International Law

The first UN legislative initiative on THB was the **UN Palermo Protocol**, which supplemented the *United Nations Convention against Transnational Organized Crime* (2000), defined human trafficking and criminalized it.

Its main purpose was to harmonise different national definitions and, on a national level, to criminalise the act of trafficking in persons. It also sought to achieve the facilitation of the investigation, prosecution and international cooperation with regard to THB and to protect and assist the victims of THB thereby ensuring that their human rights are respected.

The adoption of a comprehensive definition of THB, as provided under Article 3 of the Palermo Protocol, was only the first step in combating THB; what was also required was its criminalisation on a national level by developing a comprehensive, consistent and coordinated system which incorporated the investigation, prosecution and punishment of human traffickers. Article 5 establishes an obligation for each State Party to adapt its criminal justice system to the Protocol's provisions and to adopt the necessary legislative and ancillary measures as may be required to establish THB as a criminal offence.

The UN sought to intensify its fight against THB by undertaking numerous policy initiatives:

- **The United Nations Global Initiative to Fight Trafficking in Persons (UN.GIFT) of 2007**[58] was the primary initiative that focused on promoting the global fight against THB in accordance with other international laws, such as the Palermo Protocol. It also aimed to eradicate all forms of trafficking in persons by reducing the demand for exploitation as well as the vulnerability of potential victims by providing support and protection to victims and ensuring the efficient prosecution of traffickers.

- Similarly, in 2010 the UN implemented the *Global Plan of Action against Trafficking in Persons*. Its principal aim was to encourage national governments to coordinate their policies and to take measures to combat human trafficking on

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58 - Available at: http://www.ungift.org/

a global scale by stimulating economic development and strengthening global security. The Global Plan also established the *UN Voluntary Trust Fund for Victims of Trafficking, Especially Women and Children*.

- A recent joint initiative undertaken by the UN, the EU, UNODC and UNICEF was the UN Global Action to Prevent and Address Trafficking in Persons and the Smuggling of Migrants (2015-2019) (**Resolution A/64/L.64**)[59]. This covers 15 strategically selected countries across Africa, Asia, Eastern Europe and Latin America and focuses on the following objectives: strategy and policy development; legislative assistance; criminal justice capacity building; regional and trans-regional cooperation; assistance to victims; and special protection measures for children.

Other relevant policies include:

- *the Vienna Forum to Fight Trafficking in Persons (2008)*
- *the UNODC Model Law against Trafficking in Persons (2009)*
- *the 2009 Blue Heart Campaign*
- *the UNODC Voluntary Trust Fund for Victims of Trafficking in Persons (2010)*[60]
- *the World Day against Trafficking in Persons (2013)*
- *Trafficking in Persons Knowledge Portal*

5.3.2 European Law

A Council of Europe

In 2005, **the Council of Europe** (CoE)[61], established the first European treaty on THB, namely the *Convention on Action against Trafficking in Human Beings* (**CoE Convention on THB**). The Convention is based on the notion that THB is a violation of human rights and also an offence to the dignity and integrity of the individual. It is also based on three aspects of THB which are the prevention of trafficking, the protection of victims of human trafficking and the prosecution of traffickers (also known as the "3 Ps").

The national implementation of the Convention is supervised by an independent monitoring mechanism, the Group of Experts on Action against Trafficking in Human Beings (GRETA), which seeks to supervise the compliance of all State Parties with their obligations under the Convention. In fact, GRETA periodically publishes country reports wherein it indicates its assessment of a country's adapted domestic measures and the progress achieved followed by critical recommendations for the enhancement of counter-trafficking actions required at national level.

The 2011 *Convention on Preventing and Combating Violence against Women and Domestic Violence* (**Istanbul Convention**) obliges its State Parties to take the legislative

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59 - Available at: https://www.unodc.org/unodc/en/humantrafficking/glo_act.html

60 - Available at: https://www.unodc.org/unodc/en/human-traffickingfund.html

61 - This is an intergovernmental organization aiming to promote respect, protection and promotion of human rights, democracy and the rule of law in the European legal space.

and other measures to exercise due diligence to prevent, investigate, punish and provide reparation for acts of violence covered by the scope of this Convention. Article 60 of the Convention ensures that where it is established that the persecution feared is on the grounds of gender-based violence[62], applicants shall be granted refugee status or subsidiary protection. It further obliges State Parties to develop gender sensitive reception procedures and support services for asylum seekers as well as gender sensitive asylum procedures, including the applications for international protection and the determination of refugee status. Article 61 stipulates that the principle of non-refoulement should always apply if a victim of trafficking fears persecution or other serious harm in his or her country of origin, for example in the form of re-trafficking, reprisals from traffickers or criminal networks, banishment, social exclusion or discrimination to an extent that would amount to persecution, harassment, threats or intimidation. It is not uncommon for victims of trafficking to fear intimidation or discrimination by the authorities in their countries of origin.

The **European Court of Human Rights** (ECHR) extended the meaning of slavery to cover trafficking of persons as a violation of human rights under Article 4 of the European Convention of Human Rights (ECtHR) relating to the prohibition of slavery and forced labour. In the case *Rantsev v. Cyprus and Russia* (2010)[63], the ECHR stated that like slavery, **trafficking in persons** is by the nature and aim of exploitation, based on the exercise of powers on the victim whereby it considers human beings as an object to be sold and bought and put to forced labour; it requires the close surveillance of the activities of victims; and the frequent use of threats, physical abuse and mental violence against victims were highlighted. Consequently, the Court considered that trafficking should be considered a breach of the rights prescribed under Article 4 ECtHR. Moreover, protection against trafficking in persons under the ECHR was enhanced and enshrined as an imperative obligation upon the State. There are several cases relating to THB that were instituted against a country and were handed down convictions by the ECHR on the grounds of Article 4 of the ECtHR.

B European Union

The EU adopted specific legislation on human trafficking under **Directive 2011/36/EU**. The main objective of this Directive was to harmonise the laws of the Member States (MS) and to coordinate national action plans on THB. It introduced a broader definition of trafficking in human beings; added a gender-based perspective; and promoted a victim-centred approach.

The Directive covers various areas of trafficking including sexual exploitation, trafficking for forced begging, exploitation for criminal activities, trafficking for the removal of organs and for illegal adoption or forced marriage. It also required MS to introduce harsher penalties for perpetrators of THB. In congruence with

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62 - The Convention defines it as "*... all acts or omissions that are directed against a person because of their gender, that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life*".

63 - ECtHR, Rantsev v. Cyprus and Russia: Application no. 25965/04 (Strasbourg, 7 January, 2010), available at https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/rantsev_vs_russia_cyprus_en_4.pdf.

the CoE Convention, the Directive requires MS to implement measures to prevent trafficking in human beings, protect the victims of THB, and to prosecute the perpetrators (i.e. "the 3 P's").

There other EU legislations which address THB, namely:

1. Directive 2012/29/EU on rights, support and protection of victims of crime (**Directive 2012/29/EU**), established minimum standards of rights for foreigners and EU citizens who are victims of crime within the EU borders. Its main objectives are the provision of adequate recognition, support, protection and assistance to victims of THB by the MS.

2. Directive 2004/81/EC on residence permits issued to victims of trafficking in human beings (**Directive 2004/81/EC**), introduced the concept of a "reflection period", meaning that victims who are not EU nationals, who are found in an irregular situation and who are willing to cooperate with the competent authorities, are granted a residence permit for a definite period (the "reflection period"), during which they can choose whether to cooperate with the authorities in criminal proceedings.

3. Directive 2004/80/EC related to the compensation of crime victims (**Directive 2004/80/EC**), set up a system of cooperation to help victims of crime get compensation in situations regardless of where in the EU the crime was committed[64].

The EU also adopted two policy initiatives which are the *EU Strategy towards the Eradication of THB 2012-2016* and the *2005 EU Action Plan* on best practices, standards and procedures for combating and preventing trafficking in human beings. The European Commission has also adopted a Communication on "Reporting on the follow-up to the EU Strategy towards the Eradication of trafficking in human beings and identifying further concrete action" on 4 December 2017[65] whereby it built upon EU legislation and policy, and proposed further action to promote prevention.

5.3.3 Maltese Law

Malta has adopted and transposed the aforementioned International (Palermo Protocol) and European (CoE Convention on THB and Directive 2011/36/EU) legislation into Maltese law. The relevant Maltese laws on trafficking in human beings were established under both the Criminal Code (Chapter 9 of the Laws of Malta)[66] and the Immigration Act (Chapter 217 of the Laws of Malta)[67]. Articles 248A to 248G of the **Criminal Code** define what constitutes human trafficking, delineate the forms of THB and stipulate the punishment and aggravations of committing such an act.

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64 - See also Organised Crime Dimension of Trafficking in Human Beings legislation whereby THB is often linked to other kinds of organised crime, namely drug trafficking, child pornography and migrant smuggling. In the EU Policy on Organised and Serious International Crime 2014-2017, THB is identified as a priority crime threat area, amongst other kinds of organised crime which led to the creation of the European multidisciplinary platform against criminal threats to focus on THB. This area will continue to being a priority in the upcoming EU Policy Cycle on Organised and Serious International Crime 2018-2021.

65 - Available at https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/organized-crime-and-human-trafficking/trafficking-in-human-beings/docs/20171204_trafficking_in_human_beings_new_priority_actions_en.pdf

66 - See Chapter 5.1

67 - See Chapter 5.3.1

Other relevant laws are applicable to cases of trafficking in human beings include:

1. The White Slave Traffic Ordinance

In Malta, forced prostitution had already been previously criminalised by the introduction of the amendments of the Criminal Code and the Immigration Act in accordance with international and European law. The 1930 *White Slave Traffic (Suppression) Ordinance, Chapter 63 of the Laws of Malta* (the **White Slave Traffic Ordinance**), may be considered as overlapping with Article 248B of the Criminal Code relating to sexual exploitation. The relevant provisions of the White Slave Traffic Ordinance are: the prohibition of the unlawful detention of a person for purposes of prostitution (Article 5); living on the earnings of prostitution of another person (Article 7); and managing or letting premises for purposes of prostitution (Articles 8 to 10). On the basis of these laws, traffickers have been successfully prosecuted and convicted by the Maltese criminal courts.

2. Victims of Crime Act

Directive 2004/80/EC was transposed into Maltese law through the adoption of the Victims of Crime Act, Chapter 539 of the Laws of Malta. Article 12 and Part II of the Victims of Crime Act establishes the rights, support and assistance that a person should be given as soon as he or she is identified as a victim of human trafficking in accordance with the provisions of the Criminal Code.

Article 12 of the Act provides a comprehensive list of **rights** to which victims of human trafficking are entitled, namely: (a) information, advice and support relevant to the rights of victims including on accessing national compensation schemes for criminal injuries; (b) their role in criminal proceedings including preparation for attendance at the trial; (c) information about or direct referral to any relevant specialist support services; (d) psychological support; (e) advice relating to financial and practical issues arising from the crime; (f) unless otherwise provided by other public or private services, advice relating to the risk and prevention of secondary and repeat victimisation, of intimidation and of retaliation.

There are basic measures that have been transposed as required under Directive 2004/80/EC, such as the right to information; the right to an interpreter; the right to legal aid; and victim support[68]. However, there are other necessary measures, particularly those relating to dealing with re-victimisation, and measures relating to testifying via video audio communications[69], that have been ignored.

3. Permission to Reside for Victims of Trafficking or Illegal Migration, S.L. 217.07

Malta transposed Directive 2004/81/EC as part of the Maltese legal framework through the adoption of Subsidiary Legislation 217.07, entitled *Permission*

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68 - This in fact has led to the creation of the Victim Support Unit within the police force.

69 - In fact, it is still in the courts discretion to decide whether a victim of human trafficking can testify via video conference or not.

to Reside for Victims of Trafficking or Illegal Migration. According to Article 3 of S.L. 217.07, victims of human trafficking, which were identified as such in accordance with the Criminal Code, are entitled to **a reflection period** of two (2) months. The purpose of this reflection period is to help the identified victim detach him/herself from the perpetrator and to enable him/her to take an informed decision on the possibility of co-operating with the authorities.

Moreover, as stated above, during this period the victim is also entitled to all the rights granted in the Victims of Crime Act and also to **other rights** established under Article 3. These rights ensure the victim's means of subsistence; access to emergency medical care; attention to the needs of the most vulnerable; psychological assistance; access to translation and interpreting services; and free legal aid. If the victim is a minor, he or she shall have access to the public education system under the same conditions as Maltese nationals. Furthermore, Article 5 of SL 217.07 states that a victim of human trafficking is also eligible to a **residence permit** that is valid for a period of six (6) months[70]; and under Article 5(4) he or she may also be entitled to a work permit and to attend training courses offered by government and/or non-governmental organisations.

4. Gender Based Violence Act

Migrants and asylum seekers, who are identified as victims of human trafficking, are entitled to further rights under the Gender Based Violence Act, Chapter 581 of the Laws of Malta. The Schedule of this Act incorporated the Istanbul Convention and thus implemented its provisions into Maltese law mainly under Article 60 which refers to gender-based asylum applications; and Article 61 that defines the principle of non-refoulement.

There are **other relevant laws** such as the Criminal Injuries Compensation Regulations; Subsidiary Legislation 9.12; Articles 75 to 90 of the Police Act; and Chapter 164 of the Laws of Malta. With regards to policy initiatives, the Ministry for Home Affairs and National Security (MHAS) of Malta, which deals with the fight against THB, has intensified its efforts to appoint an Anti-Trafficking in Persons Coordinator and an Anti-Trafficking in Persons Monitoring Committee with the aim to identify and address critical needs at national level through a multidisciplinary perspective. Moreover, a Stakeholder Task Force at operational level has been set up pursuant to the adoption of the National Action Plan on Combating Trafficking in Persons.

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70 - Once an irregular migrant and a victim of trafficking is identified, he or she cannot be detained as per Art. 14 SL 420.06, Reception of Asylum Seekers Regulations.

5.4 OPERATIONAL TOOLS AND INDICATORS FOR TRAFFICKING OF HUMAN BEINGS

5.4.1 Effects of Human Trafficking

Trafficking in human beings is a "high profit/low risk" criminal activity that can destroy a person's life since the quality of the victim's life is completely shattered. A trafficked person is totally under the control of the trafficker. This is commonly recognised as modern slavery due to the conditions that the victims are subjected to as they are perceived as commodities that can be bought, sold and resold. Thus, a trafficker generally retains the victim's passport in his/her possession and uses it to control or to sell the victim to other perpetrators. THB victims are frequently beaten, abused and even raped by their traffickers, or by clients especially in cases of sexual exploitation. Moreover, the trafficker may also use the fact that a victim may have an illegal status in the country of destination to coerce and abuse them into trafficking.

Another consequence of trafficking is the deterioration of the victim's health since they experience a lot of stress, injuries and trauma. The most common health problems are: physical injuries; reproductive and sexual health related issues; mental health disorders including depression, anxiety, insomnia and PTSD; occupational health problems such as injuries or reparatory system disorders; and lack of sanitation and hygiene. There are other issues that THB victims suffer from such as feelings of shame (even refusing to tell their families or friends what they go through) and self-blame; and also feeling stigmatized.

Corrupt public officials should also be identified and prosecuted as they assist and sustain traffickers in their criminal activities. Public officials are usually used (sometimes by means of coercion or threats) to obtain identification documents, to turn a blind eye at border crossings and to undermine the judicial process.

5.4.2 Types of Trafficking in Human Beings

There are various forms of human trafficking, namely forced labour, domestic servitude, sexual exploitation, harvesting of organs; forced begging; and forced marriage. However, these are not all carried out in every country. Thus, **in Malta** the most common types of THB are forced labour[71], domestic servitude[72] and sexual exploitation[73].

The concept of **Forced Labour** is characterized by two main elements, which are: (a) persons are "placed" into a work or service situation against their will, and (b) they cannot leave because of threats of punishment and/or physical violence. Deception over employment conditions that will be enjoyed in the country of destination is the prevalent form of enticing people to be trafficked. Most migrants

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71 - Article 248A(1) of the Criminal Code identifies forced labour as a type of trafficking of human beings.

72 - Article 248A(1) of the Criminal Code lists domestic servitude as a form of human trafficking.

73 - Articles 248A(1) and 248B defines sexual exploitation as a type of trafficking.

willingly enter into a contract with an agent in the country of origin but when they arrive in the country of destination, they are forced to sign other contracts containing adverse and sometimes inhumane conditions (in relation to the conditions of work performed and the wages earned). In some cases the victims are not paid and feel trapped due to the amount of debt that they are told that they owe the traffickers. Therefore, migrants, who fall victim of forced labour, are tricked by two categories of traffickers (the agent in the country of origin and the employer in the country of destination) working in conjunction. The most common nationality of such victims are from South East Asian countries, including the Philippines, Vietnam, Thailand and also Bangladesh.

Domestic Servitude is an invisible form of exploitation which is extremely difficult to detect due to the hidden nature of the work provided since it takes place out of sight in private households. The core elements of this type of trafficking is (a) subjugation and an obligation to provide work for a private individual; (b) low or lack of salary; (b) no days off; (c) limited or restricted freedom of movement and the impossibility of a private life; and (d) the use of psychological and/or physical violence. The trafficked person, who is an adult or a minor, usually lives in the same house as the trafficker, who in this case may be the family employing him/her, and the victim is constantly at their disposal and mercy. As in forced labour, these victims are usually from Asian countries.

In the case of **Sexual Exploitation**, although the first impression is that this crime only affects women, in reality young men and children can also be trafficked for sexual exploitation. Some victims would know that they are going to be engaged as 'escorts', prostitutes or for the production of pornographic material in the country of destination, but in actual fact they end up getting trapped due to different factors, for instance due to dependence on drugs (leading to further debts) which are initially provided freely by the trafficker or clients; or due to fear of punishment by the trafficker (for instance deportation or even getting killed). Other victims are tricked into believing that they are going to work, for instance, as a masseuse but instead they are forced by the employers (traffickers) to provide sexual favours to the clients. The nationality of these victims is generally from eastern European countries, such as Romania or the Ukraine, and Asian countries such as China.

In conclusion, better awareness and enhanced training programmes on THB should be provided in both the country of origin and also the country of destination to identify the victims of THB. Moreover, women's human rights must be integrated in support programmes thereby implementing a proactive policy that promotes equality, dignity, together with personal and social wellbeing in the fight against human trafficking.

5.4.3 Indicators for the Identification of Victims of Trafficking

Although there is no standard profile of a person who could become a victim of trafficking, several indicators can facilitate the process of identifying a potential victim. It is important that the general public and relevant stakeholders are informed about these potential characteristics, so that they can report or flag victims of trafficking. There is no specific place where to identify victims as it

can happen anywhere, including at work, at school, in public places or at border crossings. The list of indicators can be quite extensive and each element can be related to a particular behaviour, location, appearance and/or other characteristics identified as common to most victims of trafficking.

Although there are no definite guidelines for the identification of THB victims, there are common patterns of behaviour that recur which, when taken together, can identify a person as being a victim of trafficking. Several organisations, namely UNODC, the European Migration Network (EMN), the USA National Trafficking in Person Resource (NHTRC) and several NGOs[74] established a list of possible indicators for the identification of victims of trafficking.

A Common Indicators

UN Global Initiative to Fight Trafficking in Persons (UNODC and UN.GIFT) developed an extensive list of indicators, including a person (a) believes that s/he must work against their will; (b) is unable to leave their place of work; (c) shows signs that their movements are being controlled; (d) shows fear or anxiety with regards to the "employer"; (e) is subjected to violence or threats against themselves or their relatives; (f) suffers from physical injuries or impairments typical of certain jobs or control measures; (g) is distrustful or afraid of the authorities believing that s/he are going to be arrested; (h) is afraid of revealing his/her immigration status; (i) is not in possession of his/her passport/identity documents; (j) has false identity or travel documents; (k) is forced to work under adverse conditions; (l) is disciplined through punishment; (m) receives little or no payment; (n) has no access to his/her earnings; (o) works excessive hours over long periods of time and has no days off; (p) lives in poor or substandard accommodation; (q) has no access to medical assistance; (r) has limited contact with his/her relatives or friends; (s) is under the impression that s/he is bound by great debt; (t) is from a place known to be a source of human trafficking; (u) has had the fees for the voyage to the country of destination paid for by the agents/employers (traffickers), whom s/he must pay back by working or providing services in the country of destination; and (v) acted on the basis of false promises.

It is worth noting again, that the distinguishing factor between trafficking in human beings and smuggling of migrants is the use of force, coercion and/or deception throughout the transfer process, and later being trapped to b used for the sole purpose of exploitation.

B Sexual Exploitation Indicators

The UNODC and UN.GIFT established a specific list of indicators of victims of trafficking for the purpose of sexual exploitation. These are: a person (a) of any age which may differ according to the location and the industry; (b) who is moved from one man to another; (c) is escorted to and from work or to other events; (d) has particular tattoos or other body markings which indicate 'ownership' by his/her traffickers; (e) whose bedroom is at his/her workplace; (f) who lives or travels in groups, sometimes with other men/women who come from different countries; (h)

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74 - NGOs are sometimes asked for assistance by law enforcement authorities. Some of these lists are presented below.

who has few personal belongings or has clothes which are used for sex work; and (i) who is able to communicate in a language which is related to sex or which was taught to them by the clients. Moreover, evidence gathered shows that (a) victims generally have unprotected sex and/or violent sex; (b) s/he is repeatedly bought and sold; and (c) groups of women can be under the control of others.

C **Labour Exploitation Indicators**

In this case, the UNODC and UN.GIFT developed another list of indicators of victims of trafficking. These include, amongst others, a person: (a) who works in specific industrial sectors such as agriculture, construction, entertainment, services or manufacturing; (b) who lives with other employees in the same place where they work; (c) who lives in degraded, inappropriate places; (d) who dresses inadequately for the work that he does (e.g. not supplied with safety equipment); (e) is given leftovers to eat; (f) whose employment contract is not in accordance with national law; (g) who works excessive hours thus breaching employment laws; (h) who depends on his/her employer for work, transportation and accommodation; (i) who is not given any choice regarding accommodation; (j) who is unable to move freely without supervision; (k) who is disciplined through fines and loss of salary; (l) who is subjected to continuous insults, abuse, threats and violence; and (m) who does not have the proper training or professional documentation to work in particular fields.

5.4.4 Causes of Human Trafficking

There are multiple causes of trafficking in human beings (THB), including the economic, social and cultural conditions of the countries of origins; economic inequalities; lack of employment; humanitarian crises; military conflicts and gender discrimination. Moreover, socio-economic inequalities; and gender inequalities and discrimination, both in the countries of origin and destination; widespread unemployment in the countries of origin couples with acute poverty; and the widespread prevalence of violence against women, constitute the main factors that cause migration, especially of women, from one country to another.

Migrants who are desperately looking for work and decent living conditions can easily fall victim to deceptive offers of employment but then end up in coercive and/or exploitative situations. Women and minors who work as slaves in their country of origin are most commonly deceived into forced labour, domestic servitude or the sex industry in their country of destination.

Thus, the following causes of trafficking in human beings may facilitate the identification of victims of trafficking:

A **Gender**

ILO statistics show that 98% (4,500,000) of human trafficking for the purpose of sexual exploitation affects women and girls[75]. However, this does not mean

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75 - ILO, ILO global estimate of forced labor: Results and methodology, http://www.ilo.org/wcmsp5/groups/public/—-ed_ norm/—-declaration/documents/publication/wcms_182004.pdf, 2012.

that men, especially boys and teenagers, are not being trafficked for sexual exploitation because about 2%, corresponding to 400,000 males, are being sexually exploited. Furthermore, European statistics show that 23,632 were presumed or identified victims of human trafficking over the period of 2008-2010 and 80% of these victims were women[76].

B Age

Traffickers for economic or sexual exploitation usually focus on young victims, even minors, since they are more likely to be able to carry out the heavy workload involved. In cases of sexual exploitation, the clients also prefer younger persons. However, this does not mean that older people are not potential victims of traffickers since they have reportedly been trafficked especially for the purpose of street begging or domestic servitude wherein age does not appear to be a relevant factor in the choice of traffickers.

C Nationality

In poorer and less developed countries, civilians are more likely to be tricked into trafficking due to prevalent poverty, lack of opportunities, conflict and political instability. Thus, victims' nationality can be a factor that raises suspicions of trafficking. Nevertheless, there is documented evidence that victims are also trafficked from wealthier countries, especially minors with regard to sexual exploitation.

5.4.5 Conclusion: Indicators and Asylum Seekers

In view of the underground nature of human trafficking, and the presence of women who have experienced trafficking and sexual exploitation in the most disparate locations such as reception centres for asylum seekers, social health services, Refugee Commission centres for granting international protection and reception centres, it is necessary to apply effective tools that can facilitate their identification and subsequent processing for protection and integration into the host countries.

These indicators allow support workers to collect useful data for the identification of victims of traffickers, through an informed initial analysis that can potentially indicate that the person concerned is involved in a situation of trafficking, even before they can identify themselves as such. However, the indicators should not be used rigidly and should not replace empathic listening to the women and their stories, while keeping an open mind and a sensitive attitude to the signs observed in the behaviour, feelings and attitudes of the women.

In brief, these are the main indicators which could be used to identify whether asylum seekers are victims of trafficking:

a. Recruitment: false promises of good working conditions in Western Europe, selling women as commodities, travel debts, drug debts.

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76 - Eurostat, Trafficking in Human Beings, Publications Office of the European Union, Luxembourg https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/trafficking_in_human_beings__dghome-eurostat_en_1.pdf, 2013.

b. Documents and personal belongings: the woman is not in possession of any document, the passport is kept by the trafficker; sometimes, she is given a different name or is told to be the wife of the man who is actually her trafficker; she is not allowed to have or keep money for herself; she has no friends; she cannot communicate with her relatives.

c. Freedom of movement: the woman is not allowed to leave the house except to go to work, while at work she is controlled by the traffickers both by phone and in person; she cannot choose where to live but is forced to live with the exploiter or a collaborator.

d. Real or threatened violence: the woman is subjected to violence (physical, sexual, psychological, threats, blackmail) by the person/s who control her; threats of retaliation are made regarding herself or her family members in the event of an escape attempt.

e. Working conditions: the work promised to the woman in the recruitment phase is not the same as the work she is given when she arrives in the country of destination; she has no freedom to decide when, what and for how long to work; working hours and conditions are imposed; the money earned is confiscated or given in small amounts; she is exposed to risks that endanger her health and safety.

f. Accommodation conditions: the woman is constantly controlled and often lives together with the trafficker; she has no possibility of contact with the outside world, and any possibility of having a mobile is used to control her by those who exploit her. She depends on the trafficker due to fear, blackmail, retaliation, threats to herself or her family; distrusts state officials due to false information (fear of police force or deportation) or due to past experiences of violence and persecution in her country of origin.

g. Confused narratives: the stories sometimes do not make sense or are repetitive.

5.5 NATIONAL DEVELOPMENTS RELATED TO TRAFFICKING IN HUMAN BEINGS

5.5.1 Role of the Group of Experts on Action against Trafficking in Human Beings (GRETA)

Malta implemented various measures to improve its legislation, policies and practices on the basis of GRETA's (the supervisory mechanism of the CoE *Convention on Action against Trafficking in Human Beings*) previous recommendations. Nevertheless, in 2017, GRETA's report[77] highlighted various shortcomings in Malta's efforts to combat trafficking in human beings. These shortcomings included: (a) the need to ensure that the procedure for the identification and referral to assistance of child victims of trafficking considers their special needs, including the involvement of psychological support and the appropriate training of staff; (b) the legal provisions relating to the reflection period had not been amended in accordance with Article 13 of the Convention; (c) the need to make further efforts to improve access to compensation for victims of trafficking, including through the provision of information and legal aid; and (d) the need to ensure that cases of trafficking in human beings were investigated, prosecuted and adjudicated promptly and effectively.

5.5.2 Role of the International Organization for Migration (IOM)

The IOM, which was established in 1951, provides services and advice to Member State governments and migrants, and promotes the orderly and humane management of migration. It also assists governments and stakeholders to address the growing operational challenges of migration management, to understand better the issues associated with migration, to encourage social and economic development through migration, and to uphold the human dignity and well-being of migrants.

The IOM developed a counter-trafficking strategy to strengthen its fight against trafficking in human beings. The objectives of this strategy are (a) to prevent human trafficking; (b) to protect victims; and (c) to offer victims the possibility of safe and sustainable reintegration and/or return to their country of origin. The approach of the IOM in addressing the problem of trafficking within the framework of migration management is based on the following three principles: (a) respect for human rights; (b) physical, mental and social well-being of the individual and his/her community; and (c) sustainability through institutional capacity building of governments and civil society. The IOM has a registered status in Malta (established in 2006) whereby it implements projects that support the Maltese government in migration management, which includes resettlement and relocation of persons with international protection to the US and to other EU MS; assisted vol-

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77 - Available at: https://rm.coe.int/CoERMPublicCommonSearchServices/documentAccessError.jsp?url=http://rm.coe.int:80/CoERMPublicCommonSearchServices/sso/SSODisplayDCTMContent?documentId=09000016806fdf6b

untary return and re-integration, integration and assistance to asylum seekers and migrants accommodated in closed and/or open centres. IOM also offers technical support to the Maltese government regarding the adoption and strengthening of Standing Operating Procedures for identifying, referring and assisting cases of trafficking; undertakes awareness raising campaigns on human trafficking; and also organises training programmes for law enforcement officers, government entities and other stakeholders.

5.5.3 Maltese Referral System

The system of referral is an essential tool in every country to report potential victims of trafficking, which in turn initiates the process of identification of victims and investigation and prosecution of perpetrators of trafficking. In Malta, the National Referral System was established in the National Action Plan of 2013-2014 on Combating Trafficking in Persons, followed with various national policy initiatives and also *Standard Operational Procedures* (SOPs) for identifying, referring and assisting cases of trafficking. These SOPs have seven phases: (a) identification (initial referral and informal reporting phases); (b) follow-up and provision of initial support to victim; (c) police formal identification interview; (d) provision of formal information to victim; (e) intake and needs assessment; (f) issuance of necessary permits; and (g) assisted voluntary return and reintegration[78].

On average, over 50 per cent of reported traffickers are believed to have been taken to court. Most of them are still *sub judice* before the Maltese courts. The majority of cases concerning eastern European victims that had been identified were determined as being the victims of trafficking for sexual exploitation; whilst cases involving Asian victims (namely from Vietnam, China, Thailand, Indonesia and Philippines) were found to be related to forced labour, domestic servitude and/or sexual exploitation.

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78 - For more detailed information on the content of the SOPs see: IOM and MHAS, *Support tools for service providers on trafficking in human beings and standard operating procedures on identification and referral of (potential) victims of trafficking*, (28 April, 2014), p. 28-42. Available from https://homeaffairs.gov.mt/en/MHASInformation/Documents/Trafficking%20 in%20Human%20Beings/Booklet%20for%20Professionals%20Malta%202014.pdf

ACTIVITIES

OUTCOMES: the training module aims to provide an understanding of effective management tools, encompassing legal and emphatic approaches, to support victims of trafficking.

DURATION: 8 hours

CONTENT OF THE TRAINING PROGRAMME

8.00 - 8.30	**Registration of participants**	To formulate a list of participants receiving training.
8.30 - 9.00	**Introduction**	To foster an atmosphere of mutual trust and understanding as the basis for the development of learning experiences. Emphasis on confidentiality, the right to express oneself, respect for others. At the end of this session the participants will be more at ease to assimilate new learning experiences and present their own experiences objectively. **First Activity:** Trafficking in Human Beings.
9.00 - 10.00	**What is Human Trafficking?**	To establish an understanding of the definition and core elements that underpin the process of trafficking in human beings.
10.00 - 10.30	**Coffee Break**	
10.30 - 11.30	**Similarities and Difference between Trafficking in Human Beings and Smuggling of Migrants**	To discuss the diverse yet similar phenomena of trafficking in human beings and smuggling of migrants. **Second Activity:** Definition of Human Trafficking.
11.30 - 12.30	**Legal Frameworks to Combat Trafficking in Human Beings**	To establish the frameworks which govern effective approaches to trafficking in human beings. To identify how such frameworks operate, their weaknesses and also their benefits for THB victims. To identify and assess critically the tools available to identify victims and the effects of SGBV.
12.30 - 13.30	**Lunch Break**	
13.30 - 14.30	**Operational Tools and Indicators for Trafficking of Human Beings**	To identify and assess critically the types of human trafficking and the tools available to identify victims of human trafficking. To achieve a better understanding of the causes and effects of trafficking. To discuss the most effective approaches that can support THB victims in court or in their applications for protection. **Third Activity:** Indicators of Trafficking.

14.30 - 15.30	**National Developments and Procedures on Trafficking in Human Beings**	To understand the developments and procedures established in Malta, especially the referral system.
15.30 - 16.00	**Questions**	To discuss and clarify any queries raised by the participants.
16.00 - 16.30	**Closing Remarks**	

Activity 1

"Trafficking in Human Beings"

Expected Outcomes: participants feel more comfortable and at ease and are ready to commence the training.

Estimated time: 30 minutes

Learning Materials: none

Key Messages and Tasks:

perché la numerazione comincia da 5?

5. Ensure that this is done as a participatory introspection and not as a judgmental evaluation because that might result in participants closing up rather that opening up on the issue. Trainer needs to be very careful with the choice of words and body language.

6. Trainer displays a chart with numbers 1 to 10 and gives the participants the following instructions:

   • Consider how much you know about the problem of trafficking in persons and the laws that address trafficking.
   • Rate your knowledge level about trafficking in persons on a scale from 1 to 10 where 1 means little or no basic knowledge and 10 means that one knows everything there is to know about trafficking in persons.

7. Ask the participants to judge where they are on the scale and place a check mark under the appropriate number on the flipchart.

8. Lead a discussion using the following questions to guide the group:

   • What does the scale indicate about this group's awareness of the issue of trafficking in persons?
   • How much exposure have you had to information about trafficking in persons during the last year (through mass media, social media or other means)? Have you been engaged in discussions about the issue before today's session?
   • What impact has this information or discussions had on you?

Activity 2

"Definition of Human Trafficking"

Learning Outcomes: the participants consolidate their knowledge about the phenomenon of trafficking in human beings for the purpose of sexual exploitation.

Estimated time: 30 minutes

Learning Materials: cards, marker, tape

Methodology approach: brainstorming

Key Messages and Tasks:

1. Remember a brainstorming exercise requires that:
   - everyone can freely express him/herself
   - there are no wrong answers
   - personal opinions are not criticized or rejected

2. Ask the participants to define human trafficking in its various phases and identify the key elements of each phase. Take note and collect the participants' answers.

3. Ask the participants to identify the factors that empower women to escape from an exploitative situation.

4. With the help of the group, categorise the various forms of protection proposed by the participants and discuss the results by asking whether they all agree with the proposed subdivision. The results are recorded.

5. Invite the participants to express themselves on: "What are the challenges faced by the operators in their efforts to support female survivors? What are the critical issues?"

Expected results: national and international laws, key definitions regarding trafficking in human beings are clarified, the connection between trafficking and asylum, support for women survivors of trafficking.

Activity 3

"Indicators of Trafficking"

Learning Outcomes: the participants learn to identify the elements of trafficking and/or a victim of trafficking.

Estimated time: 30 minutes

Learning Materials: printed case study (1), flip chart, marker pens

Methodology approach: case study

Key Messages and Tasks:

1. Hand out the case study.

   Case Study: while riding in a van headed towards her flat, Elena discovered that she had been sold by her boss. The 12-year-old was working as a domestic servant

in the Philippines when the home-owner told her about a good job opportunity at his sister's house in Malta. But when she arrived on the island, Elena was sold to a brothel owner and forced into prostitution for little more than a place to sleep and the occasional meal. Her ordeal lasted for four years and Elena, now 21, says it left her "a very angry person." "The anger comes suddenly," says Elena, who asked that her full name not be disclosed because of the stigma associated with her past. Elena's childhood before being sold into prostitution was filled with long days of domestic work in the rural eastern state of Jharkhand. She received little or no pay. She said, "I was so poor, I could not leave." At the urging of her mother, she moved to another province in the Philippines having been promised a paid job as a maid. However, her boss then sent her to Malta and Elena never found out the price that had been paid for her on the human trafficking market. She was rescued from the brothel by JRS. Now she lives in the group's shelter in Malta, a large two-storey white house with long hallways situated in the countryside. There are vegetable gardens to be cared for, and the women who live in the shelter take part in embroidery work besides cooking the communal meals.

2. Ask the participants to go through it and point out all the elements of trafficking that they are able to identify.

3. List them against each of the following points:

Acts or attempted acts of:

- recruitment
- transportation across borders
- through legal or illegal channels of migration
- purchase, sale, transfer, receipt or harbouring of a person
- deception
- coercion (including the use of threat of force or the abuse of authority)
- or debt bondage
- servitude (domestic, sexual or reproductive) in forced or bonded labour, or in slavery like conditions
- community other than the one in which such person lived at the time of the original deception, coercion or debt bondage (concept included in the Trafficking Protocol)

Expected results: by the end of the exercise participants understand various elements of trafficking. They will have acquired a working knowledge of trafficking in persons as it is defined in the UN Protocol on Trafficking.

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Self-Evaluation Form

Date: ....

Name of participant (optional): ....

Kindly answer the following questions by underlining the correct answer:

11. Which law provides for the definition of human trafficking in Malta?

      a. Immigration Act, Chapter 217 of the Laws of Malta
      b. Criminal Code, Chapter 9 of the Laws of Malta
      c. Gender Based Violence Act, Chapter 581 of the Laws of Malta

12. Which are the core elements of human trafficking?

      a. Act, means and purpose
      b. Recruitment, crossing of borders, and purpose
      c. Recruitment, means and consent

13. What is the difference between trafficking of human beings (THB) and smuggling of migrants (SM)?

      a. In SM, consent from the migrant to enter a country illegally and a cross-border element; whilst this is not the case in THB

      b. The only difference is that in SM it includes a cross-border element whilst it is not the case in case of THB

      c. The only difference is that in SM it needs consent from the migrant to enter a country illegally whilst it is not the case in case of THB

14. What do the '3 P's signify?

      a. Provider, Promote and Prosecute
      b. Prevent, Protect and Prosecute
      c. Prevent, Promote and Prosecute

15. How does trafficking affect victims?

      a. Physically (abuse and injuries), socially and psychologically (low self-esteem, depression and PTSD)

      b. Physically (abuse and injuries)

      c. Psychologically(abuse and injuries), and psychologically (low self-esteem, depression and PTSD)

16. Which types of trafficking have been identified in Malta?

      a. Removal of organs, forced labour and sexual exploitation
      b. Forced labour, beginning and sexual exploitation
      c. Sexual exploitation, forced labour and domestic servitude

17. Which of the following organisations developed the list of indicators identifying victims of trafficking?

    a. International Organization for Migration

    b. UN Global Initiative to Fight Trafficking in Persons and United Nations Global Initiative to Fight Trafficking in Persons

    c. Group of Experts on Action against Trafficking in Human Beings

18. Identify the common indicators of victims of trafficking?

    a. Recruitment, documents and personal effects, freedom of movement, actual or threatened violence, working conditions, living conditions, and confused stories

    b. Recruitment, documents and personal effects, no violence, working conditions, living conditions, and confused stories

    c. Recruitment, documents and personal effects, freedom of movement, psychological problems, actual or threatened violence, working conditions, and confused stories

19. Which are the main causes of human trafficking?

    a. Mental issues, poverty and experience
    b. Age, nationality and experience
    c. Gender, nationality and age

20. Identify the steps that constitute the Standard Operational Procedures (SOPs) for identifying, referring and assisting cases of trafficking?

    a. Identification (initial referral and informal reporting phases); follow-up and provision of initial support to victim; police formal identification interview; provision of formal information to victim; intake and needs assessment; issuance of necessary permits; and assisted voluntary return and reintegration

    b. Identification (initial referral and informal reporting phases); follow-up and provision of initial support to victim; provision of formal information to victim; intake and needs assessment; and assisted voluntary return and reintegration

    c. Identification (initial referral and informal reporting phases); follow-up and provision of initial support to victim; provision of formal information to victim; intake and needs assessment; legal assistance; and assisted voluntary return and reintegration