

Special Rapporteur on violence against women and girls
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Zürich, 30th of January 2024

Subject: Input for SR on violence against women and girls' report on violence against women and 'prostitution'

Dear Ms. Reem Alsalem,

We would like to express our gratitude for the opportunity to give input to the report of the Special Rapporteur on violence against women and girls to the Human Rights Council on 'prostitution' and violence against women and girls.

We would hereby like to share with you our experience as FIZ, a counselling and support center for migrant women who suffer violence and exploitation in Switzerland.

FIZ Advocacy and Support for Migrant Women and Victims of Trafficking¹ advocates for and supports migrant women affected by violence and victims of trafficking since almost 40 years. The organization runs two support services: One is the Counselling Center for Migrant Women. In this frame FIZ provides advice to more than 450 women per year, mostly victims of violence within relationships, and to female workers (mostly in sex work) who have issues with their working or residence permission. The second service is the specialized Victim Protection Programme for Victims of Human Trafficking. We offer counselling, support services and safe housing for around 300 to 400 victims of trafficking per year. The majority of the recipients are female und victims of trafficking for the purpose of sexual exploitation in prostitution. FIZ also does educational and policy work.

Our assessment is based on decades of experience and practical knowledge acquired through our work at grassroots level in Switzerland.

¹ See also www.fiz-info.ch

Introduction

As a specialised victim protection organisation for victims of human trafficking (VOT), FIZ is concerned by the terminology used, bias and false information in the call for input. The call sometimes uses prostitution and trafficking interchangeably despite their clear differences. While human trafficking for the purpose of sexual exploitation is a criminal offence and a severe violation of human rights, sex work in Switzerland is legal work. By no means all sex workers are affected by human trafficking or exploitation.

Viewing all sex workers as victims and denying them their ability to make rational decisions demeans them. If no distinction is made between human trafficking and sex work, victims of human trafficking cannot be adequately protected, and perpetrators cannot be prosecuted. Human trafficking is thus trivialized, and self-determined sex work is condemned.

Our decades of grassroots work with VOT and self-determined sex workers make it clear: self-determined sex work is not a marginal phenomenon. Self-determined sex workers decide for themselves which services they offer, which clients they serve and how much and when they work. They are in control of their own earnings. Even in cases where sex work is chosen as a survival strategy due to a lack of alternatives, it can be practiced in a self-determined manner. It is not sex work per se that makes workers vulnerable, but poverty, discrimination, gender or racial hierarchies and economic inequality. For many, sex work is a way to counter this vulnerability and to be economically independent.

There are few possibilities for migrants to obtain a residence and work permit to work regularly as sex workers, in part due to the lack of recognition of sex work as a form of employment. This means that migrant sex workers often have little choice but to reside and work irregularly. Certain admission schemes, for 'dancers' or 'entertainment' for example, are largely used to recruit sex workers and have restrictive conditions associated with the work permits that can place workers in situations of high dependency and risk.

Further, we emphasize the importance of distinguishing between the precondition and the position of 'women' as adults and 'girls' as minors in the context of prostitution/sex work. Women as adults who work in the sex industry can carry it out in a self-determined manner and are engaged in a legal activity (in Switzerland). In the case of girls - understood as minors - any activity in prostitution is considered illegal due to child protection, among other reasons. FIZ will thus answer the following questions by referring to the situation of adult female persons.

Answers to the SR's questions

- 1. Provide examples of the hidden forms of prostitution, and explain to what extent they are recognized and dealt with as such?*

Sex work in Switzerland is a legal form of employment. Nevertheless, there are hidden forms of sex work in Switzerland, for example when migrants from outside the EU/EFTA do not obtain a work permit or sex work is not reported and taxed.

Migrant sex workers from countries outside the EU/EFTA cannot obtain independent residence status under the current Foreign Nationals and Integration Act. Sex workers from EU/EFTA countries, on the other hand, can pursue self-employed or employed work in Switzerland in accordance with the Agreement on the Free Movement of Persons. However, the official requirements and procedures for the legal practice of sex work vary from canton

to canton. The complex bureaucratic hurdles and divergent practices cause legal uncertainty, promote illegalization, and prevent the social protection of sex workers.

2. *Describe the profile of women and girls affected by prostitution in your country, and provide disaggregated data, where possible.*

Again, we would like to stress the importance of differentiating between sex work and human trafficking. "Women/girls affected by prostitution" is a problematic term that conflates the two phenomena.

Furthermore, sex workers are diverse and include women, cis and trans, in all their diversity, as well as cis and trans men and non-binary people.

There are only rough and outdated estimates of the number of sex workers in Switzerland, e.g. [Bugnon/Chimienti/Chiquet \(2009\)](#), who assume that there are 13-20'000 sex workers in Switzerland.

The Federal Council concluded in a [feasibility study](#) for the Federal Office of Police in 2015 and in a [2022 study](#) that it is not possible to quantify exploitation in prostitution and human trafficking.

- ~~3. Describe the profile of those who solicit women in prostitution and whether such relations are regulated, and provide supporting data, where possible.~~
4. *What forms of violence are prostituted women and girls subjected to (physical, psychological, sexual, economic, administrative, or other)?*
5. *Who is responsible for the perpetration of violence against women and girls in prostitution?*
6. *Describe the linkages, if any, between prostitution and the violation of the human rights of women and girls.*

Many sex workers experience high levels of physical, sexual and psychological violence and there is a strong correlation between sex work and violence (cf. [ESWA 2020](#)). However, sex work is not the cause of the violence. Rather, the cause is that many sex workers belong to social groups that are already exposed to a high risk of violence from men, clients or police officers, including women, migrants, people without papers or trans people.

- ~~7. What links are there between pornography and/or other forms of sexual exploitation and prostitution?~~
8. *How is the issue of consent dealt with? Is it possible to speak about meaningful consent for prostituted women and girls?*

The key factor in distinguishing between sex work and human trafficking, sexual exploitation and sexual and gender-based violence is consent. According to [Amnesty International](#), consent in the context of sex work means voluntary and ongoing consent to sexual activity (between adults). Consent to sex does not mean consent to violence. And: sex workers can change or withdraw their consent to sexual activity at any time. The decision to engage in sex work can be influenced by situations of poverty, discrimination, and marginalization. These factors do not automatically negate a person's consent. The situation is different when there is coercion, threats, violence, or abuse of authority. A person who decides to engage in sex work in the context of poverty, flight, displacement, etc. may be at increased risk of exploitation.

9. *How effective have legislative frameworks and policies been in preventing and responding to violence against women and girls in prostitution?*

Sex work is considered legal work in Switzerland, protected under constitutional economic freedom and allowed within the limits of criminal law.

According to estimates, an overwhelming majority of sex workers in Switzerland are migrants. The conditions under which sex workers work therefore depend not only on the regulation of sex work, but also to a large extent on the current migration regime. Therefore, FIZ supports the concept of firewall - a clear separation between immigration enforcement and the provision of essential services. Putting the enforcement of immigration rules ahead of people's fundamental rights prevents sex workers without regular status from accessing services, reporting crimes and getting protection.

10. What measures are in place to collect and analyze data at the national level with a view to better understanding the impact that prostitution has on the rights of women and girls?

See question 2.

11. What measures are in place to assist and support women and girls who wish to leave prostitution?

Sex work in Switzerland is often precarious work. Individual, low-threshold support is key for those sex workers who wish to change jobs. FIZ has been offering this support to sex workers in its counselling service for migrant women for many years. In addition, as most sex workers are migrants – often with a precarious residence status, lack of language skills and financial difficulties – they fall through the cracks. Only if exit offers are linked to legal/regulated residence, training and good career prospects are they attractive to migrants. Alternative jobs are not attractive or possible for everyone. Therefore, long term support services for professional reorientation and good working conditions in sex work are needed at the same time.

12. What are the obstacles faced by organizations and frontline service providers in their mission to support victims and survivors of prostitution?

We have identified the following obstacles for sex workers and for the support of sex workers: their often insecure or irregular residence status, the fear of punishment for illegalized activities, the economic pressure on them and their families, their lack of knowing their rights and of access to support in case of a violent situation are preconditions for (further) potential exploitative situations.

13. What are some of the lessons learned about what works and what does not when it comes to stemming any negative human rights consequences from the prostitution of women and girls?

Legal work and good working conditions provide the best protection. Prohibitions neither prevent prostitution nor curb its negative effects. Where coercion and violence actually play a role, bans offer no protection.

For many sex workers, the greatest risks are not related to exploitation by clients or pimps, but to repressive migration policies and police controls and repression.

14. Are frontline organizations and survivors' organizations sufficiently included in policymaking at the national and international level?

No. Far too often, decisions are made over the heads of sex workers. It is essential that the voices of sex workers/front line organizations are taken seriously and are included in political decision-making.

15. What recommendations do you have to prevent and end violence associated with the prostitution for women and girls?

The best prevention measures are legal migration and work opportunities. Criminalization of sex workers, including through a sex purchase ban, worsens the situation of sex workers and weakens their rights. The Swedish Model has a negative impact on the health of sex workers and on the prevention of violence in the sex industry. For this reason, major UN- and human rights organizations oppose this model. States must ensure that sex workers can carry out their work safely and without stigmatization, criminalization, and discrimination. We advocate for a society in which poverty, gender inequality and racism are combated, and migration is legalized. A society in which the fundamental rights of sex workers are respected. The complete decriminalization of sex work offers the best conditions for achieving this.

We kindly thank you for the attention.

Best regards,



Nina Lanzi
Expertise and Advocacy



Lelia Hunziker
Director