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**INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND THE  
GENDER PERSPECTIVE**

**Written statement\* submitted by Franciscans International (FI),  
a non-governmental organization in general consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[31 January 2004]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

### **Legislative and administrative challenges in fighting human trafficking in Italy**

Franciscans International, in conjunction with its partner *Liberazione e Speranza*, a non-profit national organization run by Secular Franciscans in Novara (Piemonte region, northern Italy), would like to submit the following written communication to the attention of the Commission on Human Rights.

#### **The Italian legislative framework**

As the Special Rapporteur on violence against women noted in her report (E/CN.4/2003/75/Add.1): in Italy, there is no law prohibiting trafficking in persons. Nevertheless, other laws are used to prosecute traffickers, including provisions prohibiting the exploitation of prostitution (Law 75 of 1958), slavery and criminal association (Law 228 of 11 August 2003 on “Measures to combat human trafficking, modifying some articles of the Penal Code), kidnapping (article 605 of the Penal Code) and assisting the entry of illegal migrants (article 12 of the Immigration Law 286 of 1998).

In addition, Article 18 of the Immigration Law (Law 286 of 1998) declares that victims of human trafficking have the right to benefit from a temporary (six-month), renewable residence permit. This permit is granted to allow non-nationals to escape from violent or abusive situations, or because they had decided to pursue criminal action against their traffickers. In accordance with the law, these people have to participate in a rehabilitation and social integration program, mostly run by local NGOs like *Liberazione e Speranza*.

Franciscans International welcomes the content of Article 18 as it adds to the classic compensatory approach—a clear and comprehensive humanitarian connotation. Moreover, we positively note that, in an effort to implement the Hague Declaration (26.04.1997), the residence permit and the participation in a social program are not subordinated to the presentation of a sworn statement denouncing the traffickers. On the other hand, however, we regret the length in delivering such a permit, which causes serious problems both for the victims and the defenders who assisted them in forwarding their requests to the competent authorities, and offering assistance and protection.

Though we salute the leading role of the Italian legislation in Europe, we would like to encourage the Italian authorities to act more effectively to improve the “system article 18”, including all its aspects of social protection, as six years have already passed since the entry into force of this law. At this stage, we believe that there are several critical factors that can diminish the impact of the progress made so far at the national level, namely:

- a more repressive policy with the attitude of “streets cleansing”: whose effect is only to hide the problem of trafficking and exploitation;
- political and institutional regress in supporting social protection programs: including inadequate funding and the lack of a monitoring / evaluation system able to identify best practices that can serve as a model at the national and international level;
- an increasing application of Article 18 not so much as oriented towards victims’ protection, but as a provision to combat criminal organizations;

- inequalities in applying Article 18 depending on the different chief police stations (*questure*). Delays in issuing permits, weak recognition of the social dimension of the law, and the preference for a sworn statement (in spite of Article 18's waiving of this requirement) are indicators of the discretionary character in interpreting and implementing Article 18;
- the lack of institutional frameworks to start a constructive dialogue between interested Ministers, public institutions, and the NGOs which manage rehabilitation and social integration programs.

Franciscans International in conjunction with its partner *Liberazione e Speranza* would like to recommend the Italian authorities:

1. to fully and homogeneously implement Article 18, especially in view of the rapid delivery of residence permits. Networking procedures between chief police officers and public and private social services should be standardized, while investigations should be conducted in a transnational perspective;
2. to create, among the competent Ministries, the appropriate conditions to shift the nature of the social protection and rehabilitation programs from a "project"-based to a "service"-oriented one: that is, on-going and global, as opposed to a limited, case-by-case basis;
3. to promote preventive actions and local development in the countries of origin and transit of the victims of human trafficking. Such an approach could also adequately support a voluntary, assisted and secure return combined with effective possibilities of social and work reintegration once back home;
4. to effectively advance the impact of Article 18 at the regional and international level so that States have less restrictive residence permit policies, and ensure a better respect of victims' rights.

### **Case study**

As an example of best practices in the fight against human trafficking, Franciscans International would like to present the program carried out by our Italian partner *Liberazione e Speranza*. Its methodology offers practical guidelines on how to effectively implement Article 18 at the national level, as well as more general considerations on the nature of human trafficking—particularly in its dimension of sexual exploitation.

In the last four years, the program has reached out to 285 persons (most of them Nigerian women). Out of this number, 142 adhered to the protection and social assistance project, 100 decided to present a sworn statement against criminal organizations, 80 were located in reception centers and 13 chose to interrupt the program. All those who completed the program also successfully reintegrated into their social context.

*Liberazione e Speranza* manages individualized projects of protection and social assistance according to the following guidelines:

- a) direct contact in the streets with the victims. This work is carried out by a specialized team of educators aiming at building a trusting relationship which leads up to the proposal of joining the program itself;
- b) start a conversation with the victim, in view of reconstructing his or her personal history;
- c) personalized health check-up;
- d) weekly discussions with a psychologist and / or an educator to complete the personal history and to verify the level of readiness to begin the rehabilitation program;
- e) admission in a primary or secondary reception center, and the parallel initiation of procedures foreseen by the law to obtain a residence permit and a passport;
- f) proposal to learn Italian through a language course;
- g) comprehensive legal assistance if the victim decides to cooperate with the competent authorities;
- h) continued implementation of all available procedures to accelerate the delivery of a residence permit and a passport;
- i) proposal to participate in meetings which aim to deliver broad information about the Italian legislation and, at a more specific level, about provisions relating to access to work;
- j) proposal to participate in one or more initiatives of professional formation;
- k) monitored and accompanied integration of the labor market;
- l) monitored “reception” of the individual in one or more families as a way to start an autonomous life by favoring full integration into society;
- m) support to find appropriate and autonomous housing;
- n) in accordance with Article 26, 4 D.P.R. 394/99, communication to the Mayor of the assistance and social integration program offered and / or of its abandonment.

The experience of the work accomplished so far, and the number of victims successfully serviced, enables us to offer some broader conclusions, and leads us to strongly support some internationally recognized human rights principles:

1. the problem of human trafficking for sexual exploitation will not be solved with the reopening of “closed houses”, but by tackling it as one of the most insidious forms of contemporary slavery. We noticed that behind “eros centers” or “self-managed houses”, worse forms of exploitation take place precisely because they are conducted “in close” without any possibility of intervention by public or private bodies;
2. there is a close relationship between human trafficking, poverty and lack of adequate opportunities for development;
3. sexual slavery has to be considered as a crime against humanity and nobody can be submitted to torture or to any cruel, inhuman or degrading treatment or be kept in slavery or slavery-like conditions.

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