

# **Shadow Report**

Council of Europe Convention on  
preventing and combating violence  
against women and domestic violence

End Demand Switzerland  
October 2021

## **This Report was prepared by End Demand Switzerland (EDS).**

Other grass root organizations as well as numerous individuals, including survivors of prostitution, provided input.

The Report focusses on violence against women in prostitution.

## **About End Demand Switzerland**

End Demand Switzerland is a non-profit organization governed by the Swiss Civil Code.

EDS's overall objective is to reduce - ideally abolish - trafficking in human beings for the purpose of sexual exploitation in Switzerland.

To achieve its objective, EDS promotes strategies that focus on the root causes of human trafficking for the purpose of sexual exploitation and prostitution, in particular the demand for commercial sex. Without this demand there would be no trafficking for sexual exploitation.

Based on the principle of gender equality and the dignity of the human being, EDS sets out to:

- sensitize society to the root causes of human trafficking for the purposes of sexual exploitation and prostitution.
- inform about the reality of prostitution, its damaging physical and psychological effects, and the harm the normalization of prostitution does to society.

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## Chapter I. Purpose, Definitions, Equality and Non-Discrimination, General Obligations

### Article 2 - Scope of the Convention

1. *This Convention shall apply to all forms of violence against women, including domestic violence, which affects women disproportionately.*
2. *Parties are encouraged to apply this Convention to all victims of domestic violence. Parties shall pay particular attention to women victims of gender-based violence in implementing the provisions of this Convention.*

At the outset, it should be emphasized that prostitution exists because various conditions in a given society are present that *make it exist*, that is, when we as a society *choose to allow these conditions to exist* and – worse – *promote them*.

Prostitution and the violence inherent in it, is a phenomenon that is *neither naturally occurring nor inevitable*.

Yet, in Switzerland prostitution is mostly viewed as being part of society, maybe unfortunate but certainly inevitable, as if the fact that something that existed for a long time is in itself justification for its very existence. As a result, in Switzerland, the predominant perception is that prostitution takes up a legitimate place in society and many efforts come together to preserve the continuation of this view.

#### **Why prostitution is inherently violent:**

Prostitution should be understood as a *system*, more specifically as:

#### **A form of violence:**

- The majority of women in prostitution have suffered violence, often sexual violence, before entering prostitution.<sup>1</sup>
- The majority of women in prostitution are victims of many forms of violence while in prostitution (physical, verbal, sexual, psychological).<sup>2</sup>
- The repetitive performance of sexual acts without desire, constitutes in itself a major violation of a women's physical and psychological integrity.

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<sup>1</sup> Individual survivors and survivor movements around the world confirm this: <https://mouvementdunid.org/prostitution-societe/dossiers/les-survivantes-de-la-prostitution-portraits>, <http://tanjarahm.dk>, <https://www.spaceintl.org>, <https://netzwerk-ella.de>, <https://seattleops.org>, as well as numerous organizations that help women exit prostitution

<sup>2</sup> Ingeborg Kraus, therapists against prostitution, Prostitution research, <https://www.trauma-and-prostitution.eu/en/author/ingeborgkraus>

### **An Exploitation of inequality and vulnerability:**

- Prostitution is part of a long patriarchal tradition of making women's bodies available for men's benefit.
- Prostitution exploits multiple forms of inequality: men's domination over women, rich over poor, North over South, majority groups over minorities.
- Prostitution exploits the vulnerabilities that are often caused by the above mentioned structural inequalities.
- Migrant women (including many without valid stay-permit), from countries with low GDP constitute about 85% of all women in prostitution in Switzerland.

### **A violation of human dignity:**

- By placing the human body and sexual acts into the realm of the marketplace, the system of prostitution reinforces the objectification of all women and their bodies.
- Prostitution reinforces the domination of men over women, in particular the expectation that women's bodies are available and accessible in exchange of money. This domination manifests itself in other forms of violence against women such as rape, sexual harassment and domestic violence.
- The system of prostitution fuels and perpetuates trafficking in human beings for sexual exploitation.
- Prostitution is a societal obstacle to achieving a respectful sexuality based on mutual attraction and genuine choice.

### **In Switzerland, there are numerous additional factors that help reinforce the system of prostitution:**

- A legal and regulative framework that is designed to normalize prostitution and thereby help perpetuate it. Accordingly, there are no State-led efforts to reduce or discourage the demand for purchasable sexual acts.
- Numerous stakeholders in Switzerland, including academia and professors teaching at university and higher education, NGOs, State institutions etc, are instrumental in upholding the above system as they promote the normalization of prostitution.
- The media portrayal of prostitution generally does not provide information about the root causes of prostitution, prominent public figures speak out in support of prostitution.<sup>3</sup>
- The widespread use and easy accessibility of pornography including the use of pornography from a young age.
- The substantial financial support given, mostly by the state, to stake holders that directly or indirectly promote the continuation of prostitution.
- An ill informed and misguided public that is generally not particularly interested in the sub-culture of *migrant* women in prostitution and relies on the State's obligation to protect women from violence

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<sup>3</sup> Including some members of Christian institutions, for example Gottfried Locher, President of the Federation of Swiss Protestant Churches: "That is why I say we should be grateful to prostitutes. In their own way, they contribute something to peace."  
<https://www.nzz.ch/nzzas/nzz-am-sonntag/gottfried-locher-lobt-dienste-der-prostituierten-1.18421473>

When we examine the issue of violence against women in prostitution in Switzerland, we should do this by looking at the reality on the ground. Part of this reality is the types of sex acts Swiss brothels offer men to be performed by women.

These include:

- urinating and defecating on women
- ejaculating on their faces
- ejaculating in their mouths with an obligation to swallow the sperm
- inserting a hand into the woman's rectum or vagina
- double penetration
- anal penetration
- inserting the penis as deep as possible down the woman's throat, and
- rape "simulations"

To name only a few of the 'sexual services' offered in Swiss brothels and other locations where prostitution takes place.

However, from women's personal testimonies (including EDS's members) we know that many other painful sexual acts are demanded by men in addition to the acts listed in the advertisements.

Women are advertised as merchandise, providing information on sizes of body parts (lips, breasts, buttocks) colour of hair, skin and other intimate and personal information such as shaved pubic hair, ethnic origin and of course, age. It goes without saying that profitability is proportionally higher, the younger and the more inexperienced women are. Many of the sexual acts offered are not only physically painful and psychologically harmful but also degrading and dehumanizing.

### **Swiss Research on Violence against Women / the Violence against women occurring in Prostitution**

Generally, Swiss studies on violence against women are scarce, Swiss studies focusing on violence against women occurring in prostitution even rarer. However, the few available should be mentioned.

In 2005, a study was conducted on violence experienced by women in Switzerland.<sup>4</sup> While this study does not include any data regarding the violence against women occurring *in prostitution* it does, however, indicate that more research is needed regarding the violence against women occurring *outside* the private sphere.<sup>5</sup>

In 2010, a study<sup>6</sup> was conducted on the mental health of women in prostitution by the Department of General and Social Psychiatry at the University Zürich. Based on the participation of 193 women, the study found that women in prostitution displayed high rates of mental disorders which were related to *violence* and the 'burden' of being in prostitution. The study concludes that the findings represent *a major public health problem*. This conclusion must be seen in the context of a society where prostitution is highly regulated in one of the richest countries in the world with a nation-wide system of well-funded organizations that are available to 'assist' women in prostitution.

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<sup>4</sup> Killias et al., 2005

<sup>5</sup> Büschi, 2011, p. 65

<sup>6</sup> Rössler, 2010

When prostitution is normalized and accepted by society in a wealthy country with clear regulations how then can it be a 'major health problem'? The most plausible answer is that violence in prostitution is *inherent*. The sex act is unwanted. Improved sanitization, the provision of free condoms, more panic buttons, 'increased professionalism', or de-stigmatization, will change little in relation to the inherent character of violence in prostitution.

In another study in 2010, a Swiss sociologist<sup>7</sup> wrote her thesis on the subject of violence in prostitution. The perspective, the author chose, was how violence was described and perceived by those who manage brothels and contact bars and she sought to know which solutions they would recommend.

It is noteworthy that the opinion was sought by a group of people who are directly financially benefitting from the sex trade and thus have a vested interest in downplaying the violence that they themselves are complicit in. However, given that the brothel keepers identity was not revealed and that violence is an undeniable and integral part of the sex industry, some of the findings prove informative and confirm that violence against women is inherent in the sex industry.

The brothel owners gave the following examples of violence against women committed by sex buyers:<sup>8</sup>

- insults and humiliations (including physical humiliations during the sex act)
- slaps and punches in the face
- pinching the breasts
- physical assaults
- verbal attacks

In addition, damage to property, such as breaking down of doors, smashing of windows, cameras and furniture, and threats of doing so, are reported.

In the context of the sexual act itself, the brothel owners also report:

- repeated attempts by the sex buyer to take off the condom
- vaginal injuries to women resulting from forcible penetration by sex buyers and result in psychological problems (insomnia, depression)
- sexual exploitation by Swiss civil servants demanding *free* sexual services

All of the brothel owners reported the sex buyers' constant demand for unprotected sex. Sex buyers also offer women drugs in lieu of payment or offer drugs for free during the sex act.

Brothel owners also reported (their own and) other brothel-owners violence against women, such as: physical violence, including stuffing a woman's mouth with money and subsequently throwing her out in the middle of the night, the 'testing' of new women, i.e. demanding sex acts from women prior to 'employment', demanding sex acts instead of rent, withdrawal of ID papers and other ways of blackmail and exploitation of the woman's dependency. The reporting includes signs of human trafficking although – for obvious reasons – these are not explicitly mentioned.

Importantly, the above mentioned types of violence appear to be 'normal' in the perception of the brothel owners<sup>9</sup> which is probably why they openly report them.

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<sup>7</sup> Büsschi, 2011

<sup>8</sup> Büsschi, 2011, p. 107

<sup>9</sup> Büsschi, 2011, p. 110

Acknowledging the reality of violence and the threat violence present in prostitution, an advisory service for women in prostitution in the Canton of Basel offers a workshop in self-defence.<sup>10</sup>

It is important to establish here that it is not disputed or controversial that serious violence is generally part of the lived experience of women in prostitution. However, what is not acknowledged by many stakeholders - despite all the evidence on the ground – is that this violence is *inherent*.

While this may appear to be a question of nuance it is not because the acknowledgement that prostitution is inherently violent (and gender-based) obviously does not align with the concept of 'work' but rather with 'abuse'. This in turn suggests that society should put in place policies that aim at eliminating such activity. Since the commodity in the sex industry is sexual access to a woman's body and the sex acts she is required to perform is for men's sexual gratification, change must target the behavior of the buyers of this 'commodity'. Without demand there is no sex industry.

However, such a suggestion currently meets fierce and powerful opposition, from stakeholders who promote or are complicit in the normalization of the prostitution in Swiss society. They see the way forward in increased societal recognition of the 'profession of the sex-worker' and 'increased professionalism' of the trade, factors which they believe would remedy the problems of violence; in other words, the real problem in the context of violence against women in prostitution is supposedly the societal stigmatization of women in prostitution. In line with their vested financial interests, brothel keepers' views are by and large the same.

We find it deeply problematic that such conclusions are drawn, in particular when the scale and intensity of violence has been evidenced. Out-reach workers in frequent contact with women in prostitution, consistently confirm that harm is inherent in prostitution.

Also, a wealth of international studies confirm that violence and prostitution go hand in hand.<sup>11</sup>

### **The gender aspect**

The circumstance that the vast majority of persons who sell sex acts in Switzerland (and worldwide) are female and those who buy these sex acts are male is undisputed. It is therefore established that we are dealing with a phenomenon that is highly *gendered*, in other words that the violence occurring in prostitution *affects women disproportionately*.<sup>12</sup> To reflect this proportionality between men and women in prostitution, we shall in the following refer to those who sell sexual acts as 'women' although we recognize that there is a minority that sell sex acts who are trans-persons, male or have another sexual identity.

Based on the above, we conclude that the violence against women occurring in prostitution manifestly falls within the meaning of Art. 1.1.a (Purpose), Art 2.1. (Scope), Art.2.2 ("gender-based") and Art. 3.a ("violence against women".....shall mean all acts of gender-based violence that result in, or are likely to result in physical, sexual psychological or economic harm or suffering to women, including threats of such acts coercion or arbitrary deprivation of liberty, whether occurring in public or in private life") of the Convention.

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<sup>10</sup> You will be introduced to Wen-do self-defence techniques by a Wen-do teacher. This technique has been specially developed for women and young girls so they can defend themselves from (physically stronger) men. Aims: You will learn how to consciously set limits and to physically defend yourself in violent situations, <https://aliene.ch/en/workshops/>, accessed 26.10.21

<sup>11</sup> "HIV and young people who sell sex" p. 9. <https://www.who.int/publications/i/item/WHO-HIV-2015.7>, accessed 2.9.21

<sup>12</sup> <https://platform-human-trafficking.ch/news/just-the-tip-of-the-iceberg-switzerland-wide-numbers-on-victims-of-human-trafficking/> accessed 17.9.21



## Article 4 - Fundamental Rights, Equality and Non-discrimination

1. Parties shall take the necessary legislative and other measures to promote and protect the right for everyone, particularly women, to live free from violence in both the public and the private sphere.
2. Parties condemn all forms of discrimination against women and take, without delay, the necessary legislative and other measures to prevent it, in particular by:
  - embodying in their national constitutions or other appropriate legislation the principle of equality between women and men and ensuring the practical realisation of this principle;
  - prohibiting discrimination against women, including through the use of sanctions, where appropriate;
  - abolishing laws and practices which discriminate against women.

### Swiss Federal Constitution Art. 7

Art. 7 of the Swiss Federal Constitution:<sup>13</sup> Human dignity is to be respected and protected.

Human dignity is the recognition that human beings have a special value intrinsic to their humanity and as such are worthy of respect simply because they are human beings. Therefore the *objectification of the human body*, i.e. *the human body becoming a commodity* and being treated as such should be seen as a violation of Art. 7.

Switzerland's obligation to ensure human dignity is respected and protected is incompatible with the reality on the ground in relation to women in prostitution. The current prostitution policy is designed not only to tolerate but to *promote* the sex industry<sup>14</sup>. In 2019, two organizations from French-speaking Switzerland that campaign for the rights of women in prostitution launched a sex portal arguing it was part of their efforts to protect the women. The Federal Office of Public Health and the Federal Office of Police supported the creation of the portal financially. The Swiss state thereby not only contributes to normalizing prostitution but actively promotes it including the usual 'services' offered: anal penetration without protection, ejaculation into the mouth without protection, licking anus, being urinated on, and being otherwise humiliated.<sup>15</sup>

Such financial support is indicative of the Swiss authorities' attitude towards prostitution. It is also a demonstration of the fact that they see no contradiction between the duty to protect the dignity of human beings – here women's dignity - and the usual 'services' offered to men on these sites.

The UN Convention of 1949,<sup>16</sup> which Switzerland has chosen not to ratify, states: "prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person".

### Equality between men and women

The degree of the normalization of prostitution in Switzerland has recently<sup>17</sup> been exemplified by an ad in which an 18 year old woman offers her virginity for sale. At the end of the article a sociologist is quoted as saying: *"If men are prepared to pay so much, it is above all because they are looking for quality, purity, but also the less "trashy" side of other women who see a large number of clients"*.

The sociologist's suggestion as to what men are seeking if they respond to such an ad i.e. "the *less trashy* side of *other women* but the quality and purity" is informative in relation to the clearly

<sup>13</sup> <https://www.fedlex.admin.ch/eli/cc/1999/404/en>, accessed 11.9.21

<sup>14</sup> <https://www.blick.ch/schweiz/blowjob-ohne-kondom-und-faekalienspiele-bund-finanziert-sex-plattform-id15126129.html>

<sup>15</sup> <https://callmetoplay.ch/recherche/> accessed 23.10.21

<sup>16</sup> Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, Approved by General Assembly resolution 317 (IV) of 2 December 1949

<sup>17</sup> <https://ghi.ch/une-genevoise-vend-sa-virginite-pour-un-demi-million-de-francs>, accessed 15.9.21

underlying misogynist attitude reflected in this analysis. It shows that when prostitution is normalized, it promotes a perception that there are *different categories* of women that respectively carry different degrees of dignity - or none, such as those in prostitution who 'see a large number of clients' and are therefore 'trashy'.

It is the system of prostitution where women's bodies are objectified and made accessible to men for money that profoundly impacts the ways in which men think of women dividing them into 'trashy' or 'pure' - and in principle purchasable.

A policy that aims to normalize prostitution *deepens* the inequality between men and women and reinforces misogynist attitudes that result from the objectification and sexualization of women rooted in the system of prostitution. The view that women are 'trashy' because they have many sex partners has no place in an egalitarian society. Promiscuity is a personal choice and should be respected.

By contrast, in the vast majority of cases, prostitution is *not* a matter of personal choice but the result of a *lack of choice*. We see the evidence of the lack of choice among women in prostitution world-wide.<sup>18</sup> The negative effect that prostitution has on gender equality, is also evidenced by the unequal power relations present in prostitution where men with a disposable income buy sexual acts from mostly disadvantaged migrant women who face economic hardship in their country of origin.

In addition, the many Swiss internet platforms where men exchange views on the women they bought in prostitution, display all too clearly the misogynist attitudes men feel entitled to publish.

A society that strives towards gender equality cannot at the same time reserve spaces of power for men in which sexual access to women's bodies is purchasable.<sup>19</sup>

The Swiss Federal Bureau for Equality between men and women has not produced any research or other publication addressing the way in which the sex industry impacts the realization of equality between men and women.

### **The principle of Non-Discrimination**

It is estimated that over 85% of all women in prostitution in Switzerland come from economically low GDP countries, the majority within the EU. People with over 30 years of experience in the police and a deep insight into the reasons migrant women are in prostitution confirm that *poverty and lack of education are among the most prominent driving forces behind women entering prostitution*.<sup>20</sup> While in Switzerland prostitution is portrayed as a personal choice, in reality, these migrant women are predominantly entering prostitution due to a *lack of choice*. In addition, they are often controlled by pimps and others who profit from their prostitution. Numerous women contact EDS and our informal partners with a plea to find them other options to make money.

Typically, the only income generating activity that is open to them in Switzerland is prostitution. Indirectly, this could be seen as structural discrimination against this social group of migrant women which keeps them in prostitution.

This discrimination disproportionately affects women and is therefore gendered, the group that is discriminated against is typically the most vulnerable group within the female migrant community in Switzerland.

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<sup>18</sup> MacKinnon 2011, p. 277

<sup>19</sup> See also: Díez Gutiérrez 2014

<sup>20</sup> [https://www.evppev.ch/fileadmin/user\\_upload/evppev/PDF/Akzente/de/Akzente\\_2021-03-def-ohne-Schnitt.pdf](https://www.evppev.ch/fileadmin/user_upload/evppev/PDF/Akzente/de/Akzente_2021-03-def-ohne-Schnitt.pdf), p.4, accessed 11.10.21

While it may be legal and legitimate to protect the Swiss labor market by obliging employers to give preference to Swiss nationals even for low level jobs, one of the effects is that disadvantaged migrant women are de facto the group of women left with extremely limited employment options.

#### **Recommendation:**

- Switzerland should acknowledge that violence is inherent in prostitution and therefore recognize that prostitution is a form of gender-based violence against women.
- Switzerland should ratify the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (General Assembly resolution 317 (IV) of 2 December 1949)

### **Article 5 - State Obligations and due diligence**

1. *Parties shall refrain from engaging in any act of violence against women and ensure that State authorities, officials, agents, institutions and other actors acting on behalf of the State act in conformity with this obligation.*
2. *Parties shall 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 this Convention that are perpetrated by non-State actors.*

#### **The Nexus between Prostitution and Human Trafficking for sexual Exploitation (HTfSE)**

So far, we have discussed the violence against women in prostitution that falls *outside* the definition of human trafficking for sexual exploitation (HTfSE).

However, the violence against women occurring within HTfSE is even more brutal and evidently also falls within the scope of the Istanbul Convention. It is worth emphasizing that HTfSE always happens in the context of prostitution (and pornography). Therefore, it is important here to examine the connection between prostitution and HTfSE and *how the connection is taken into consideration in Switzerland*.

#### **Examples of state agents engaging in acts of violence against women in prostitution**

In Switzerland, the periods of time during which Parliament meets for deliberations in Bern are called 'sessions'. The National Council and the Council of States meet regularly for ordinary sessions four times a year for three weeks. It is public knowledge (or 'an open secret') that during these parliamentary sessions the demand for commercial sex takes a sharp rise. The rise is not only due to male politicians' demand for commercial sex but also other professionals such as journalists and service providers involved in these parliamentarian gatherings.

Since the Swiss Government regards prostitution as a normal business and apparently does not consider that there is anything wrong with the demand for commercial sex, it is not surprising that politicians also take advantage of this policy when they flock to the sessions four times a year.<sup>21</sup>

This is the demand that *fosters trafficking for the purpose of sexual exploitation*.

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<sup>21</sup> Wüst 2020 p. 26,27)

Some Swiss politicians thereby also add to the violence done to women in prostitution. A sociological study<sup>22</sup> documents the problem of police officers who buy sex, become involved in corruption by making deals with brothel owners and thereby may be implicated in human trafficking.

In a well-known TV programme, "Temps Présent", of 6 June 2019, the French-speaking Swiss television channel RTS reported on the investigation by the Geneva police into the close links between some police officers and brothel operators. The police officers were accused of entertaining a close relationship with brothel owners based in the Paquîs red-light district. Around twenty officers were said to have been involved. Although the authorities had known about this for years, the police did not take any action until then. The head of the police maintained that all reports were taken seriously.<sup>23</sup>

The president of the STTS ("Syndicat des travailleuses et travailleurs du sexe") contradicted the head of the police's statement. In a letter to the police directorate in June 2013, she points out that the prostitutes did not feel protected by the police because of the close relationship between police officers and brothel operators. As an example, the STTS cites the disappearance of women during irregular police checks. This raises the question of who informed them in advance about the checks.<sup>24 25</sup>

Unfortunately, corruption among state agents is a worldwide problem and no country is free of it. Switzerland has a functioning legal system that should be well equipped to counter this type of abuse of power.

As we have seen above, the violence against women occurring in prostitution including in HTfSE *falls within the scope* of the Istanbul Convention. Switzerland has therefore a *legal obligation to prevent this violence under the Istanbul Convention and design its policies in a way that consistently aligns* with efforts to *prevent* this violence. To do this effectively, it is imperative to put in place policies that aim at *reducing* the demand for commercial sex thereby reducing prostitution and HTfSE, and proportionally *resulting in less violence against women*.

## **International Instruments and Recommendation relating to HTfSE and prostitution include:**

### **United Nations**

#### **CEDAW**

In addition, Switzerland also carries a legal obligation under the CEDAW Convention.<sup>26</sup>

Article 6 reads: State Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

#### **General Recommendation 38 (GR 38)**

In elaborating on the root causes that lead to trafficking GR 38 specifically states that *Strategies aimed at preventing trafficking must take into account demand as a root cause. Failure to*

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<sup>22</sup> Büssli 2011 p. 124

<sup>23</sup> <https://www.zuonline.ch/keine-korruption-aber-dem-sex-milieu-zu-nahe-192704714180>

<sup>24</sup> <https://pages.rts.ch/emissions/temps-present/suisse/10376839-flics-et-prostituees-les-liaisons-dangereuses.html?anchor=10491167> (accessed on 27.10.2021)

<sup>25</sup> <https://www.rts.ch/info/regions/geneve/10351515-une-vaste-affaire-de-corrupcion-eclabousse-la-police-genevoise.html> (accessed 27.10.2021)

<sup>26</sup> Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979

*recognize the demand is acknowledged to be one of the barriers to States addressing human trafficking.*<sup>27</sup>

It states: *Sexual exploitation persists due to State Parties' failure to effectively discourage the demand that fosters exploitation and leads to trafficking.*

### **Palermo Protocol**

The legal obligation to discourage demand also follows from Switzerland's ratification of the Palermo Protocol (2000)<sup>28</sup>

Article 9.5 reads: *"States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking."*

### **Council of Europe (CoE)**

#### **Convention on Action against Trafficking in Human Beings**

This legal obligation is *reiterated* in the Council of Europe Convention on Action against Trafficking in Human Beings (2005)<sup>29</sup> Art. 6.

### **OSCE**

The recent OSCE Report, 2021, entitled "DISCOURAGING THE DEMAND that fosters trafficking for the purpose of sexual exploitation, states: *Under the international framework on demand States are required to take measures to discourage the demand that fosters all forms of exploitation of persons... that leads to trafficking.* In referring to the demand that "fosters exploitation" that "leads to trafficking", this agreed-upon language establishes a concept of demand that moves beyond only the "demand for trafficking" or the "demand for sexual exploitation," to address demand that *encourages* exploitation that in turn leads to trafficking. This creates an obligation to discourage demand that extends beyond the knowing use of trafficking victims to any act that encourages exploitation of the prostitution of others."

#### **Measures to discourage demand (Article 6) taken by Switzerland**

The State obligation to discourage demand that leads to trafficking is clear and its importance has been highlighted in numerous legally binding Conventions and other recommendations.

Under the CoE Trafficking Convention's reporting mechanism States are requested to explain how they implement this legally binding obligation.

Switzerland accounts for the measures they have taken in this respect in the GRETA report of October 2019.<sup>30</sup>

As a response, Switzerland lists an awareness campaign informing about the phenomenon of human trafficking in general.

However, in this answer it is difficult to detect any discouragement of the demand that fosters HTfSE. Given the undisputed fact that the vast majority of victims of HT are to be found in

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<sup>27</sup> IV. Root Causes of trafficking in women and girls, 18 AND litra C point 29 and 30

<sup>28</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children 2000

<sup>29</sup> CoE Convention

<sup>30</sup> GRETA Report, p.24

prostitution as they are HTfSE, it is remarkable that there is no discouragement to buy sex. The public is thus simply made aware of the existence of human trafficking.

'Awareness campaigns' are listed under '*measures to discourage demand*' despite the clear wording of Art 6 of the Convention. Interestingly, the Report states: '*One of the key messages focused on the diverse profiles of potential victims, who may be women, girls, men or boys. A special focus was placed on highlighting the existence of various forms of exploitation, in particular labour exploitation*'. These awareness campaigns do nothing to discourage demand for HTfSE.

While it is obviously true that some men and boys can be found in human trafficking, the fact remains that the vast majority of trafficking victims in Switzerland are women, that the exploitation takes place *in prostitution*, and the violence committed against them is perpetrated *by men*. Such flawed 'awareness campaigns' help to make the violence against women in prostitution *invisible* and thus align with Switzerland general prostitution policy.

Switzerland's second 'measure' to discourage demand is: "A website has been set up informing clients of prostitution of signs that should raise suspicion of human trafficking and how to react."<sup>31</sup> Although it cannot be denied that some sex buyers might report cases, this measure clearly does not live up to what is meant by 'discouraging demand' as spelt out in various legal documents. Essentially, Switzerland seeks the 'cooperation' of the group of men, whose actions constitute the very demand that fosters HTfSE 'to identify victims'.

Apart from this being fundamentally the wrong approach, sex buyers cannot distinguish between whether a woman is trafficked or not and may unknowingly be purchasing sex from a victim of trafficking. It is common knowledge that one characteristic of victims of trafficking is that they do not disclose, and often deny being a victim, typically due to the psychological pressure they are under.<sup>32</sup>

Traffickers and pimps have long understood that physical evidence of mistreatment is not good for business and therefore to be avoided. In practice, coercion is mostly much more subtle or, as one Swiss police officer puts it: 'the chains are inside the head.'<sup>33</sup> In addition, many sex-buyers are well-aware of the involuntary nature of the women's participation but their own interest over-rides such reflections. This they can easily do because they have the law on their side.<sup>34</sup>

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<sup>31</sup> <http://www.verantwortlicherfreier.ch/en/index.html>

<sup>32</sup> European Parliament Study 2021, p.28.

<sup>33</sup> A. Ott, Co-Head of the police inspectorate and Head of the Aliens Police, Bern in Akzente, p.4.

<sup>34</sup> See also Farley et al., Men who buy sex 2009

The fact that the Swiss authorities describe this measure (the website to educate sex buyers to spot trafficked women) as an 'effort to discourage demand' is obviously contradictory. It also testifies to the lack of political will to acknowledge the violence against women in prostitution and confirms that Switzerland prefers to protect men's 'right' to buy sexual access to women's bodies than to prevent violence against women in prostitution, many of whom are trafficked. Migrant women, overwhelmingly from poor Eastern countries, have neither a choice nor the slightest desire to be bought by men. It is noteworthy that, even Germany has decided to penalize sex buyers who knowingly buy sex from victims of trafficking, while in Switzerland the police still depend on the unlikely goodwill of sex buyers.

The EU Socta Report of 2021 states: "Exploiters increasingly seek to exploit their victims in the context of supposedly voluntary business agreements."<sup>35</sup> This means that traffickers may obtain the cooperation of women themselves to the exploitative arrangement. It should be noted that the Socta Report 'is the product of systematic and comprehensive analysis of law enforcement information on criminal activities and networks affecting the EU and serves to assist decision-makers in the prioritization of serious and organized crime threats'.

### **Switzerland does not fulfill their international obligations to discourage the demand that fosters of HTfSE**

Switzerland pursues policy that actively promotes the normalization of prostitution in society.<sup>36</sup>

By treating prostitution as a normal business and granting pimps and brothel-owners the status of businessmen of a legitimate industry, Switzerland is encouraging - and not discouraging - the demand that fosters HTfSE. It is therefore in breach of its international obligations.

Swiss authorities as well as the vast majority of Swiss NGOs<sup>37</sup> downplay the connection between prostitution and HTfSE while highlighting the fact that prostitution is legal in this country whereas HTfSE a crime.<sup>38</sup> Although this is correct, the purpose of stressing the difference in the two phenomena is clearly to divert attention from the fact that the two are inextricably linked and that most of trafficking victims are found in prostitution.

Rules and regulations designed to promote and normalize commercial sex are in place because legislators *chose* to enact them. Legislation can be changed and it is in the hands of the political representatives to come forward with proposals for legislative change that would align with Switzerland's international obligations.

Swiss civil servants who are specialized in combatting human trafficking should openly point out that the difficulty in effectively fighting human trafficking, is largely due to a prostitution policy that *fosters* the crime that Swiss law enforcement are supposed to fight.

Even if - despite all the evidence - the Swiss Government remains unconvinced that violence against women is inherent in prostitution, the Swiss Government should recognize the fact that men's general demand for commercial sex fuels the sex industry, and that traffickers react to this demand by supplying more women i.e. victims of trafficking.

In conclusion, Switzerland's liberal prostitution policy aimed at normalizing prostitution in society has resulted in an expansion of the sex industry, and thus fueled demand for commercial sex, which in turn leads to more violence against women in prostitution and contributes to more cases of HTfSE.

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<sup>35</sup> Socta, p.71.

<sup>36</sup> See a more detailed account of the background to the Swiss policy under Art. 7

<sup>37</sup> [https://www.fiz-info.ch/images/content/Downloads\\_DE/Downloads\\_Sexarbeit/SA\\_Factsheet.pdf](https://www.fiz-info.ch/images/content/Downloads_DE/Downloads_Sexarbeit/SA_Factsheet.pdf) accessed 17.9.2021

<sup>38</sup> Art182 StGB

## Recommendations:

- To create an independent National Rapporteur to propose and monitor the implementation of measures that effectively address root causes of HTfSE and prostitution in accordance with Switzerland's international obligations.
- To oblige state agents to sign a code of conduct at the beginning of their employment, obliging them to refrain from buying sex. Non-compliance should be sanctioned. Also, the code of conduct should include a prohibition from profiting from the sex industry in any way.
- To oblige police controlling the red-light districts to always go in mixed teams of men and women

## Article 6 - Gender-sensitive policies

*Parties shall undertake to include a gender perspective in the implementation and evaluation of the impact of the provisions of this Convention and to promote and effectively implement policies of equality between women and men and the empowerment of women.*

Gender-sensitive policies are central to the empowerment of women in general and are particularly important when it relates to the ability of the structurally weakest members of society *to be heard and taken seriously.*

Migrant women from low GDP countries who are in prostitution in Switzerland manifestly belong to this group. A large segment of this group are Hungarian and Romanian, many from the Roma community. The upbringing of a Roma girl may not include notions like gender equality and empowerment.

In 2012, a Report described the situation of Hungarian women in street prostitution in Zürich, their socio-economic background and their experience of violence in prostitution in Hungary and Switzerland.<sup>39</sup> The extent of violence against women the report evidenced was brutal.

One victim explained: "And there yes the john didn't pay, he touched me with violence like this, and then I was supposed to undress, do you understand? ", "He wanted to hit me, and then they undressed me by force, do you understand?"<sup>40</sup>

Control by pimps; excerpts of testimonies: "Every day I even did 20-30 johns, and yes, I had to hand over everything", "But these female pimps had the permit specially done, as if they were also working. And they are downstairs watching what goes where and how. That way it's not so conspicuous to the police."<sup>41</sup>

Evidence of human trafficking, excerpts of testimonies: "Did you know you were sold? Of course, I did. And do you know for how much? I know the woman got 50,000 [Forint] for me and I had to work off 1 million [Forint]"<sup>42</sup>

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<sup>39</sup> IRIS 2012, Die Situation von ungarischen Strassenprostituierten in ungarischen Städten und in Zürich, Status Quo und Handlungsbedarf

<sup>40</sup> p.53.

<sup>41</sup> p.51.

<sup>42</sup> p.54.



As well as the use of drugs: Excerpts of testimonies: "I always use drugs when fucking". (...) "Without drugs I can't bear it".<sup>43</sup>

The public was shocked after the publication of the report. State-funded specialized support services on the other hand, contacted the media and publicly questioned the validity of the report. They described it as exaggerated.<sup>44</sup> Among them was the FIZ (Fachstelle Frauenhandel und Frauenmigration)<sup>45</sup>

These specialized agencies rightfully stress that women in prostitution need to *be talked to, not about*. However, it seems that only the women who share the attitude of the counselling centres, promoting 'sex work is work', are allowed to speak. The head of the counselling centre, Flora Dora, Ms Rother, was quoted in the Swiss daily newspaper "Tages Anzeiger" as follows: "I experience the milieu (red light scene) as much less violent. Moreover, violence has become normal in Zurich's nightlife." In general, Rother urged caution regarding the credibility of the Hungarian women's' statements. "They often say what the other person would prefer to hear". Ms Rother concludes: "The report is meant to have a deterrent effect on punters and Hungarians who are toying with the idea of turning tricks in Zurich."

Such statements show how the testimonies of marginalized women are belittled in a system that insists that prostitution should be recognized as normal job. The cited support services seem to work directly against efforts made by anti-trafficking projects in Hungary who work towards protecting young Hungarian women who may be tempted by money or forced to go into prostitution abroad.<sup>46</sup>

In the Report an unnamed expert is quoted as saying:

*"I think it is very important to understand that the attribution and acceptance of the victim role makes the victim stay in exactly that identity. It is central that she can break out of this victim identity and that she learns the perspective of an independent personality; that she sees herself not only as an appendix of someone, but as an independent, acting person who can change her life."*<sup>47</sup>

While there may be some logic to the above view, it should be highlighted that there are different opinions on this. Originally, and still predominantly, to describe someone as a victim of something does not mean to say that victimhood is her/his main characterization. To be a victim *of violence* means not more and not less than that; meaning, that this aspect of a person in no way informs us about other aspects of the person (strength, resilience, capacity, etc).

In recent years there has been an attempt to 'stigmatize' *the use of describing* people as being *victims* of something. In the context of the prostitution debate this attempt is deliberate. The intent is to make people believe that it is *per se* insulting to refer to certain people 'as victims', as if the intent was to portray them as weak or unable to assert themselves. However, it is important to rehabilitate the use of the word 'victim' as the intent has never been to *reduce* a person to victimhood but simply to establish a fact that the person is a victim in relation to a certain aspect of their experience.

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<sup>43</sup> p.50.

<sup>44</sup> <https://www.tagesanzeiger.ch/zuerich/region/wie-viele-der-120-prostituierten-wurden-tatsaechlich-geschlagen/story/13258824>

<sup>45</sup> A well-known support services for migrant women in Zürich, <https://www.fiz-info.ch>, accessed 23.10.21

<sup>46</sup> Árpád Sebestyén, Traumaközpont Közhasznú Nonprofit Kft. P. 27, BBA-5.1.6/10-2019-00001, Don't leave, don't do it! - campaign against human trafficking

<sup>47</sup> p.54.

The relevance to the prostitution policy debate is the following: By making people believe that *being described as a victim is degrading and reduces* the person to victimhood, it is easier to make people accept the idea that it can be a choice to agree to violence (in prostitution) or to get people to agree to the idea that a woman who sells sex acts can freely choose among the types of (degrading) sexual acts she 'wishes' to perform. Presented in this way, people may be more inclined to accept that selling sex is all about a women's agency.

Stakeholders repeatedly claim the obvious: not all women in prostitution are victims of HTfSE. That is evidently true but distracts from the fact that a very large proportion of the women are. Informal discussions with Swiss police and underfunded grass-root organizations confirm that it is a majority of women in prostitution are controlled by pimps. While it is difficult to establish if the 'intensity' of the coercion fulfills the requirements in Art 195 StGB (Criminal Code, Promotion of prostitution) and/or Art 182 StGB (Criminal Code, Human Trafficking) we should focus on the fact that women do not want to be in prostitution.

It is therefore important to clarify that being described as, or to see oneself as, a victim of violence and/or human trafficking does not in any way preclude the parallel existence of resilience and potential ability to overcome the trauma that victims of violence often suffer as a result of their experience.

This is why we also speak of *survivors* of prostitution, precisely because we acknowledge their ability and tremendous strength to overcome the damaging experience in prostitution *as victims of violence*.<sup>48</sup> Keeping in place the recognition of being a victim of violence is also important in relation to recovery. Hungarian psychologist, Dr. Árpád Sebestyén, who has long-standing experience with Hungarian victims of HTfSE including those exploited in Western Europe writes: "Identification with the victim role is partly important for recovery, but recent research in other areas of psychology (e.g. cancer) suggests that it is not always fortunate. There are personality types for whom it is more helpful in recovery if they do not have a "disease identity". They are more able to cope with the situation with the help of the mind (e.g. through reframing, or strong will, inner ideas). However, for the majority, victim consciousness (would be) the first step towards recovery"<sup>49</sup>

It is clear from the Report that the Hungarian women were extremely marginalized and disenfranchised from the very start of their lives. The role of a Swiss women's organization should be to recognize this and offer a comprehensive exit service from prostitution including trauma therapeutical counselling. Cooperation and coordination with Hungarian counterparts would be essential in creating durable solutions in their home countries.

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<sup>48</sup> See also P. Patkar on the term survivor versus victim, <https://digitalcommons.uri.edu/cgi/viewcontent.cgi?article=1243&context=dignity>, accessed 23.10.21

<sup>49</sup> Árpád Sebestyén, Traumaközpont Közhasznú Nonprofit Kft. P. 27, BBA-5.1.6/10-2019-00001, Don't leave, don't do it! - campaign against human trafficking.

## Chapter II. Integrated Policies and Data Collection

### Article 7 - Comprehensive and Co-ordinated Policies

1. *Parties shall take the necessary legislative and other measures to adopt and implement State-wide effective, comprehensive and co-ordinated policies encompassing all relevant measures to prevent and combat all forms of violence covered by the scope of this Convention and offer a holistic response to violence against women.*
2. *Parties shall ensure that policies referred to in paragraph 1 place the rights of the victim at the centre of all measures and are implemented by way of effective co-operation among all relevant agencies, institutions and organisations.*

The question of choice is fundamental to any discussion about prostitution politics. In Switzerland, entering prostitution is portrayed as personal choice and the activity as a business. The violence against women connected to it, is occasionally acknowledged but mostly accepted as an unfortunate reality, and to endure it is seen as part of the choice women have made by entering prostitution.

That violence in prostitution is *inherent*, is denied.

Swiss prostitution policies have been developed based on the above perception.

#### 1. Background for Switzerland's prostitution policy

##### 1.1. Legal situation

Prostitution has been de facto legalized since 1942 when the Swiss Criminal Code entered into force. Since 1973, the economic freedom (Wirtschaftsfreiheit), guaranteed by the Swiss Constitution, protects any individual's economic activity under civil law from interference by the state, and allows individuals to freely choose a profession in the private sector. State interventions that favor certain economic activities over others are not allowed.<sup>50</sup> Nonetheless, in cases where state intervention is based on predominantly public interest and relies on a solid legal foundation, it is possible to justify a restriction of that economic freedom.<sup>51</sup>

If prostitution were regarded as violence against women and a form of sexual exploitation, a restriction on economic freedom would thus be justified. However, because prostitution is normalized as gainful employment in Switzerland, the "right" to engage in prostitution is guaranteed by the constitution.

The only current national laws on prostitution are the prohibition of encouraging prostitution<sup>52</sup> and the prohibition of the illegitimate practice of prostitution.<sup>53</sup> The former mainly refers to inducing a person into prostitution, interfering in her self-determination or preventing her from leaving the trade. The latter concerns prostitution that violates cantonal or municipal regulations in terms of the area, time or way in which prostitution is allowed. In addition, trafficking in human beings is outlawed, including trafficking for the purpose of sexual exploitation (Menschenhandel zum Zwecke der sexuellen Ausbeutung).<sup>54</sup>

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<sup>50</sup> Häfelin & Haller 2005, p. 6.

<sup>51</sup> Häfelin & Haller 2005, pp. 6-7.

<sup>52</sup> « Förderung der Prostitution », Swiss Penal Code 1942, Art. 195

<sup>53</sup> Unzulässige Ausübung der Prostitution, Swiss Penal Code 1942, Art. 199

<sup>54</sup> Swiss Penal Code 1942, Art. 182

Cantons and cities have the right to adopt their own legislation, as long as it does not conflict with the national law. For example in 2011, a Prostitution Industry Regulation<sup>55</sup> was adopted by the City of Zurich. The PGVO introduced obligatory permits for people in street prostitution and for brothel owners.<sup>56</sup>

## 1.2 Political debates, reports, commissions, studies

### 1.2.1 Hilber Report<sup>57</sup>

In the context of the controversial “Cabaret Statute”, the EJPD<sup>58</sup> mandated a so-called “Expert Group Hilber” to examine what could be done to improve the situation of women (and men) in prostitution.

The outcome of the Hilber Report was predictable. In addition to Government bodies at both Federal and Cantonal level, it included inputs from trade unions, employer organizations and women’s organizations. It appears that none of the participants even contemplated that violence *could be* inherent in prostitution. To begin with the Report points out that the views of sex buyers and brothel owners were included in their deliberations.<sup>59</sup> It emphasizes repeatedly that ‘sex work’ and HTfSE are two separate phenomena that should not be conflated, Reference is made to ‘the UN’ which allegedly also points out how important it is to keep these notions strictly separate - although it is acknowledged that sexual exploitation ‘frequently’ happens in the sex industry.<sup>60</sup>

The Report states that ‘sex work’ has to be recognized as a *social reality* and regrets that the debate is ‘hindered’ by bringing in societal values and moral concepts.<sup>61</sup> It concludes that a sex buyer ban would not be suitable for Switzerland and identifies four main areas ‘to strengthen the protection of women in the erotic trade.’ It further envisages the possibilities of an expansion of counselling services and the creation of a ‘new national sex work centre’.

Crucially, the Report states that in the interest of protecting the concerned women, the group of experts strives to identify appropriate measures and “*not call into question the legitimacy of sex work on moral grounds.*”<sup>62</sup>

Indeed, the 63 pages long Report does not call into question ‘the legitimacy of sex work’ *on any grounds.*

It thus carefully avoids examining the many factors that *lead women into prostitution*, the *harms done to women in prostitution*, the *power dynamics* at play that *keep women in prostitution*, the practical difficulties women face who try to *leave prostitution* – not least due to the violence done to them in prostitution. All this is not surprising given that not only the sex buyers and the brothel-owners views have been taken into consideration but also all organizations who actively promote the normalization of prostitution.

Testimonies of women who are desperate to leave prostitution and those who have left prostitution - often carrying the burden of the long-term health effects - have not been taken into consideration in the report.

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<sup>55</sup> Prostitutionsgewerbeverordnung; PGVO

<sup>56</sup> Neuhaus, 2011, March 19

<sup>57</sup> <https://www.sem.admin.ch/sem/de/home/aktuell/news/2014/2014-03-24.html>, accessed 8.10.21

<sup>58</sup> Eidgenössische Justiz- und Polizeidepartement (Ministry of Justice and Police)

<sup>59</sup> Hilberbericht, p.8.

<sup>60</sup> Hilberbericht, p.8.

<sup>61</sup> Hilberbericht, p.7.

<sup>62</sup> Hilberbericht, p.7., EDS translation

By pointing out that prostitution is a 'social reality' that should be *acknowledged*, the majority of the report's authors avoid any discussion about the question in whose interest the continuation of prostitution takes place.

### 1.2.2 Federal Council, Simonetta Sommaruga

About six months later, Simonetta Sommaruga, then Vice Federal President of Switzerland,<sup>63</sup> gave a passionate speech addressing the so-called Cabaret Statute and the need to improve the situation for women in prostitution.<sup>64</sup> The Cabaret Statute allowed migrant women to work in Switzerland for 8 months per year and work as 'dancers' in Switzerland. For years it was obvious to Swiss authorities that a many of the women who entered Switzerland based on this Statute were trafficked to work in prostitution. The extent of the abuse was clear to many and documented in a Report from 2009 to which Ms Sommaruga referred.

Prompted by international pressure, including criticism from the UN, the CoE, the US, but also based on criticism from Switzerland's own representation in Ukraine, the country of origin of most trafficked migrant women, the Statute was eventually removed in 2016 as it was just too blatant that this regulation facilitated HTfSE.<sup>65</sup>

Two points Federal Council Sommaruga mentioned in 2014 shall be highlighted here:

*"Today women from third countries<sup>66</sup> have two possibilities to work legally in Switzerland: Either they are highly qualified or they are ready to take off their clothes in a cabaret"*

*"The control of this statute is difficult, because there is hardly any proof or testimonies in this area. So, this is difficult for the police"*

According to our experience, the situation for migrant women from third countries<sup>67</sup> has not changed fundamentally since described by the Federal Council in 2014.

Also, the removal of the Cabaret statute has changed very little in respect to the root causes that continue to facilitate HTfSE in Switzerland. Pimps and traffickers still operate in a legal structure that enables them to exploit women in Switzerland largely with impunity.

### 1.2.3 Federal Report 2015

In four postulates<sup>68</sup> from 2012 and 2013, the National Council instructed the Federal Council to take a closer look at combating human trafficking for the purpose of sexual exploitation and improving the protection of women in prostitution. Subsequently, the EJPD was instructed to draw up a report which resulted in the Federal Council's Report 2015, in the following referred to as the "Report."

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<sup>63</sup> Simonetta Sommaruga is a longstanding member of the Federal Council and currently serves as President of the Swiss Confederation

<sup>64</sup> The Cabaret Dancers Statute was created in 1995 to protect dancers from exploitation and is (was) considered an exception to the admission of unqualified workers from third countries. It allows (allowed) women from third countries without specific qualifications to work as cabaret dancers in Switzerland for a maximum of 8 months per year. The Federal Office for Migration (BFM) was mandated to periodically examine the statute for its protective effect. In 2010, based on various police investigations, the BFM came to the conclusion that the statute no longer fulfilled its protective function and facilitated exploitation and human trafficking for sexual exploitation

<sup>65</sup> <https://www.admin.ch/gov/de/start/dokumentation/medienmitteilungen.msg-id-54912.html>

<sup>66</sup> The term "third country" means countries outside the EU and EFTA

<sup>67</sup> In the context of migration the term 'third countries' refers to countries outside the EU and EFTA

<sup>68</sup> A postulate is a parliamentary initiative which requires the executive to examine whether a law, a resolution or a measure is needed in a particular case. Here, the postulates require a report to be drawn up which resulted in the Federal Council's Report 2015

The only questions contained in the postulates sought to explore solutions *outside* the framing of the debate were the following:

1. What has been the experience of countries that have banned prostitution?
2. In particular: How enforceable and effective is such a ban, and what are the consequences for the women concerned?
3. What impact does such a ban have on the fight against trafficking for sexual exploitation?

It appears that all the Swiss sources the Report is based on uniformly adhere to the framing that the legitimacy of prostitution should not be called into question. The three questions that provided the opportunity to explore the feasibility of other prostitution policies have not been adequately addressed.

While a thorough analysis of the Report would go beyond the purpose of this shadow report, only a few aspects should be highlighted: When the key notion of 'voluntariness' is mentioned, the 110 pages long report avoids any in depth discussion. It also, in under one page, swiftly refers to *de lege lata* thereby leaving crucially relevant data unmentioned, such as the internally available but not published statistical estimates about the country origin of women in prostitution.<sup>69</sup>

If one, for the sake of it, would assume that genuine 'voluntariness' is predominant among the women in prostitution then one may wonder why only about 5% of the total women in prostitution are Swiss.<sup>70</sup> It may be argued that Swiss born women are also relatively low represented in professions regarded as less attractive, like cleaning jobs, however, the crucial difference is that the country of origin of women in prostitution are substantially less developed economically. It is not Portuguese or Spanish-born women who are typically found in prostitution, it is Romanian, Hungarian, Bulgarian, Nigerian and others from African and Asian countries.

We can therefore assume that economic hardship weighs in substantially in 'the degree of voluntariness' that is relevant in prostitution. This is only one aspect that has in not been taken into consideration in evaluating what is behind the 'voluntariness' of a women in prostitution. Instead of dealing with the question of voluntariness in purely theoretical terms, which is what the Report does, it would have been more revealing to include the views of those familiar with the prostitution scene, such as Swiss police officers and grass-root outreach workers.

Because consent and voluntariness is at the heart of the prostitution debate, it deserves a lot more attention than given by the Swiss Report. This has happened in other countries, such as the UK where women with lived experience in prostitution were invited to comment.<sup>71</sup> The UK report took a human rights and public health perspective and not surprisingly reached very different conclusions than the Swiss Report.

Members of the Swiss police presume that about 30-50% of all women in prostitution are forced.<sup>72</sup> This estimate come from people who have a unique insight into the reality of prostitution and it stands in contrast with the limited framing of the Report.

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<sup>69</sup> Report p. 43.

<sup>70</sup> Wüst 2020 p.29, other sources estimates between 5-25%

<sup>71</sup> Conservative Party Human Rights Commission, June 2019

[https://conservativepartyhumanrightscommission.co.uk/wp-content/uploads/2020/03/CPHRC\\_Consent\\_Report-1.pdf](https://conservativepartyhumanrightscommission.co.uk/wp-content/uploads/2020/03/CPHRC_Consent_Report-1.pdf), accessed 9.10.21

<sup>72</sup> Wüst: 2020 p.31.

Eventually, the Report describes countries with contrary prostitution policies such as France and Sweden but focusses on the criticism against these policy models which stand in direct contrast with the Swiss policy of normalizing prostitution. Had there been an honest will to better understand these foreign models, a direct exchange between Swiss and Swedish officials would have been possible. Instead, supporters of the normalization ideology have been disproportionately favoured without any critical view on their credentials.<sup>73</sup>

Instead of giving credence to a Swedish Government Evaluation Report of 2010<sup>74</sup> authored by the then Chancellor of Justice, Anna Skarhed, again the focus is on discrediting it. If the Swiss had been committed to looking at the pros and cons of the Swedish legislation, its aim and its results they might have invited the Swedish National on Trafficking in Human Beings and asked questions directly. However, this would appear contrary to the apparent aim of the Report, i.e. to preclude any information or discussion that might call into question the current Swiss policy.

It is disappointing that Switzerland as a member of the Council of Europe (CoE), also tries to discredit the main findings in Mendes Bota's Report of March 2014<sup>75</sup> by alleging that the Report is in part the result of the author's subjective opinion. M. Bota and his team looked into various sources to arrive at their conclusions so it appears inappropriate to doubt the validity of those conclusions, one of which was that Sweden was the first country to criminalise the purchase of sexual services, *with proven positive results in terms of reducing the demand for trafficking*.<sup>76</sup>

It is evident that the authors of the Swiss Report are not adequately presenting Resolution 2014 as they are simply not interested in taking on board the points listed<sup>77 78</sup> as many do not align with the policies they pursue: the normalization of prostitution in society *at all costs*.

Also telling is the way in which the Report rapidly 'deals with' research and resolutions deriving from official EU sources including those from the European Parliament.

Resolution of 26 February 2014 on sexual exploitation and prostitution and its impact on gender equality (Honeyball Resolution) is mentioned but what is highlighted and clearly intended to undermine the validity of the findings, is that all figures mentioned therein are *estimates*. It is impossible to obtain any accurate figures in this sensitive area, as the authors of the Report are presumably aware. Any doubt cast on the Swiss policy is portrayed as faulty and invalid.

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<sup>73</sup> Månsson 2014

<sup>74</sup> <https://www.government.se/articles/2011/03/evaluation-of-the-prohibition-of-the-purchase-of-sexual-services/> accessed 9.10.21

<sup>75</sup> <https://pace.coe.int/en/files/20716/html>

<sup>76</sup> <https://pace.coe.int/en/files/20716/html>, point 5

<sup>77</sup> Speech by Mr. Mendes Bota on the presentation of his report on "Prostitution, trafficking and modernslavery in Europe" (doc. 13446) Plenary of the Parliamentary Assembly of the Council of Europe 8th April 2014: Excerpt: « I invested a great deal of work over more than one year to find relevant answers. The preparation of this report involved research, several hearings, both within the Committee on Equality and Non-Discrimination and the Parliamentary Network Women Free from Violence, and fact-finding visits to four Council of Europe member states (Sweden, Germany, Switzerland and the Netherlands »)

<sup>78</sup> Resolution 1983 (2014)

#### 1.2.4. Killias Study 2015

This study, commissioned by the Federal Police, was to address the question as to whether "Erotic businesses are a gateway for human trafficking for sexual exploitation."<sup>79</sup> The methodology of the study is noteworthy in so far as it is an authentic reflection of the way the sex industry is perceived (and presented) officially, namely purely as a business in principle like any other. A large part of the study's findings rely on responses obtained from a questionnaire answered by brothel owners - i.e. by the direct profiteers of prostitution along with pimps and human traffickers. It is here recalled that it is not uncommon that brothels charge 50% of the earnings of a woman who is renting a room. Given the obvious self-interest of the brothel owners, such research cannot lead to reliable findings - as a matter of principle. In particular, it is troubling that the authors of the Study do not seem to reflect on the fact that 72% of the contacted brothel owners did not respond or the plausible reasons for not doing so. The study also testifies to a complete lack of understanding of the pressures women in prostitution are exposed to.

According to its own information, the study is based on various specialised agencies. Although "various specialised agencies"<sup>80</sup> were consulted, these represent *one* point of view – one that happens to align with the broad lines of the current state policy. Xenia, Flora Dora and FIZ are all members of the ProKoRE network. The network does political lobbying under the slogan "sex work is work" and is embedded in the European and worldwide movement for the normalisation of prostitution (ICRSE and NSWP).<sup>81</sup> ProKoRe is financed by membership fees but also by the Federal Office of Public Health<sup>82</sup> and the Federal Office of Police.<sup>83</sup> The Killias study (funded by Fedpol) coincides - not surprisingly - with the position of ProKoRe, which is funded by Fedpol.

One may ask why taxpayers' money (FOPH and Fedpol) is being used to pay for political lobbying in favour of the normalisation of prostitution.

Though the study has added some more statistical data to the research relating to the sex industry it has – understandably – not been able to arrive at a conclusion that answered the question it set out to clarify.

#### 1.2.5 Swiss National Action Plan Against Human Trafficking 2017-2020

On "Measures to discourage the demand"

*"Measures to discourage the demand for products or services that are produced or provided under exploitative conditions are often discussed in the debate on combating human trafficking and are also called for by GRETA. However, the measures discussed are often not very concrete and there is little knowledge about the actual preventive effect of such measures. A change in the consumption behavior of the population or even control can hardly be achieved with foreseeable effort. The discussion of the topic among experts in Switzerland is desirable and should be promoted, but the formulation of actions is premature."*<sup>84</sup>

It is noteworthy that a 35 pages long Government Action Plan against HT accords only four sentences to the *root causes* of HT including HTfSE. It is equally noteworthy that the Swiss Government will officialize the percentage distribution of the different forms of HT that exist in

<sup>79</sup> Killias et al. 2015

<sup>80</sup> XENIA, <https://xeniabern.ch>, ProKoRe <https://procore-info.ch>, Flora Dora <https://www.stadt-zuerich.ch/sd/de/index/unterstuetzung/beratung/sexwork.html>, FIZ, <https://www.fiz-info.ch/en/>, accessed 20.10.21

<sup>81</sup> <https://www.nswp.org/members/europe/international-committee-the-rights-sex-workers-europe-icrse> and <https://www.nswp.org/>

<sup>82</sup> FOPH, <https://www.bag.admin.ch/>

<sup>83</sup> Fedpol, <https://www.fedpol.admin.ch/fedpol/de/home/kriminalitaet/menschenhandel.html>

<sup>84</sup> Swiss Confederation, Federal Justice and Police Department, Coordination Section for Human Trafficking and Human Smuggling, p. 7.



Switzerland *only as of 2020*, regardless if these – as in all countries - only can be estimates. These figures are important to the public as it makes clear where the vast majority of victims of HT are found, namely in prostitution. A fact that is also of outmost relevance in (re-)considering prostitution policies.

What we do know from the GRETA report (2019)<sup>85</sup> is that 64 victims were identified by police in 2018. About 76 % of these victims were female. The Swiss authorities have indicated that Thailand, Romania and Hungary were the main countries of origin of the identified victims, followed by Bulgaria and China.

Naturally, the Government is well aware which type of HT is the most prevalent. Without this knowledge it would certainly be difficult to design a strategy against HT. However, to reveal transparently that HTfSE is by far the most prevalent of among the different types of HT, may not align well with the country's current prostitution policy, which is based on the premise that there is nothing wrong with prostitution as such.

Law enforcement authorities in some Cantons have statistics on the number of the women (and their origin) in the sex trade but does not publish them. They also have a relatively firm estimate of what percentage of women in prostitution they consider to be victims of HTfSE, namely 30%-50%.<sup>86</sup>

In the absence of any recent official estimates, we base the following calculation on old estimates from 2013<sup>87</sup> - although current figures are likely to be much higher. According to this estimate there are 18.000 - 22.000 women in prostitution in Switzerland. We thus use the median of 20.000 women and consider that approximately 85 %<sup>88</sup> of these are migrants ie. women and of these an average of 40%<sup>89</sup> are considered to be in forced prostitution, we arrive at an estimate of 6.800 women who are likely to be victims of HTfSE.

According to the recent GRETA Report,<sup>90</sup> Swiss police identified a total of just 64 victims of HT. 64 victims<sup>91</sup> out of an estimated 6.800 women who – according to police estimates – are in *forced prostitution*. This suggests, that the Swiss Governments strategy to identify women who are victims of HTfSE is clearly ineffective.

HTfSE is by far the most prevalent of all forms of HT in Switzerland. It should therefore be imperative to target this form of HT as an absolute priority, to provide the resources to combat it, and most importantly to radically change the Swiss prostitution policy which has historically ignored the violence occurring against women as a consequence of HTfSE.

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<sup>85</sup> GRETA Report Switzerland 2019, p.8 : The available data on identified victims is not disaggregated by type of exploitation, but the Swiss authorities have informed GRETA that an adaptation of the police crime statistics was planned to make this possible from 2020 onwards

<sup>86</sup> Wüst 2020 p.31.

<sup>87</sup> 2015 Federal Report, p.47., figures provided by the Swiss Aids

<sup>88</sup> In Wüst 2020 p.29 90% are mentioned while other sources speak of 75% which is why we shall in the following refer to 85%

<sup>89</sup> Median of 30%-50% see above

<sup>90</sup> GRETA Report Switzerland 2019, p.8.

<sup>91</sup> Some of which may not be HTfSE but human trafficking victim of a different category

Everybody who is familiar with the sex industry, including the sex buyers, the police, the outreach groups, will confirm the fact that women in in-door prostitution frequently move from one brothel to another, from one Canton to another. Sex buyers' appetite for 'new women' is only part of the explanation and most likely not the most important reason for this mobility. The more significant reason may indeed be that women are directed by pimps to constantly change places as this serves different purposes: As the women do not get accustomed to one locality, they are unable to develop any personal relationships which could potentially strengthen them and help them to leave the sex industry. The practice of moving the women around makes it easier for pimps to control them and much more difficult for the police to effectively control the sex industry i.e. the environment in which HTfSE takes place.

It is inexplicable how the Action Plan can state that

- “the measures discussed *are often not very concrete*” and that “there is *little knowledge about the actual preventive effect of such measures.*”<sup>92</sup>

Quite clearly, they are quite concrete and to be found in a plethora of fora, including CoE resolutions, legally binding Conventions, OSCE recommendations etc. The OSCE Paper draws together what has been there for a long time and what Switzerland is legally obliged to do, given their ratification.

However, in Switzerland the political will is not there to implement these measures and as long as this is the case, very little can improve the situation of violence against women in prostitution.

The action Plan also states that:

- *discussion of the topic among experts in Switzerland is desirable and should be promoted, but the formulation of actions is premature.*

One may wonder why the Action Plan suggests that discussion among experts should be encouraged when in fact such discussion has, in Switzerland, led neither to progress in the fight against HTfSE nor to any effective reduction in the violence against women in prostitution. Remarkably, the *Action Plan* finds a ‘*formulation of action premature*’.

Given that “HT is one of the most lucrative illicit businesses in Europe, with criminal groups making about 3 billion dollars from it per year,”<sup>93</sup> that the most common form of HT detected by national authorities is HTfSE – and that “the scale effect of legalized prostitution leads to an expansion of the prostitution market, increasing human trafficking”<sup>94</sup> it is inconceivable to conclude that “a formulation of action is *premature.*”

There is a fundamental contradiction between the Government's claim to be fighting HTfSE and yet keeping a prostitution policy which is the ideal setting for the exploitation and abuse of women in prostitution.

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<sup>92</sup> Here making reference to measures to discourage demand

<sup>93</sup> <https://www.unodc.org/toc/en/crimes/human-trafficking.html>

<sup>94</sup> Cho et al. 2013

## 1.2.6 Swiss Istanbul Report 2021

The Swiss Istanbul Report only mentions prostitution once, namely on page pp. 12:

*“Likewise, fedpol subsidises measures to prevent offences related to prostitution. The Confederation can provide financial support of CHF 400,000 per year to private or public organizations who raise awareness among people involved in prostitution about certain crimes and show them how they can protect themselves and where they can get help.”<sup>95</sup>* It appears misguided to think that there is much need for organizations to ‘raise awareness’ among women in prostitution about the dangers and crimes they face in this environment. They are acutely aware of the dangers and the violence they are exposed to. In fact, they are the experts, not the advisory services. As for the advice given, some are noteworthy: “be careful to avoid jewellery...necklaces or scarves that could be pulled off to strangle you”, “wear shoes you are comfortable in if you work on streets, so that you are able to run away if necessary”, “be careful with products used for self-defense such as aerosols or knives, as they could be used against you.” Indeed, the advice given on such publicly funded sites demonstrate at least here that the threat of violence against women is omnipresent. It also tells us that prostitution cannot be called “work” given the inherent character of the violence women in prostitution are exposed to, despite the millions of Swiss Francs that have been invested over the years to convince women in prostitution that they are ‘sex workers’ and to present prostitution to the public as a ‘normal profession.”

As for the advice on where to get help, the organization suggests that in case of assault the person should go to safety, call the police, go to the doctor.<sup>96</sup>

It is therefore disappointing that Switzerland, in its report, neither concretely acknowledges the violence against women in prostitution as inherent – despite all the evidence - nor appears to be interested in addressing the root causes of this violence.

## 2. Facts on the ground

### 2.1. The Police

The Swiss police<sup>97</sup> assigned to controlling prostitution as well as authorities in charge of deciding on the stay permit of immigrant women who register to work in the Swiss sex industry, have several years of experience. Based on this experience, some of them estimate that it is the dramatic lack of employment opportunities in their home countries that causes 80% of all migrant women who are currently selling sex in Switzerland to be in the sex industry.<sup>98</sup> This is a startling number and allows for the conclusion that the vast majority of women are in prostitution because of severe economic hardship and in many cases coercion.

Based on numerous informal conversations with the Swiss police officers who are assigned to control red-light districts in various Swiss cities, it is clear that many have witnessed an increase of women in prostitution over the years and many are well aware that these women are controlled by pimps. Given the official policy of normalization of prostitution and the well-known fact that women are silent about the control they are under, the Swiss police can do very little to prevent the violence against women occurring in prostitution. Confidential testimonies from the police give a clear picture of the pressure that women are under, which explains why so few women in prostitution report violence.

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<sup>95</sup> p.12-13., II B under the heading Funding and Measures; own translation

<sup>96</sup> <https://guide.aspasie.ch/en/chapter/fundamental-rules-of-sex-work/your-safety>, accessed 6.10.21

<sup>97</sup> Here it is referred to the Canton of Bern, as each of the Cantons have their own rules and regulations concerning prostitution but have to respect Federal Law

<sup>98</sup> <https://www.evppev.ch/aktuell/akzente/>, p.4., accessed 19.10.21

However, it is our impression that there is generally no culture of openness about these issues within the police also due to the fact that such testimonies would contradict the official narrative of normalcy and voluntariness in engaging in prostitution. Naturally, police officers are reluctant to speak about what they see in the red-light districts and brothels, contact bars etc. Certainly, no-one wishes to put their career on the line by speaking out publicly. After all, the mandate of the police is to uphold and not question current law and official policies. Those who do speak, risk being reprimanded. It is therefore admirable and bold that some police officers have been willing to speak about what they witness despite the pressure they may be under.

The Federal Report 2015 refers to a study<sup>99</sup> which confirms that the detection of HTfSE has *low priority* among police. Lack of resources and the difficulty of obtaining the cooperation of the victims of HTfSE are mentioned as reasons for such low prioritization. For police around the world HTfSE is an incredibly difficult crime to detect and investigate due to the fact that the victim is typically under so much pressure that she is too afraid to seek help from the police and testify against the person(s) who control her.

However, a prostitution policy like that of Switzerland, does nothing to discourage the demand that leads to HTfSE, and allows pimps to profit from women in prostitution, facilitates the trade in which women are exploited and substantially impedes the work of the police.

## 2.2 Choice and the lack of it

The reasons for women entering prostitution are varied and may be complex. A prostitution policy that is genuinely concerned with *the prevention* of violence against women must be based on an in-depth understanding of these reasons.

While economic hardship, low level of education and lack of opportunity are certainly very important factors, research has shown<sup>100</sup> that there are plenty of other reasons why women enter prostitution, the most predominant of which are a history of sexual or other abuse, neglect, a dysfunctional home and exposure to violence in childhood. Other factors include drug or alcohol abuse.

Frequently, it is a *combination* of various factors, of which the common denominator is vulnerability, that are the underlying reasons leading to prostitution, although of course none of these factors *necessarily* do so.

To develop an appropriate prostitution policy, it is also important to *estimate* how many women are in prostitution, and to understand their origin and socio-economic background. This requires some ground-work but is feasible and necessary as it makes policy choices and *motives for these* more transparent. It might also potentially result in a radical change for the better in current Swiss policy.

We do know that about 85% of all women in prostitution are migrants and half of them come from Eastern Europe, of these about 50% from Romania, Bulgaria and Hungary.<sup>101</sup> We also know that about 30% -50% are *forced* into prostitution<sup>102</sup> and that about 80 % of all migrant women would not be in prostitution if they had alternative employment opportunities in their home countries.

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<sup>99</sup> Report 2015 p.58.

<sup>100</sup> See also, Kramer and Berg 2003; Farley and Barkan, 1998; Clarke, R. J. et al. 2012

<sup>101</sup> Wüst 2020 p.30.

<sup>102</sup> Wüst 2020 p.31., p.93.

As a starting point these are the factors that we need to focus on. Our other focus is an in-depth understanding of how prostitution harms - physically, psychologically and socially. The experts on the harms of prostitution are the women who have managed to leave prostitution. They are those who no longer need to pretend 'they like the job' because there is no more pressure from pimps, traffickers or other profiteers. Many of these women can be found in their countries of origin, and some were lucky to have some support to rebuild their lives after the experience of prostitution. Most of them, however, just try to get on with their lives.

Certainly, a few women who have sufficient acceptable alternatives may genuinely feel to be in prostitution out of free choice.<sup>103</sup> Here, it is important to stress that the degree of which someone is engaging in prostitution also varies considerably. For example, an escort who chooses to sell sex twice a week to selected sex buyers is engaging in prostitution, but her experience of prostitution is likely to be somewhat different from the vast majority of women in prostitution who *on a daily basis* have to sell sexual access to their bodies to make ends meet.

### 3. Swiss Prostitution Policies must change

Policies need to focus on the *best interests of the vast majority of women in prostitution* who are the most vulnerable. Given that the vast majority of women in prostitution are migrants, and of these 80% come from economic hardship, it is evident that those who might have chosen prostitution as a result of free will are a small minority. This is also supported by the fact that only less than 5% of women in prostitution are Swiss-born.<sup>104</sup> Although it is certainly not suggested here that Swiss-born women who enter prostitution necessarily do so voluntarily, merely by reference to their origin. It is nonetheless evident that Swiss-born women have a plethora of options relating to education, social security, and social network compared to the women coming from the typical countries of origin of women in prostitution. If it were true that being in prostitution was largely based on a free choice, then certainly we would expect to see a lot more Swiss women exercising this 'choice'.

Prostitution is likely to continue to exist to some extent even if policies change towards effective discouragement of demand and the criminalization of the purchase of sexual acts. Criminalization, even when supported by broad societal approval, is unlikely to eliminate any kind of crime - the crimes of rape and murder are a case in point.

However, criminal laws are made to clearly inform citizens which behavior is not tolerated in society. The normative effect of these laws is influential and significantly shapes behavior. Moreover, criminal laws are a reflection of our value system and reveal the extent to which, we as a society, have a genuine will to provide effective protection to the most vulnerable.

Switzerland's prostitution policy of regulation has resulted in and continues to result in substantial violence against women that goes largely unnoticed in society. Almost exclusively, this violence is suffered by migrant women.<sup>105</sup>

Policy makers in Switzerland, and all those who campaign for the normalization of prostitution, need to take the facts on the ground seriously. Based on these, current prostitution policy should be replaced with one that has zero tolerance towards the purchase of sexual acts and the exploitation of women in the system of prostitution.

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<sup>103</sup> By definition, these are unlikely to belong to the 80% who are mentioned in Akzente p.4.

<sup>104</sup> Migrant women who enter prostitution in Switzerland (typically out of lack of choices) and later obtain Swiss nationality by marriage or other, should be differentiated from women born with Swiss nationality engaging in prostitution as a choice in that the situation of a woman born in Switzerland differs considerably from a woman who originates from the main countries of origin of migrants

<sup>105</sup> The importance of investigating the violence against migrant women is highlighted by the newly appointed UN Special Rapporteur on violence against women, its causes and consequences as she has been holding Initial Consultations on Thematic Priorities (Violence against refugee and migrant indigenous women) in Geneva on 23 Sept. 2021

As a wealthy and resourceful country, associated with the upholding of human rights, Switzerland is able to change course and stand up against the commercial sex industry and thereby also effectively combat HTfSE.

### **Recommendations:**

- The Swiss Government should align their prostitution policy with the Equality Model based on its four pillars:
  - A. Decriminalization of women in prostitution
  - B. Criminalization of the buyers of sexual acts and all those who profit from the prostitution of others (pimps/lover-boys, brothel owners, human traffickers for sexual exploitation, landlords of premises where prostitution takes place etc.)<sup>106</sup>
  - C. Comprehensive exit programs from prostitution. Protection and support for the persons concerned.
  - D. Anti-sexist education in schools, wide-spread awareness campaign against prostitution and adequate training of professionals.
  
- The financial support presently given to organizations who promote the sex industry and the idea that prostitution is work should be allocated to organizations that focus on helping women in prostitution to exit prostitution.<sup>107</sup>
  
- In particular, the education must provide ample information on the violence against women occurring in pornography, how and who is making the profits in pornography and the harms to pornography consumers.<sup>108</sup>

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<sup>106</sup> If sexual acts are bought from a victim of HTfSE such act should result in imprisonment and objective liability should apply to those who exploit the HTfSE victim

<sup>107</sup> The Ordinance on Measures for the Prevention of Offences in Connection with Prostitution of 18 November 2015 (as of 1 January 2016) should be changed accordingly, for the full text of the Ordinance and Deepl translation

<sup>108</sup> See also: [innocence.ch](http://innocence.ch), accessed 27.10.21

## Article 11 - Data Collection and Research

1. For the purpose of the implementation of this Convention, Parties shall undertake to:
  - a. collect disaggregated relevant statistical data at regular intervals on cases of all forms of violence covered by the scope of this Convention;
  - b. support research in the field of all forms of violence covered by the scope of this Convention in order to study its root causes and effects, incidences and conviction rates, as well as the efficacy of measures taken to implement this Convention.
2. Parties shall endeavour to conduct population-based surveys at regular intervals to assess the prevalence of and trends in all forms of violence covered by the scope of this Convention.
3. Parties shall provide the group of experts, as referred to in Article 66 of this Convention, with the information collected pursuant to this article in order to stimulate international co-operation and enable international benchmarking.
4. Parties shall ensure that the information collected pursuant to this article is available to the public.

There is a general lack of (official) data and research on issues relating to women in prostitution in Switzerland. In light of the fact that prostitution has been regulated for decades this lack of transparency appears surprising. Given that Swiss police has insight in the prostitution scene and most Cantonal authorities regularly meet and share information, it can be assumed that Federal authorities are aware to the scale of and degree of violence occurring in prostitution.

### The scale of prostitution in Switzerland

Like many other countries, there are no official statistics about the scale of prostitution in Switzerland. However, in most of the Cantons, police collect statistics on women in prostitution including their nationality, but these statistics are not made publicly available.

The Federal Report,<sup>109</sup> only refers to old external sources, such as estimates made by researchers from the University of Geneva in 2008<sup>110</sup> and the Aids-Hilfe Schweiz who estimate the numbers of women in prostitution to between 13.000-20.000 (in 2009) and 18.000 – 22.000 (2013) respectively. The Killias study<sup>111</sup> states that these figures “might be accurate.” Lack of data certainly serves the sex industry, in particular those who profit from it.

### Health situation of women in prostitution

There is little Swiss statistical data available on the health situation of women in prostitution. In most Cantons a number of advisory services facilitate access to health services. Women who are controlled may not have such access.

As mentioned under Chapter 1. Art 2 one of the few studies relating to the mental health of women in prostitution in Switzerland<sup>112</sup> concludes that prostitution represents a *major public health problem* and that this is primarily related to different forms of violence. The study also references other studies' findings showing that women in prostitution are frequently exposed to violence.

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<sup>109</sup> Federal Report 2015 p.47.

<sup>110</sup> Federal Report 2015 p.46., Bugnon G., Chimenti M., et al.

<sup>111</sup> 2015 p.24.

<sup>112</sup> Rössler et al. 2010

Given the alarming health situation of women in prostitution it is incomprehensible that calls to discourage demand for commercial sex it are being dismissed as being mainly motivated by moral attitudes.<sup>113</sup>

### **Research available from Ministry of Health website**

The Swiss MoH has numerous documents that come up under 'Prostitution' and 'sex work'<sup>114</sup> currently totalling 57.

The retrievable documents concern different aspects of prostitution and the state of health of sex buyers and women in prostitution, policies, and related research. None of the academic research under review denied the considerable violence against women occurring in prostitution. In light of this, and none of the reviewed research papers suggest that the violence is *inherent* in prostitution. Prostitution as such does not seem to be considered problematic for women from a public health perspective.<sup>115</sup>

Also, Swiss studies could be found on the website that focused on the root causes of this violence which is men's demand for commercial sex acts performed by women. No study concludes that ending the demand would be the most efficient measure to end the violence done to women in prostitution.

### **Killings of women in prostitution**

A comprehensive US-based study concludes that women in prostitution have the *highest homicide rate of any set of women ever studied* and the perpetrators of prostitution-related homicides were most often clients.<sup>116</sup>

Killings of women in prostitution in Switzerland are not officially recorded. Even if they were, the dark number is likely to be considerable because disappearances of women in the sex industry is not perceived as something necessarily unusual or may even go unnoticed. This is compounded by the fact that 80% of women in prostitution are foreigners and many controlled by pimps and traffickers. Many women are thus without any private social network.

One way to find data is to gather newspaper articles that mention killings of women in prostitution. See below Art. 35 Physical violence.

### **The sex buyers**

The number of sex buyers in Switzerland are based on estimates. The Federal Report 2015 makes reference to a comprehensive study on sex buyers from 2013<sup>117</sup> herein reference is made to about 20% of men between 20 and 65 years in buying sex at least once a year<sup>118</sup>

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<sup>113</sup> Federal Report 2015 p.43.

<sup>114</sup> <https://www.bag.admin.ch/bag/de/home/suche.html#Prostitution>, accessed 12.10.21

<sup>115</sup> <https://www.bag.admin.ch/bag/de/home/suche.html#Prostitution>, accessed 12.10.21

<sup>116</sup> Potterat et al. 2004, p.783.,and p.784., see also Brewer et al. 2006 and UNODC 2019, p.35-36.

<sup>117</sup> University of Luzern for Social services (Hochschule Luzern – Soziale Arbeit, 'Wenn Mann für Sex bezahlt. Die Auswirkungen der Inanspruchnahme sexueller Dienstleistungen auf die Lebensbereiche der Freier')

<sup>118</sup> The study relies on estimations published on the website <http://www.donjuan.ch/d/facts/index.php> Facts and Figures, which the authors of the study looked up on 18. May 2013, Federal Report p.59., Footnote 145)



## **The countries of origin of the women in prostitution**

About 85% of women in prostitution are migrant women and most come from Eastern European countries. Romania, Bulgaria and Hungary are the most typical countries of origin.<sup>119</sup> There are also women from South America, Africa and Asia. Despite the system of legalization and registration statistics on the countries of origin of the women are not published.<sup>120</sup>

## **The profit made in prostitution**

In 2005, the Federal office of Police estimated the profit made in the sex industry to be 3.2 billion Swiss Francs in the whole of Switzerland.<sup>121</sup> More recent National Security Reports do not publish any figures on the proceeds of prostitution.

Based on estimates from the Federal Office for Statistics, the Federal Report 2015<sup>122</sup> confirms that prostitution contributes with approximately 3 billion Swiss Francs yearly to the Swiss gross domestic product (GDP), i.e. 0,5%.

As we will see under Art. 18, it appears that it is hardly the women in prostitution who benefit financially from their own prostitution but brothel owners, pimps, human traffickers and the Swiss State.

In the Council of Europe Resolution of 2014<sup>123</sup> says that research and data collection on prostitution and trafficking should be carried out in all Council of Europe member States. It should aim to collect nationwide information and be conducted on the basis of Europe-wide harmonised standards to guarantee comparability. It further states that “the lack of precise and comparable data on prostitution and trafficking makes it difficult to assess with accuracy the impact that different regulations on prostitution may have on trafficking. However, considering the significant overlap between the two phenomena, the Assembly believes that legislation and policies on prostitution are indispensable anti-trafficking tools”.<sup>124</sup>

## **Recommendations:**

- The Swiss Government should follow the above mentioned CoE Resolutions and recommendations and provide statistics relating to all the above raised issues and make them public
- The Swiss Government should appoint an independent commission to investigate the real numbers of women in prostitution and their origin and make the findings publicly available

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<sup>119</sup> Wüst: 2020 p.29.

<sup>120</sup> Wüst: 2020 p.29.

<sup>121</sup> EJPD, Federal Office for Police, Report on National Security, 2005, May 2006, p.62.

<sup>122</sup> Federal Report 2015, p.65.

<sup>123</sup> Resolution Resolution 1983 (2014) on Prostitution, Trafficking and modern slavery in Europe, point 4

<sup>124</sup> <http://pace.coe.int/en/files/20716/html> Point 4 and 3, accessed 29.9.21

## Chapter III. Prevention

### Article 13 - Awareness-raising

1. *Parties shall promote or conduct, on a regular basis and at all levels, awareness-raising campaigns or programmes, including in co-operation with national human rights institutions and equality bodies, civil society and non-governmental organisations, especially women's organisations, where appropriate, to increase awareness and understanding among the general public of the different manifestations of all forms of violence covered by the scope of this Convention, their consequences on children and the need to prevent such violence.*
2. *Parties shall ensure the wide dissemination among the general public of information on measures available to prevent acts of violence covered by the scope of this Convention.*

The public debate on prostitution is currently shaped by three important factors:

- A State that has legalized, regularized and normalized prostitution and thereby providing the structural framework in which prostitution can thrive like a normal business
- Numerous, publicly funded women's organizations that play a pivotal role in shaping prostitution policy as they are relied on as 'experts' and called in by the State to advise
- A public that, to a large extent, has internalized the repeated message that prostitution should be seen as work ('sex work')

For decades the public realm has been filled with the following key messages:

- that 'sex work is work'
- that engaging in it is a result of a woman's 'agency' and should be respected as an individual 'choice'
- that therefore, the focus should be on enhancing the 'rights' and improving the 'working conditions' of 'sex workers'
- that the de-stigmatization of 'sex work' and its societal 'recognition as 'work'' is suitable to solve many problems relating prostitution including that of violence<sup>125</sup>
- that those opposed to prostitution are motivated by (outdated) *moral* considerations

Not surprisingly this framing of prostitution has had a profound impact on the public attitudes relating to prostitution.

To frame prostitution as 'work' and expression of 'agency', to 'fight for rights' and 'be against stigmatization' has a number of argumentative advantages:

In the eyes of the public – and on a superficial level - it positions those who work towards the normalization of prostitution as the defenders of vulnerable women. However, the reality of prostitution is the inherent violence, frequent coercion and rampant financial exploitation of women in prostitution and is not addressed adequately. When it is addressed, the remedy offered is social recognition of 'sex work and work'.

The general public has neither the time nor the interest to look into the lack of coherence in the argumentation offered by leading organizations that promote the normalization of prostitution. Unfortunately, most people tend to rely on the opinion of 'experts' and those who claim to speak for women in prostitution and *in their interest*.

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<sup>125</sup> Büschi p.193.

As a result, important facts are under-reported, conclusions they lead to not drawn, and crucial questions not asked:

Facts:

- Estimated 85% of women in prostitution are migrants from low GDP countries<sup>126</sup>
- Estimated 80 % of these women engage in prostitution due to lack of economic alternatives<sup>127</sup>
- Estimated 90% of women in prostitution are there against their own free will<sup>128</sup>
- There is a close inter-connection between prostitution and HTfSE<sup>129</sup>
- Engaging in prostitution is harmful for women both mentally and physically
- Legalization of prostitution increases HTfSE<sup>130</sup>
- conversely, an end of demand for commercial sex would logically result in an end to HTfSE<sup>131</sup>
- Prostitution hinders gender equality
- Switzerland has a legal obligation to discourage demand which means discourage *all demand for commercial sex*

Questions:

- Who is harmed and exposed to violence in prostitution (and what does this tell us about prostitution?)
- Who is exercising the violence?
- What does a prostitution policy designed to normalize prostitution do to the equality between men and women in society?
- Whose voices are heard in the public realm when prostitution is discussed in Switzerland?
- Who is profiting financially from prostitution?
- Whose interests are at stake *apart from the financial gains*?
- Who would gain if effective policies *aiming at* abolishing prostitution would be introduced?
- Who would lose?
- How can we, as a society, tolerate that the vast majority of women in prostitution are there against their free will?
- What can we do against this?
- What can Switzerland do for women, currently in prostitution, to find alternative gainful activities?

In Switzerland, prostitution policies are not in compliance with international law and they ignore numerous international recommendations.<sup>132</sup> This is largely unknown to the public.

Public awareness raising should focus on the reality of prostitution, in particular the violence done to women, and that this country's prostitution policy will have to change so that it aligns with international legal obligations,<sup>133</sup> and policy recommendations,<sup>134</sup> and henceforth pursues a policy in harmony with the Equality Model.<sup>135</sup>

Awareness is needed about the *system of prostitution*, the variety of *factors leading women into prostitution* and how the current Swiss policy on prostitution is antithetical to gender equality.

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<sup>126</sup> Wüst: p.29.

<sup>127</sup> Akzente, p.4.

<sup>128</sup> ibid, e contrario

<sup>129</sup> <https://pace.coe.int/en/files/20716/html>, point 3, accessed 18.10.21

<sup>130</sup> Cho et al.

<sup>131</sup> More realistically: a policy effectively discouraging demand would lead to a decrease in HTfSE

<sup>132</sup> <https://pace.coe.int/en/files/20716/html>, AND OSCE, interpol

<sup>133</sup> OSCE 2021

<sup>134</sup> CoE

<sup>135</sup> See recommendations under Art. 7

The prerequisite for any awareness taking place is evidently the political will to change the current prostitution policy and replace it with a policy that discourages the demand for commercial sex.

For societal attitudes to change it is of fundamental importance that awareness campaigns become an integral part of official policies relating to combatting violence against women.

Further, it is of importance that children from a young age understand the concept of consent. Sexual education in schools needs to align with policies that promote an understanding that sexual consent cannot be bought. Sexual intercourse and other sexual acts are expressions of mutual intimacy, and this intimacy should be genuinely wanted. In a society that strives for gender equality men should not have the right to bypass real consent with money.

Those with lived experience in prostitution and have exited the sex industry are important voices that could help to change attitudes and raise awareness. So far, only few such women have chosen to speak out. The courage of these women is remarkable as they expose their deeply - often traumatic - personal experiences to trusted people or occasionally to the public – if the public provides them an opportunity to speak which is currently rare in Switzerland. Their credibility is high as there is no personal or economic interest in this exposure and their motivation is solely to share their experience and/or their deep wish that others/the public understand the harm that is done to women in prostitution.

After decades of efforts to normalize prostitution at various levels of Swiss society (including the educational and academic sphere) it may take a long time for men (and women) to internalize that is fundamentally wrong to buy sex, i.e. to place the sexual access to a woman's body in the realm of the marketplace.

The introduction of a ban to buy sex which currently meets such solid resistance by many policy makers should be seen as a logical and necessary measure *completing* a new policy.

#### **Recommendation:**

- The Swiss Government should provide sufficient funds to finance campaigns to raise awareness about a new policy that aligns with the Equality Model and its 4 pillars<sup>136</sup> and implement the new policy at all relevant levels of society, in particular in schools (sexual education). The effectiveness of such campaigns needs to be measurable.

## **Article 15 - Training of Professionals**

1. *Parties shall provide or strengthen appropriate training for the relevant professionals dealing with victims or perpetrators of all acts of violence covered by the scope of this Convention, on the prevention and detection of such violence, equality between women and men, the needs and rights of victims, as well as on how to prevent secondary victimisation.*
2. *Parties shall encourage that the training referred to in paragraph 1 includes training on co-ordinated multi-agency co-operation to allow for a comprehensive and appropriate handling of referrals in cases of violence covered by the scope of this Convention.*

In the Swiss legalized system where prostitution is normalized and various official reports, studies, commissions etc. largely express similar attitudes in line with this normalization, it is little

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<sup>136</sup> See recommendations under Art. 7

surprising that this policy is also reflected in the way in which academics in higher education *teach* about the subject.

### **Social work and medical professionals**

Swiss social workers are taught that selling sex acts should be seen as 'work',<sup>137</sup> and this is problematic as it implies that those who are selling sex are mostly seen as if they *have chosen* this activity. Whilst there is an acceptance that violence does occur in this 'work' it is never seen as 'inherent' to prostitution. Social workers are also taught to respect the women's 'choice', therefore it makes it difficult for them to suggest exiting prostitution as an option as this may be as interfering with a woman's right to choose for herself. This has now shaped the thinking of future social workers<sup>138</sup> and unfortunately adds to a structural problem in the system that keeps women trapped in a circle of violence.

This framing of prostitution also aligns well with reports, documents and research that can be found on the Swiss Federal Office of Public Health.<sup>139</sup>

The framing of prostitution as 'work' in social work education and possibly in other health professions, is an additional factor *hindering women to exit prostitution*.

When a society structurally and systematically frames the violence occurring in prostitution as an unfortunate reality that could be remedied by better 'working conditions', 'increased professionalism' on the part of the woman selling sex, increased unionization and the societal de-stigmatization of prostitution,<sup>140</sup> it is not surprising that there is a fundamental lack of understanding even among service providers as to how the selling of sexual acts can affect a woman's physical and mental health.

It is of fundamental importance that social workers and health professionals who come into contact with women in prostitution have an understanding of the many reasons that typically lead women into prostitution and how the violence they are experiencing in prostitution is likely to affect them.

From our own experience in the field (outreach) - but also drawing from the testimonies from our members and partner organizations - we know, that most women are in prostitution because of lack of choice. An estimated 80% of women in prostitution are migrants and these women would not be in prostitution if they had other opportunities.<sup>141</sup>

Those working with women in prostitution as outreach workers knows that it takes time – sometimes years - to gain these women's trust and uncover the reasons that led them into prostitution. This is unsurprising, given that the sex industry is based on a narrative that women have agency, but the reality is that many of these women are controlled and experience violence to the point where they are unable to trust others. Another aspect of the sex industry is based on 'make believe'. A woman in prostitution has internalized that she has to pretend 'to like' what is demanded of her. Anything she would say to the contrary would undermine the business she is in and – if she is controlled – her pimp's instructions.

The problem starts with the way the sex industry is framed. The choice of words and descriptions of what women are selling in the sex industry in particular, the constant emphasis of 'their own pleasure' in performing the sexual acts, men want to buy, and which women, in confidence, describe as repugnant, painful, and at times as 'indescribable'. The discrepancy between most

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<sup>137</sup> Büsschi 2011 p.201.

<sup>138</sup> See also the perspective in Allemann et al. 2010

<sup>139</sup> Federal Office of Public Health, <https://www.bag.admin.ch/bag/de/home/suche.html#prostitution>, accessed 13.10.21

<sup>140</sup> See Büsschi 2011 p.201.

<sup>141</sup> <https://www.evppcv.ch/aktuell/akzente/>, p.4., accessed 13.10.21

women's felt experience and what they are expected to pretend is so enormous that it often leads to mental health issues (dissociation).

The above explains that there are very concrete reasons as to why many women who are in prostitution initially feel compelled to say that they 'like the job'. It is also a convenient answer when women want to avoid being questioned about painful and deeply personal experiences that they feel shameful about. This degree of (self-)imposed dishonesty is not found in other occupations. It is surprising that an academic study appears to readily accept the truthfulness when 37.3 % of women tick off that they 'liked the job and /or want to help' without further exploration.<sup>142</sup>

In the context of prostitution, the description 'sex worker' is thus favored by social work. Given that 80% of women are not in prostitution out of choice, is not surprising that many of the women are at odds with this label. What they need are other options and social workers who understand this.

Given the prevalence of violence in prostitution, there is a great need of psychotherapists with specialized training in psycho-trauma therapy.

Hungarian psychologist, Dr. Sebestyén, a specialist in trauma therapy with decades of experience working with women with experience in prostitution and victims of HTfSE - including those returning from Western European countries - confirms that violence is inherent in prostitution.<sup>143</sup>

In Switzerland, many psychotherapists have little experience in counselling women who have been in prostitution and often do not have the necessary understanding of the complex trauma that survivors of prostitution may struggle with. To find someone with the experience needed is difficult and the waiting lists may be long.

### **The police and judiciary**

Attitudes to prostitution among the police and the judiciary vary considerably. Based on interviews<sup>144</sup> it appears that also some police officers view prostitution is an acceptable part of society, its existence justifiable and even useful. Essentially, prostitution is seen as a transaction based on choice.<sup>145</sup> This attitude ignores the underlying reasons for women entering prostitution. To change this attitude, police need training both on the system of prostitution and on the harms connected with being in prostitution.

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<sup>142</sup> Rössler 2010 p.4.

<sup>143</sup> See also Árpád Sebestyén 2020

<sup>144</sup> One example: unpublished work by a student in gender studies: *Précarité de vie et/ou précarité sociale des travailleuses du sexe migrantes dans le canton de Vaud*, Éric Girodet, p.54.

<sup>145</sup> We have recently seen this attitude evidenced in a recent 1st instance ruling in Zürich dated 9th September 2021, EDS witnessed the trial

## Recommendation:

The Swiss Government should ensure that:

- Social workers, police and judiciary are made aware of the inherent character of violence in prostitution, the complex reasons that may lead to women to enter prostitution, all aspects of the system of prostitution and the harms associated with prostitution
- Social workers should respectfully support women in prostitution and explain the physical and psychological harms connected with prostitution and outline to exit prostitution<sup>146</sup>
- There are sufficient psychotherapists available who are trained in psycho-traumatology, are accessible and affordable to women who in prostitution

## Article 17 - Participation of the private sector and the Media

1. *Parties shall encourage the private sector, the information and communication technology sector and the media, with due respect for freedom of expression and their independence, to participate in the elaboration and implementation of policies and to set guidelines and self-regulatory standards to prevent violence against women and to enhance respect for their dignity.*
2. *Parties shall develop and promote, in co-operation with private sector actors, skills among children, parents and educators on how to deal with the information and communications environment that provides access to degrading content of a sexual or violent nature which might be harmful.*

### Private sector

The private sector could play a very significant practical role in reducing violence against women, both in prevention and during the process of exiting prostitution.

As we have seen, very often an important contributing factor that leads to prostitution is the lack of income generating opportunities and lack of education/training.

The small company Moya Kala<sup>147</sup> is an example of how a Swiss business helps Bulgarian women finding employment in their home country.<sup>148</sup> Moya Kala stands out by explicitly including a *vision for women* in their business concept. Such initiatives should be developed and actively supported at a large scale with the help of the Swiss Agency for Development and Cooperation<sup>149</sup> as they can make a real difference for women in the countries of origin. To ensure that the most vulnerable women will benefit from such initiatives, the businesses should liaise with social services in the country of origin. Women benefitting employment opportunities in the countries of origin should include women in local exit programs.

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<sup>146</sup> Parallels to this problematic are found in domestic abuse where women also frequently caught in a web of contradictory feelings and unhealthy dependencies

<sup>147</sup> <https://www.moyakala.com>

<sup>148</sup> Bulgaria of the main countries of origin of women in prostitution, Federal Report 2015, p.129.

<sup>149</sup> <https://www.eda.admin.ch/deza/de/home>

In Switzerland, one of the big challenges for the very few specialized support services that focus on helping women to exit, is to find employers willing to take on migrant (or Swiss) women who have been in prostitution. In part this may be due to the wide-spread - and wrong - perception that being in prostitution is a choice. As a starting point, private companies need to be sensitized to the system of prostitution. Government funded schemes should be developed that promote the insertion of this group of women into the workforce. Employment/training opportunities need to be compatible with the women's skillset. Given that many women suffer from complex trauma, such an insertion into the workforce should happen in close cooperation with the relevant specialized support services.

**Recommendation:** The introduction of State sponsored partnerships between Swiss companies including the private sector and Specialized Support Services that facilitate women's exit from prostitution

## The Media

In Switzerland, the public debate about prostitution mainly focuses on two aspects: regulation/repressive measures in the context of prostitution and on the people in prostitution and their rights. In both framings, however, prostitution is accepted as an inevitable social reality, and the criminalization of the purchase of sex is categorically rejected.<sup>150</sup>

The Swiss public tends to perceive prostitution as a personal choice. A more thorough debate of what constitutes 'choice' in the context of prostitution remains virtually in-existent in the public sphere. This is reinforced by the legal system and prostitution policies that frame prostitution as a profession. Parallely, this viewpoint is echoed by numerous Swiss women's organizations promoting the normalization of prostitution. By reducing a woman's presence in prostitution to 'her personal choice' any inclination to seriously investigate the reasons that led her to be there in the first place, is undermined.

The choice of words in describing prostitution in the media has a profound impact on the way people think about the phenomenon.

Not only the organizations that actively promote the idea that prostitution is 'work' have adopted the term 'sex work' and 'sex worker', also, the media, the public sector and other institutions<sup>151</sup> including the federal police and academia<sup>152</sup> favor the term.<sup>153</sup>

What is sold in prostitution is referred to a sexual 'service' a term conveniently leading the mind to any other type of service. This adds to the banalization of prostitution including the violence occurring therein. By cementing the notion that prostitution is inevitable in the public mind, describing it with clichés like 'the oldest profession' – (implying that change is not possible) no real debate about prostitution policies can take place.

At the numerous public events organized by state-funded women's organization (which form part of the 'Sex workers' organisations' network ProCoRe<sup>154</sup> only women (including brothel-owners) are heard who speak positively about the sex trade. They are addressed as 'experts' whereas opinions from women from the audience who also happen to have been in prostitution and share

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<sup>150</sup> See also Isler, C. 2018

<sup>151</sup> <https://www.sexuelle-gesundheit.ch/suche?query=Sexarbeit> widely adopted this description of women in prostitution Heinzl 2016, p.14. and p.272. here the scholar recommends to exchange the term 'prostitution' with 'sex work'

<sup>152</sup> See also: C. Mac Kinnon: 2011, (The term) ..has had a substantial effect on people's thinking and attitudes towards prostitution including the violence against women that goes with it. By placing prostitution in the realm of work it affords the activity respectability and a degree of normalcy and the underlying idea that the activity is 'chosen'. At the same time the violence against women inherent in it is often minimized (to make it compatible with the normal notion 'work' or portrayed as either an inevitable but acceptable part of this 'work').

<sup>154</sup> <https://procore-info.ch/unsere-mitglieder/>



their negative experience are belittled by participants of the podium. As a consequence, media reporting of such events is accordingly biased. Clearly, testimonies from women in prostitution are only heard when they echo the mantra that 'sex work is work'.<sup>155</sup>

Furthermore, Swiss media does not appear to be aware of the dynamics and consequences of the current prostitution policy and its interconnection with HTfSE, neither does it take up the question which impact the liberal prostitution policy has on gender equality in society.<sup>156</sup>

It is frequently alleged – also in the public sphere - that opponents of prostitution 'victimize' women in prostitution characterizing them as "unstable, passive, drug dependent." Such simplified portrayal is misleading, disregards the functioning of the system of prostitution<sup>157</sup> and the cause and effect of prostitution. It also defies the facts on the ground, most importantly it ignores the testimonies of the survivors of prostitution, an outstanding group of resilient and courageous women whose voices are rarely – if ever - heard in the Swiss media.

It is often emphasized that prostitution is 'a social reality' and that we need to deal with this reality by improving the working conditions for women in exercising prostitution. The fundamental question, whether this 'reality' is desirable or not is generally omitted.<sup>158</sup> Rape and domestic violence are also part of the social reality in our society but no one would seriously claim that given the fact that it is a reality we shall refrain from trying to change it.

Media reporting is clearly biased in favor of the normalization of prostitution. The reason could be that they simply are ill informed, lack easy access to testimonies from primary sources, such as survivors of prostitution. Or, possibly, it is too controversial and meets too much opposition within the given media outlet to include a different perspective. Objectivity is evidently also compromised when those reporting themselves (or their superiors) are sex buyers themselves.

As mentioned, prostitution is inherently violent and we therefore have a social and legal obligation to actively dismantle the system of prostitution. The media has a responsibility to report critically and objectively and this includes mentioning the harms done to women in prostitution. Reporting on prostitution needs to become more investigative and include vision for our society in harmony with core values of human dignity, respect and equality.

### **Recommendations:**

- The State should encourage all professional groups, including the private sector and the media, to adhere to a code of conduct according to which the buying of sexual acts is prohibited.
- Preferably, women researchers should be tasked with the reporting on the sex trade. Reporting must be independent and include all views including those of women who are exiting and have exited prostitution. Primary sources for the reporting on the sex trade is essential as women with lives experience in prostitution experienced the violence that needs to be exposed

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<sup>155</sup> [Lesung - Feminismus und Sexarbeit: Widerspruch?](#)

<sup>156</sup> Brothel manager describing women as fresh meat does not appear to have sparked any reaction from readers of the article: <https://www.blick.ch/schweiz/zuerich/der-puff-chef-ueber-10-jahre-club-globe-hier-habe-ich-meine-frau-kennengelernt-id3230986.html>

<sup>157</sup> This portrayal is repeated in Federal Report 2015 p.82.

<sup>158</sup> [https://www.swissinfo.ch/ger/gesellschaft/prostitution\\_das\\_recht\\_mit\\_sex\\_geld\\_zu\\_verdienen/33966656](https://www.swissinfo.ch/ger/gesellschaft/prostitution_das_recht_mit_sex_geld_zu_verdienen/33966656)

## Chapter IV. Protection and Support

### Article 18 - General Obligations

1. *Parties shall take the necessary legislative or other measures to protect all victims from any further acts of violence.*
2. *Parties shall take the necessary legislative or other measures, in accordance with internal law, to ensure that there are appropriate mechanisms to provide for effective co-operation between all relevant state agencies, including the judiciary, public prosecutors, law enforcement agencies, local and regional authorities as well as non-governmental organisations and other relevant organisations and entities, in protecting and supporting victims and witnesses of all forms of violence covered by the scope of this Convention, including by referring to general and specialist support services as detailed in Articles 20 and 22 of this Convention.*
3. *Parties shall ensure that measures taken pursuant to this chapter shall:*
  - *be based on a gendered understanding of violence against women and domestic violence and shall focus on the human rights and safety of the victim;*
  - *be based on an integrated approach which takes into account the relationship between victims, perpetrators, children and their wider social environment;*
  - *aim at avoiding secondary victimisation;*
  - *aim at the empowerment and economic independence of women victims of violence;*
  - *allow, where appropriate, for a range of protection and support services to be located on the same premises;*
  - *address the specific needs of vulnerable persons, including child victims, and be made available to them.*
4. *The provision of services shall not depend on the victim's willingness to press charges or testify against any perpetrator.*
5. *Parties shall take the appropriate measures to provide consular and other protection and support to their nationals and other victims entitled to such protection in accordance with their obligations under international law.*

Swiss prostitution policy is one of the most liberal in Europe and is highly regulated as laid out in the different Canton's legislations.<sup>159</sup>

However, the regulatory framework has not been able to protect women from violence in prostitution, on the contrary, it has provided the official approval that sexual access to women's bodies can be bought and given this transaction the status of work.

The Swiss policy prostitution is based on the premises that it is a legitimate exchange: money against 'sexual services' and that the actors involved agree to this exchange based on their free will. Swiss policies hereby entirely ignore the driving forces behind – the system of prostitution: the violence done to women in this system and particularly the various types of coercion that in most cases lie behind what *may appear to be* an expression of free will.

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<sup>159</sup> [https://www.swissinfo.ch/ger/gesellschaft/prostitution\\_das\\_recht\\_mit\\_sex\\_geld\\_zu\\_verdienen/33966656](https://www.swissinfo.ch/ger/gesellschaft/prostitution_das_recht_mit_sex_geld_zu_verdienen/33966656), accessed 17.10.21

The City of Zürich issued the following advice to women in prostitution, excerpts:

- only take clients you are familiar with, and where you know the escape routes
- never get in if there is more than one person in the car
- if you are threatened, draw the attention of people by screaming loudly or making signs for help
- avoid awkward positions that make it difficult for you to defend yourself or escape
- do not wear clothing that could be used to strangle you or prevents you from running away
- if the client is in the car, first check whether the door can be opened from the inside

This, certainly well meant, official advice evidently recognizes of the serious dangers, violence and threats of violence, that are inherent in prostitution. All these dangers potentially emanate from the sex buyer and make clear that this 'exchange' cannot be recognized as 'work'.

### **Prostitution in Switzerland during the pandemic**

The recent Covid-19 pandemic has provided ample evidence of the exploitative character of prostitution as it has sharply increased the vulnerabilities of women in prostitution.

When brothels and other prostitution establishments were closed during the lockdown and street prostitution made illegal, many women in prostitution found themselves with barely any income. The pressure from sex buyers on the women to engage in risky practices became stronger, as the women were under increased pressure to earn money for their own survival and to pay pimps.<sup>160</sup>

Many sex buyers disregarded all safety precautions and women increasingly had to engage high-risk practices for lower prices. This meant increased exposure to the corona virus, HIV as well as sexually transmitted diseases. The responsibility was put on the women in prostitution to insist on condom use, the wearing of masks as well as to stop the encounter if a sex buyer seemed to having symptoms, such as a cough. Asserting oneself against the will of the sex buyer can be very difficult in all circumstances, but during the time of the ban the women were even more vulnerable than before, as they were themselves breaking the law.<sup>161</sup>

At the same time, the rents the women had to pay for their rooms remained high, on average 100 CHF (around 90 €) per night. Those who were not able to pay right away usually got evicted immediately.<sup>162</sup>

Precarious living situations were revealed in Zurich when due the infection of one woman, around 50 other women were ordered into quarantine as they had all been living in cramped conditions above a bar in the local red-light district.<sup>163</sup>

Before prostitution was temporarily banned, contact tracing had been made mandatory when visiting a brothel in Zurich. Not only was it compulsory to record the personal data of sex buyers but also to control whether this data was indeed correct. A sex club filed a complaint against this local ordinance with the cantonal administrative court of Zurich. However, the court rejected the complaint and upheld the ordinance mandating contract tracing.<sup>164</sup>

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<sup>160</sup> Haefeli, 2020, June 23

<sup>161</sup> *ibid.*

<sup>162</sup> <https://heartwings.ch/fileadmin/newsletter/Newsletter2.pdf> accessed 12.10.21

<sup>163</sup> Koponen & Baumgartner, 2020, September 2

<sup>164</sup> Hotz, 2021, February 6

Not all who claim to speak in the interest of women in prostitution actually do so. When, a sex club filed a complaint against the Zurich ordinance mandating contact tracing in brothels, Valentin Landmann, a lawyer and member of the Cantonal Council of Zurich, represented the club before the cantonal administrative court. The sex club in question is one of the biggest and most profitable in Switzerland. While Landmann is paid by brothel owners to defend their interests, in the media and general public he is often perceived as speaking in the interest of women in prostitution. Landmann is very present in the Swiss media. His opposition to the Equality Model does not come as a surprise, as this would mean the end of sex clubs, such as the one he was representing in the aforementioned court case.<sup>165</sup>

In March 2021, the national government lifted the prohibition of prostitution. Some cantons (including Zurich) however, maintained the temporary ban for longer.<sup>166</sup> In May 2021 also Zurich decided to again allow prostitution, as it was no longer considered to pose a higher risk of infection than for example the gastronomy sector.<sup>167</sup>

As the ban on prostitution was lifted earlier in Switzerland than it was the case in the neighbouring EU countries, trafficking of women into the Swiss sex trade increased considerably.<sup>168</sup>

Very few women were able to leave prostitution and find work in other sectors. Due to the pandemic, there were fewer positions available in areas such as cleaning or hospitality.<sup>169</sup> Exiting prostitution, which is very difficult under any circumstances, was thus made even more challenging. While women in prostitution were struggling for their survival, brothel owners received financial support from the government. The pandemic made it painfully apparent how important exit services and viable alternatives are for women in prostitution.<sup>170</sup>

## **Article 22 - Specialist Support Services**

- 1. Parties shall take the necessary legislative or other measures to provide or arrange for, in an adequate geographical distribution, immediate, short- and long-term specialist support services to any victim subjected to any of the acts of violence covered by the scope of this Convention.*
- 2. Parties shall provide or arrange for specialist women's support services to all women victims of violence and their children.*

About 85% of all women<sup>171</sup> in prostitution in Switzerland are migrants from economically less developed countries – the majority from Eastern Europe. To call their presence in prostitution 'a choice' appears cynical.

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<sup>165</sup> <https://www.stopp-prostitution.ch/blog/follow-the-money>

<sup>166</sup> Koponen, 2021, April 30

<sup>167</sup> Von Ledebur & Koponen, 2021, May 27

<sup>168</sup> Heartwings Verein, 2020b, p.1.

<sup>169</sup> Koponen, 2021, April 30

<sup>170</sup> Heartwings Verein, 2020a, p.3.

<sup>171</sup> Wüst, p.29 (95%) other sources speak of 75% which is why we shall use the median 85%

The Canton of Bern has set up a system in which every migrant woman who wishes to register for the 90 days right to stay and work in Switzerland undergoes a personal interview. Staff conducting these interviews receive specialist training. This approach supports the development of trust between the authorities and women. It also gives the police an opportunity to assess the extent to which the woman might be controlled by pimps or traffickers. Therefore, the interview may also serve to prevent potential cases of HTfSE. With over 3000 interviews conducted, Bern has an excellent insight in the degree of 'voluntariness' of these women. The Head of Residents' Services, Migration and Aliens Police of the City of Bern, Mr Ott, confirms with certainty that women *would not enter prostitution* if they had received an education and entirely could decide for themselves.<sup>172</sup>

This evidence clearly challenges the idea that women are in prostitution voluntarily. It is more accurate to speak about *the degree of coercion, pressure and force* these women face. The Police in Bern, also assesses that 30-50% of all women are in *forced* prostitution i.e. controlled by pimps and other profiteers.<sup>173</sup>

Women in prostitution regularly face violence and the threat of violence, but a number of related problems also need to be taken into account: drug and alcohol (victims give evidence that the only way they can go through with the sex acts is by using substances to numb themselves); debts and debt bondage, mental illness<sup>174</sup> and social isolation, to name some of the most important.

Once in prostitution, it is very difficult to exit, particularly due to the social isolation that is often used by pimps and brothel owners as a form of power and control.<sup>175</sup>

It is with these facts in mind that we shall look at the Special Support Services currently available to women in prostitution.

In Switzerland, there is a desperate shortage of such services that help women exit prostitution which can be at least partially ascribed to the Swiss policy of normalizing prostitution.

The NGO, Heartwings, located at the very center of the red-light district in Zürich is one of these few organizations offering women concrete help to exit prostitution.<sup>176</sup> Based on their frequent outreach work, their staff confirms that they have very seldom met a woman who would not want exit prostitution if she could find a real job.<sup>177</sup> In Switzerland, however, this remains very difficult due to the women's general lack of education, language skills, training etc.

Finding accommodation outside the red-light district is equally difficult as they cannot meet the usual formal requirements (rent deposit, a certificate from the debt collection register, information about the place of work, etc.). Those who do not have a rental contract or a work contract in Switzerland cannot apply for a stay permit. They are mostly excluded from pension funds, health insurance, obtaining a bank account, etc. These exclusions from access to the necessities of everyday life also explain why many women are trapped in the exploitative system of the sex industry even where they are not victims of human trafficking.

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<sup>172</sup> <https://www.evppev.ch/aktuell/akzente/>, accessed 17.10.21, p.4 and 5.

<sup>173</sup> Wüst 2020 p.31.

<sup>174</sup> Rössler et al. 2010

<sup>175</sup> EDS also witnesses this control during outreach during our visits to brothels, contact bars and in the streets

<sup>176</sup> [Heartwings.ch](https://www.heartwings.ch)

<sup>177</sup> Here it should be mentioned that the women themselves call the alternatives they wish they had available to them as 'real jobs', they themselves do not perceive being in prostitution as 'work' while this is so keenly portrayed by those who wish to normalize prostitution

Heartwings offers the women a holistic program: German language courses, an education, a job with an acceptable salary and accommodation. They accompany them to meetings with the authorities and help them financially during the first period of their exit until they are able to live independently.

Following exit many women suffer from post traumatic and experience flashbacks, sleeping disorders, nightmares, etc.. During this difficult time, the organization provides much needed emotional support to the women. The focus is always on the person, and the support is tailored to meet their individual needs. Heartwings has a profound understanding of the violence women are exposed to in prostitution and they are consequently at odds with the idea that prostitution should be seen as work. The organization operates with a small team of eight and is not supported by public funds but depends solely on donations.

Other state-funded counselling centers offer women free medical examinations, advise women on their legal rights, and run safe houses for women that are identified as victims of HTfSE. They also organize numerous public events and publish books portraying prostitution as a career choice, advocate for the normalization of 'sex work' and calling for society's '*recognition* of sex work'. A large and well-funded Geneva-based counselling service for women in prostitution has included a platform where women can sell sex on their website.<sup>178</sup> None of these organizations offer a specialist support program for women to exit prostitution. They also do not see any reason to reduce the demand for commercial sex - an attitude that suits the sex industry well.

In addition there are a number of very small grass-root initiatives, mostly initiated by women. They regularly visit women in brothels, contact bars and streets, try to establish trust and assist, as best as they can, on an ad hoc basis. These groups are virtually invisible to the public and what they witness is likely to be unknown to Swiss policy makers. In the current situation, these few small NGOs and private initiatives who focus on helping women to exit prostitution, also face an ethical dilemma: even if they were offered state funding, they cannot accept funds from a State whose policies they oppose as these policies provide the structural foundation to the business of prostitution in Switzerland. These NGOs and initiatives reject any indirect complicity in such policies and prefer to preserve their independence. As a result they struggle for funding.

In conclusion, the work presently done at a tiny scale at grassroots level, is the work that should be done by – or be entirely financed by - the State in the context of a new policy that aligns with the Equality Model and it's four pillars.

What is therefore needed are more specialist support services with adequately trained staff who understand the reasons that cause women to enter prostitution and recognize that the vast majority of women do not want to be in prostitution. It is important that organizations offering comprehensive and individually tailored exit services are equipped with outreach teams that seek access to the communities they serve because the women who need help the most are normally not those who have the opportunity to visit support services.

Here, it should be recalled, that the Council of Europe Resolution of 2014<sup>179</sup> calls on member states to set up exit programmes for those who wish to give up prostitution, aimed at rehabilitation and based on a holistic approach including mental health and health-care services, housing support, education and training and employment services.

While exit services are urgently needed, the emphasis should always lie in the *prevention* of any women ever entering into prostitution in the first place and this requires a radical change in Switzerland's prostitution policy.

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<sup>178</sup> <https://www.aspasie.ch/activites/call-me-to-play/>

<sup>179</sup> Resolution Resolution 1983 on Prostitution, Trafficking and modern slavery in Europe, point 5, accessed 29.9.21

**Recommendation:** The Swiss Government should fund specialized shelters that offer exit programs for women seeking to exit prostitution. Staff must have the necessary expertise to understand the needs of these women.

## **Article 23 - Shelters**

*Parties shall take the necessary legislative or other measures to provide for the setting-up of appropriate, easily accessible shelters in sufficient numbers to provide safe accommodation for and to reach out pro-actively to victims, especially women and their children.*

According to the umbrella organization of women shelters there are about 22 shelters for women in Switzerland.<sup>180</sup>

However, the main beneficiaries of these shelters are women who have suffered domestic abuse, are in danger or have other problems that qualify them to be assisted by Swiss state-funded women shelters.

Women who want to *exit prostitution* and contact these shelters are typically asked if they a victim of human trafficking. Whether a woman is indeed a victim of trafficking is rarely self-evident. The woman seeking assistance may not think of herself as a victim but a more thorough investigation may reveal she is. Frequently, the woman does not want to talk about the details as to how she got to Switzerland and who may have helped her.

When the shelter employee asks if someone is forcing her to be in prostitution the explanations often become confused. Typically she is cautious, frightened that her testimony may have negative consequences for her, and not willing to tell the whole story. The more duress the woman is under the more unlikely it is that she opens up. She might have agreed to being in prostitution if the pimp would leave her a share of her earnings that she considers worthwhile and her perception may be that she is also in part responsible for her situation.

If the outcome of the questioning is that the woman cannot be considered to be a victim of trafficking, but that her 'sole aim' is to leave prostitution and thereby needs help with housing, stay permit, therapeutic counselling, then the Swiss state-funded shelters would normally not assist her.

This policy aligns with Swiss prostitution policy: Prostitution is seen as work and being in prostitution a choice. As a result, women shelters will typically not get the funding to help women who want to leave prostitution.

Consequently, women who want to exit prostitution *cannot find help from state-funded women's shelters*. The options for women to find support to exit prostitution without falling under the legal definition of human trafficking victims are thus extremely limited. As we have seen the reasons for entering prostitution are numerous and complex, and very often women who want to exit are in great need of help to successfully do so.

Furthermore, there is generally little awareness that women who want to exit prostitution need *specialized support* based on professional understanding of the multi-faceted trauma and violation they are likely to have experienced in the sex industry and possibly before.

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<sup>180</sup> <https://www.frauenhaus-schweiz.ch>

Those women who are identified as likely victims of HTfSE are referred to specialist support services. In 2020, one specialized service alone, identified 176 victims of HTfSE<sup>181</sup> which – as we have seen - suggests that estimates of the dark numbers of victims of HTfSE err on the low side.

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<sup>181</sup> [https://www.fiz-info.ch/images/content/Downloads\\_DE/Publikationen/Jahresberichte/2020FIZ\\_Jahresbericht\\_Digital.pdf](https://www.fiz-info.ch/images/content/Downloads_DE/Publikationen/Jahresberichte/2020FIZ_Jahresbericht_Digital.pdf), accessed 17.10.21



## Chapter V – Substantive law

### Article 33 - Psychological Violence

*Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of seriously impairing a person's psychological integrity through coercion or threats is criminalised.*

To understand the psychological situation of women in prostitution in Switzerland it is fundamental to recall that about 85% of them are migrants.

Many carry the financial responsibility for family members including extended family. They are told there are opportunities in Switzerland to earn a lot of money and middlemen, posing as friends and helpers, are there to facilitate entry to and the organization of stay in Switzerland. Some are under pressure from their own family to leave and earn money abroad.

Many women are unaware that the only way to earn money is to engage in prostitution. Some are tricked by people who lend them substantial amounts of money, only then use their debts to pressurize them to leave the country and earn the money abroad where the only realistic way for them to make money lies in prostitution. All is arranged beforehand, the method corresponds to debt bondage, a phenomenon increasingly observed in Switzerland. Victims of such manipulation frequently blame themselves but mostly submit silently to their profiteers. Such exploitation thrives in the opaque scene of the sex industry and is very difficult to detect.

Many are told they can earn many thousands of CHF per month and their so-called friend will help them with the administrative part of the stay. Their dependence to the 'friend' – that is her pimp or 'lover-boy'<sup>182</sup> is established; typically, the woman neither speaks nor understands any of the Swiss languages, has little schooling and consequently entirely relies on him. The pimp/lover-boy takes part of her earnings for 'managing' her stay and helps her to get a stay permit that allows her to work 'independently' in prostitution. He may rent a room in a brothel which will often make for her accommodation. It should be noted that also women can be complicit in this exploitation, however more frequently in the position of brothel managers.

The room rates in the brothels or in the 'studios' can be fixed. Some brothels, however, simply charge 50% of the women's earnings with or without including an additional bed to sleep in a shared room. Apart from what they need to survive, some give all the rest to their family/lover-boy/husband/pimp. Many are pressurized, some turn it over without any resistance.

To earn enough money to pay for the room in the brothel, and have enough money left for other expenses and to send money home means that women often are *under constant pressure*.<sup>183</sup> They struggle and cannot afford to stop working during their period or get sick. Many conceal from their families that the earnings come from prostitution and feel burdened by shame.

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<sup>182</sup> The term lover-boy signifies the victim's identification with and submission to the exploiter, it describes a relation of deep emotional dependency intentionally created by the exploiter and is frequently seen in prostitution, particularly when the victim is young and easy to influence. See further in Sébéstyén A. p.27: Exploited people rarely identify with their role as victims, there are several examples of them identifying with their abuser or tormentor. Traffickers are able to assert their interests by making the victim willing to act according to their needs and interests. By using violence, threats, deception, emotional and physical blackmail, they exercise total control over the victim's body and mind.

<sup>183</sup> Some brothels only allow the women 6h break per 24h on 6-7 days a week

Other women may directly have an arrangement with the brothel. If they are registered, tax authorities are informed about their stay and may demand information about the income. If the woman does not respond they may assess her approximate earnings and bill her. In principle women are obliged to take out medical insurance for themselves which they rarely do. Often, they build up debts. They are thus under pressure from many sides: In addition, they are socially isolated, frequently changing the brothels and travel from Canton to Canton, often controlled by her pimp/lover-boy or other profiteers.

Other women may arrive on a tourist visa, the advantage being that they avoid registration by the authorities and thereby save some money but they face similar financial pressures by pimps and other profiteers.

Beneath the Swiss system of regulation there is often a culture of exploitation, violence and unhealthy dependencies and it is important that the psychological problems of women in prostitution are understood *in this context*.

The results contained in the study from 2010 about mental health of women in prostitution<sup>184</sup> clearly reflect how severely women's health is impacted by the lived experience of prostitution. Here it should be noted that the study for obvious reasons did *not* include victims of HTfSE. Given the very large proportion of unidentified cases of these victims<sup>185</sup> - who are all found in prostitution - it can be assumed that the real state of women's mental health is even worse than the Study's findings show.

One of the main significant outcomes is that "*violence proved to be an important correlate of mental disorders.*"<sup>186</sup>

While the vast majority of women in prostitution are migrants, it should not be forgotten that young Swiss women and girls may also be affected by the so-called loverboy method.<sup>187</sup>

In conclusion, in a legalized system where prostitution is seen as a business transaction based on choice, the psychological harm done to women is made invisible and falls outside the legal framework intended to protect women from psychological harm.

### **Recommendations:**

- The Swiss Government should liaise with local specialists in the field of social work/ psychology experienced in cases of HTfSE in the countries of origin of women in prostitution, and fund projects that raise the awareness in schools about the lover-boy method, the harms associated with prostitution and share the experience of women with lived experience in prostitution from these countries.
- The Swiss Government should ensure that Swiss schools include in their curriculum awareness raising about the lover-boy method

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<sup>184</sup> Rössler: 2010

<sup>185</sup> See Art 7, point 1.2.5

<sup>186</sup> Rössler: 2010, p.1.

<sup>187</sup> See further on <https://www.act212.ch/menschenhandel/loverboys>, accessed 19.10.21

## Article 35 - Physical violence

*Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of committing acts of physical violence against another person is criminalised.*

Switzerland complies with Art 35. The Swiss Penal Code contains provisions criminalizing acts of physical violence and Switzerland has a well-functioning legal system.

However, in the context of violence against women in prostitution, these provisions do not change much for the women.

There are a number of reasons this:

- In legalizing prostitution and treating it like a profession, the violence taking place in prostitution tends to be normalized and tolerated<sup>188</sup>
- A large proportion of women is controlled by pimps and traffickers and for these women help from the police is almost excluded
- Many of the women have already experienced violence and are socialized to accept violence.
- Many of the women do not associate the police as people who are there to help them
- If the women are not registered or have overstayed, they fear this may lead to expulsion

It is well known that many migrant women in prostitution do not contact the police when they have been exposed to violence.<sup>189 190</sup>

While Switzerland cannot be held responsible for reluctance to use its legal system, it is responsible for their prostitution policy that structurally contributes to the physical violence against women.

Like in other countries with similar policies, femicides in prostitution in Switzerland are high.<sup>191</sup>

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<sup>188</sup> Report on Hungarian women 2012 p.53. and p.59.

<sup>189</sup> Federal Report p.58, "In the case of a criminal offence, these women often do not press charges because they fear negative consequences for their own situation, especially expulsion from Switzerland. The often relatively short stay in Switzerland as well as the fear of losing work and accommodation also contribute to the fact that the women do not defend themselves against the violation of their rights" DeepL Translation

<sup>190</sup> Report on Hungarian women p.53.

<sup>191</sup> <https://www.sexindustrykills.de/doku.php?id=prostitutionmurders:ch> and Killings of women and <https://pubmed.ncbi.nlm.nih.gov/18319375/>

## **Article 36 - Sexual violence, including rape**

*Parties shall take the necessary legislative or other measures to ensure that the following intentional conducts are criminalised:*

*Engaging in non-consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object; b engaging in other non-consensual acts of a sexual nature with a person; c causing another person to engage in non-consensual acts of a sexual nature with a third person.*

- 1. Consent must be given voluntarily as the result of the person's free will assessed in the context of the surrounding circumstances.*
- 2. Parties shall take the necessary legislative or other measures to ensure that the provisions of paragraph 1 also apply to acts committed against former or current spouses or partners as recognised by internal law.*

Women in prostitution are exposed to sexual violence on a daily basis.<sup>192</sup>

Women who have left prostitution describe the sexual act as paid rape.<sup>193</sup> It is commonly known that many women in prostitution take drugs and alcohol to numb themselves and to be able to get through the act. Although Swiss studies dealing with prostitution do not appear to go into detail with this aspect, sexual violence in the context of prostitution is acknowledged.<sup>194</sup>

The serious harms of repeated vaginal, anal and oral penetration cannot be overstated. These harms include overstretching of the vagina and the pelvic floor. Fisting or introduction of objects into the vagina lead to even greater damage to tissue. Women also report that men frequently do not respect the use of condom and often take it off against the explicit demand of the women.

The risks for STDs (sexually transmitted diseases) including HIV are common. According to a study referred to in the Federal Report 2015, these diseases represent a health problem for almost 80% of the people surveyed, over 60% are affected by addictions and half of them with mental illnesses.<sup>195</sup>

Still, Swiss researchers dominantly see solutions in 'improving working conditions', 'increased social recognition of prostitution', arguing inter alia that 'a prostitute does not only work to earn money, but also to give meaning and purpose to his or her existence.'<sup>196</sup>

The insistence on societal de-stigmatization as remedy against violence<sup>197</sup> is incomprehensible.

Stigmatization against prostitution and the actors involved is not disputed here. However, stigmatization is not the cause of violence. The cause of sexual violence against women in prostitution are the men who buy sexual access to women's bodies. The solution is therefore ending the demand for commercial sex.

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<sup>192</sup> See also Art 2 and Büsschi 2011 p.107.

<sup>193</sup> Wüst p.134.

<sup>194</sup> Földhazi,et al. 2007, p.27., p.89. and Büsschi 2011 p.66., p.89.

<sup>195</sup> Federal Report 2015 p.53.

<sup>196</sup> Földhazi,et al. 2007, p.95.

<sup>197</sup> Büsschi 2011 p.193.

*“It is normal to experience problems as a result of the challenges and changes that life brings. Difficult events, loneliness or relationship breakdowns can cause instability and leave us feeling sad, anxious or alone. It is important not to try to cope with these situations on your own and to seek support from Aspasia or elsewhere. We would also advise you not to take medication without first consulting a doctor, as doing so could harm your health.”<sup>198</sup>*

The above mental health advice comes from the publicly-funded Geneva-based organization Aspasia specialized to support women in prostitution.

We doubt that it is ‘the challenges and changes’ that ‘life brings’ which lead to mental health problems among women in prostitution. Rather, we believe that mental health issues are mainly caused by the multiple unwanted and often painful sex acts which women are expected to endure.

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<sup>198</sup> <https://guide.aspasie.ch/en/chapter/sante/sante-mentale/>

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