

# news



Dear reader

The situation of migrant women affected by violence is of great concern to us at the Information Center for Women from Africa, Asia, Latin America and Eastern Europe in Switzerland, which also acts as a specialist body with regard to trafficking in women and women's migration. It is of particular concern that the victims of trafficking in women still do not receive enough protection.

In this Newsletter we would like to inform you about the current developments regarding trafficking in women. On the basis of a FIZ petition for a protection program for women affected by trafficking, a state working group established a report on human trafficking, which includes pivotal points of our critique and requests. This filled us with joy and courage.

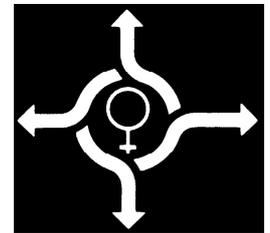
Unfortunately, the Federal Council, the highest governing body in Switzerland, has rejected some of the central suggestions, which means that our work will have to continue even more intensively. At least the draft for the new Alien Law (Ausländergesetz), which should come into force in the next few years, foresees the possibility of residency for victims of trafficking in women, however without legal rights. This shows that Switzerland continues to prioritize its restrictive admission policy, with the aim to admitting the smallest possible number of female migrants from the South and the East to the country, and allowing them as few legal rights as possible.

We, however, believe that Switzerland should offer permanent right of residency, protection and security for all victims of trafficking in women, a human rights violation, independent of their willingness to testify.

In this newsletter, we would also like to introduce you to the research project, carried out by two social scientists commissioned by FIZ, in the framework of the national research program NF 40 «Violence in Everyday Life and Organized Crime». It investigates the social conditions which cause trafficking in women in Switzerland, based on the experiences of women affected and their courses of action.

FIZ is now on the web: under [www.fiz-info.ch](http://www.fiz-info.ch), where you will find an overview of our activities and you can also download newsletters. We would be happy if you added our address to your list of links, and if you let us know about your website. Please note that we also have a new e-mail address: [contact@fiz-info.ch](mailto:contact@fiz-info.ch). Please let us know of any address changes, so that we can continue to keep you informed.

Doro Winkler, Eva Danzl  
FIZ International Network



**FIZ**

Information center  
for women from  
Asia, Africa,  
Latin America and  
Eastern Europe

# Report – «Human Trafficking An Accurate Analysis, but

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As a specialist body we have supported women affected by trafficking for years. However, our courses of action are very limited since victims are still criminalized rather than protected. This was the reason for our launch of a petition requesting a protection program for women affected by human trafficking, upon which the Federal Council commissioned an interdepartmental working group to investigate the situation in Switzerland.

The report<sup>1</sup> analyses the situation in Switzerland in detail, and makes concrete recommendations for better protection of victims. The reaction of the Federal Council, however, was disappointing, since it rejected the central requests. This shows that the problems of female migrants are hardly known at this level and that the protection of victims is not a priority.

## An Accurate Analysis of the Problem

«The hope of better living conditions and the lack of legal residency or opportunities for work drive victims into the hands of human traffickers». In this statement, which could be from FIZ, the report names two of the crucial preconditions that bring about trafficking in women<sup>2</sup>. As a third crucial cause, the demand for the migrant work force from the South and East, was recognized. It is the interaction of these three factors that drives migrants repeatedly into coerced situations.

## Clara's Example

Clara<sup>3</sup> from Argentina, for example, as a single parent, could no longer guarantee the survival of her three children and the treatment of her sick mother with her secretarial work. When Clara was told by an acquaintance that he could arrange a job for her in a restaurant in Switzerland, Clara saw this as her chance. Even though she found the separation from her children, especially the youngest one, who had just turned two, very hard, she traveled to Switzerland as a tourist<sup>4</sup>. The trip was financed by her acquaintance, who told her that she could pay back the money later. A man, who picked her up at the airport, took her documents and explained to her that the post at the restaurant was already taken, but that he knew a family who was looking for a domestic help. Clara took on the post. However, she soon discovered that the agreed working conditions were not met. She had to work 16 hours a day: apart from looking after three small children, she also had to do the washing, cleaning

and cooking for the family, and sometimes even for big dinner parties. The couple had no respect for her, and punished her if she did not do everything she was told. The husband repeatedly harassed her sexually. In the first few months she was given a little pocket money. However, when she asked for her wage after half a year, she was laughed at, and reproached. She was told that she could go home or to the police if she wanted. According to current law Clara would be deported if she contacted the police. She was in Switzerland illegally, and had no work permit, and she would be treated as a culprit and not as a victim.

If the issues highlighted in the report were translated into practice, her situation would not be quite as drastic: She would have the possibility of being legally recognized as a victim of human trafficking. The report uses the definition of human trafficking from the UN Additional Protocol for the Convention Against Transnational Organized Crime (Additional Protocol of Human Trafficking, 12.12.2000). Here the activity of human trafficking is defined in a wider sense than just for sexual exploitation: It also includes trafficking with the purpose of exploitation as a worker. The aim is no longer to prevent «indecency», as currently set out in the Swiss penal law.

In the same way the right of self-determination of affected women becomes significant. Trafficking in women and prostitution must be separated, since not all women working as prostitutes are victims of trafficking. The crucial factor is whether they work as prostitutes against their will (violation of self-determination). The central issue is therefore the woman's

# in Switzerland»

## Rudimentary Victim Protection

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consent, a question that was considered at the highest judicial levels: The Federal Court adheres to its latest decision, in which it is considered to be trafficking in women, even if a prostitute is, apparently, willing to do this work, but brothel managers knowingly exploit her obvious poverty (distress).

### Scale of Human Trafficking in Switzerland

It is very difficult to assess the scale of human trafficking. The report speaks of 3,000 cases a year in Switzerland, from Central and Eastern Europe alone. It is obvious that there is a huge discrepancy between the numbers of estimated cases and of instances of charges being pressed and sentences given. There are at the most 30 charges, and on average 1.4 sentences, a year. This makes clear that trafficking in women in Switzerland is a very lucrative business, with a low risk of prosecution. This again is linked to the criminalization of the victims with regard to their illegal residency, as well as their lack of protection. The current law has the effect that victims are treated as culprits, so that they dare not testify, as in the case of Clara. The decriminalization of affected women, as suggested in the report, would bring about an improvement. The Federal Council has rejected stopping criminalization on the basis of illegal residency, maintaining that the victims would not be punishable anyway if they had been forced to commit any illegal acts. If the victims were not beyond reproach, however, there would be no reason why distinct privileges should be given to them and not to other foreigners. An argument, the reasoning of which has an almost cynical feel to it.

### The Controversy of Residency Rights

A staged residency policy, as suggested in the report, would be an improvement compared to the current situation, and would allow the victims to stay under certain preconditions:

1. All victims are granted a limited residency of three months, independent of their willingness to testify in a court procedure.
2. Victims who are willing to testify have the right to reside in Switzerland during the court procedures.
3. Additionally, unrestricted residency should be granted if humanitarian reasons apply.

According to this policy, Clara would not be deported straight away, and would therefore have the possibility of pressing charges against agents and employers. It is problematic that residency for affected women is to be linked with their willingness to testify. In this way they are used as instruments once more (testimony in exchange for residency). This means that all those women who cannot bring themselves to testify, for example because they and their families would have to live in fear of reprisals, will not gain residency. To this end it is very questionable whether women affected would actually confront the risk, if they did not know what would happen to them after a court procedure, since long-term residencies (on humanitarian grounds) are granted in exceptional cases only.

It is positive that the suggestions for the new Alien Law include at least the possibility of residency for victims of trafficking in women, even if this is not a legal right.

That the Alien Law will come into force in a few years at the earliest still presents problems. Will victims of trafficking in women therefore continue to be criminalized and deported during the next four years?

In fact, Clara would like to return home, as do many other women who we support at the FIZ. Nevertheless she should have the opportunity to stay and be recognized as a victim, instead of being further pressurized.

### Rudimentary Protection for Victims

The measures mentioned in the report with regard to victim protection are incomplete, according to our experiences. Although the suggestion of establishing a telephone help line for victims of trafficking in women is very desirable, a telephone help line requires a whole infrastructure, so that victims can be supported beyond the initial telephone conversation. The support of victims of trafficking in women additionally requires particular specialist knowledge, since women affected by trafficking experience specific traumatization: hardly any other crime submits its victims to months and years of sustained violence. It is characteristic that women affected by trafficking often live in the same space in which the violence and exploitation are suffered. They have no safe place to withdraw to, as illustrated by Clara's experience. Victims and their families are often threatened with reprisals, exerting an incredible pressure on the women. It is also significant that no woman defines herself as a victim. They report physical, psychological or sexual violence;

the high debts incurred by the trips; the debts to the agencies who found them the jobs, accommodation etc. which they have to repay, so that they are pressurized by the profiteers. They also complain about their hopelessness and depressions. To recognize all this as trafficking in women requires a professional understanding. From our experience, it does not suffice merely to provide accommodation for women affected by trafficking, but far-reaching support is needed. Apart from legal support, and solutions related to the legality of residency, day structures, financial and psychological support, as well as cooperation with relevant organizations, are also required.

In this context, the following suggestion would make sense: prosecution authorities should be obliged to inform advisory bodies immediately about victims, so that support can be provided. In this way Clara could, in the case of an arrest, have access to the FIZ. She could claim her victim's rights and would not be deported straight away.

In the near future, FIZ would like to establish an intervention body for women affected by trafficking, based on our long-standing experiences. We hope that on the basis of the suggested measures coming into force, we will have more resources and legal possibilities to support women affected by trafficking.

## Cooperation

There is a further recommendation regarding cooperation between the immigration authorities, prosecution authorities and the victim support bodies. This links in with the founding of the round table against trafficking in women, initiated by the FIZ. This has the aim to achieve

better cooperation between all bodies involved (justice, police and advice agencies), in order to provide better protection for victims and to apprehend traffickers. The introduction of such cooperation models in all the cantons of Switzerland is recommended.

## Prevention

We welcome the recommendation to prevent trafficking in women through information work in the countries of origin. However, information alone cannot constitute effective prevention. The best form of prevention would be to ensure living conditions that allow survival and livelihoods in the countries of origin. This would lead to a situation in which women would not have to fall for the false promises of traffickers and suffer the consequence of exploitation.

An equally preventive effect would be provided by legal work permits and residency in Switzerland. This would mean that by being legalized, migrants who offer sought-after services could break out of this vicious circle of illegalization, lawlessness, dependency, violence and exploitation.

Doro Winkler

1 The report and the Federal Council's comment can be found on [www.ofj.admin.ch](http://www.ofj.admin.ch)

2 In the following we refer to «trafficking in women» since the majority of victims of human trafficking are in fact women.

3 This FIZ case has been changed slightly for data protection reasons.

4 In this way she was legal for three months, but she was prohibited from working. However she had no possibility of gaining a legal work permit or residency.

# Research Project: «Trafficking in Women» in Switzerland

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For the first time, real-life stories of women affected by trafficking were taken as a starting point for a study. On the basis of 17 interviews with migrants, who were affected, FIZ systematically investigated their lives and working arrangements in the framework of a qualitative research project. This was then put in a sociotheoretical context.

The investigation set out to assess trade structures and demand factors with regard to trafficking in women. This was done on the basis of an analysis of the lives of women affected, as well as the social conditions that enable trafficking in women in Switzerland.

The accounts, argumentation and reasoning of our interview partners disclosed the framework of the problems and possibilities for action, which characterize their lives and working conditions.

The analysis of the interviews confirmed our assumption that, in Switzerland, there is a demand for female workers to carry out socially less-valued reproductive work in households and work in the sex industry. Accordingly, our interview partners were placed as cabaret dancers, prostitutes, domestic workers and wives, areas between which the borders are fluid.

## Naturalization of Differences

The data analysis made clear that social differentiation processes, on the basis of gender, geographic origin and further

social differences, are crucial factors for the recruitment and placement, and therefore for trafficking, of the women we interviewed. As a consequence, our interview partners experienced reduction and objectivization processes, which were illustrated by their subordinate status, as well as their social declassification and marginalization.

The specific demand for services that are connected with the «female» body and certain functions, strongly influenced the situation of our interview partners. The constitution of subject-object relationships between men, i.e. clients, husbands, and women affected by trafficking, act as a basis for relationships characterized by repression and reduction. In this way our interview partners were reduced to domestic workers and/or to exploitable objects to suit male desires, with no recognition of their individual needs. This subject-object relationship is, on the one hand, based on the misrepresentation of the «deficit of modernity», which views migrants as representatives of «traditional» social structures and concepts of femininity. On the other hand, it is the contrast constructed between female subordination and male sovereignty that

forms the basis of this dichotomous relationship. The unequal relationship is legitimized by the naturalization of attributes, i.e. on the basis of race- and gender-specific ascriptions. Naturalization means that antagonistic social relationships are explained before a background of alleged biological differences. According to this logic, men demand fulfillment of their sexual, emotional and commercial needs, which can be forced with violence due to the women's position of dependency. In this, gender appears as one category of inequality, which is inextricably linked with other differentiation categories, such as race and ethnic origin. This confirms both the male subjectivity as well as the object status of women.

## Action Strategies between Adaptation and Resistance

Despite the antagonistic social relationships, the biographies of the women affected show that they are not only objects of violence and marginalization mechanisms. That they have action strategies and life perspectives can be seen as paradoxical. They experience their situation in the context of structural conditionalities that elicit requirements for action in order to change their lives and working conditions. The women affected develop such perspectives for action out of the tension between adaptation and resistance. Through the dynamics of movement, the weighing up of possibilities, as well as taking recourse to psychosocial and legal support<sup>1</sup>, our interview partners tried to indicate power relations and to influence life situations that were forced on them. They reject objectivizing relationships, even though

they see themselves confronted by inclusion and exclusion practices, and they see their stay in Switzerland characterized by constant insecurity with regard to legality, as for instance when dissolving a marriage that is characterized by violence. Separation and divorce requests indicate that they are not prepared to accept the forced dependency and conditions of violence, and that they are acting to achieve self-determination. Their life and working conditions, and therefore their ways of existing in Switzerland cannot be considered as self-determined, but as a consequence of structural conditionalities. These circumstances are not overcome by the action of individuals, but indicate the necessity for social change. Their willingness to be part of our investigation, must be interpreted as an attempt to create public awareness of the phenomenon of trafficking in women, and to effect subsequent changes.

## Restrictive Alien Laws Provide Cover for Profiteers in the Trafficking in Women

As made clear by the data analysis, trafficking in women is a form of international gender-specific recruitment of workers, serving a certain demand for migrants for the sexual, emotional and domestic area. The profiteers of trafficking in women are first of all traffickers, agents, clients, husbands, employers and cabaret owners, as well as the state<sup>2</sup>. The restrictive immigration policies for migrants from countries outside of the European Union do not do justice to this fact. Before this background it must be said that further restrictions in the Alien Law for women from countries of the South and East –

as foreseen in the current revision – will not change the conditions for trafficking in women, but will provide further preconditions for exploitation and violation of human rights.

Martiza Le Breton and Ursula Fiechter

1 In this context the work of FIZ should be mentioned, where advice and legal support are provided.

2 In this way, in any month, around 2,000 cabaret dancers work in Switzerland with short-term residencies. They pay about 25 million Swiss Francs of source tax and social security.

## Masthead

Womens information center for women  
from Africa, Asia, Latin America and  
Eastern Europe  
Badenerstrasse 134  
8004 Zürich Switzerland  
Phone: 0041 1 240 44 22  
Fax: 0041 1 240 44 23  
Mail: [contact@fiz-info.ch](mailto:contact@fiz-info.ch)  
Web: [www.fiz-info.ch](http://www.fiz-info.ch)  
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Responsible: Doro Winkler  
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