**DIAKA**

**German Institute for Applied Crime Analysis**  *For a society free of human trafficking and related sexualised violence*

**Input for SR VAWG's report on violence against women and prostitution**

**Key questions and types of input/comments sought**

**1.**  There is hidden prostitution in Germany:

* by women who are not registered with the authorities, who, according to experts, make up around 90% of those affected,
* within officially defined restricted areas in private homes, hotels or on the street. Only the women offering themselves are penalised for non-compliance, not the clients.

**2.** The former criminal investigation officer Helmut Sporer describes the profile of prostitutes in Germany in "The New German Way"[[1]](#footnote-1) : "In niche areas, which are likely to have a market share of a maximum of 5 %, mostly self-employed or self-organised women are active.

However, the situation is completely different in the mass organisations that make up a large part of the scene. There you will find many women who, due to their personality, education, age, behaviour, appearance, origin or company, give rise to the suspicion that they are victims of a milieu crime, even if they almost never admit this during checks...."

Melissa Farley et al. documented experiences of violence, illnesses and drug abuse by interviewing 54 prostitutes in Hamburg[[2]](#footnote-2) .

Many other studies by psychotherapists and social workers show that around 80-95% of prostitutes experienced violence before they started their activity, at least 50% of whom experienced sexualised violence in their childhood[[3]](#footnote-3), [[4]](#footnote-4), [[5]](#footnote-5) .

**3.** Recruiters are usually the later personal pimps of the women, their assistants and traffickers. In some cases, they cooperate with brothel operators who need suitable, compliant women. Helmut Sporer writes about the profile of recruiters in Germany[[6]](#footnote-6) : A significant factor in the milieu is brothel prostitution. This also includes nudist clubs, sauna clubs and the like, as well as so-called Laufhäuser [brothels].

The relationship between the prostitute and her pimp is characterised by either violent or emotional authority, often a mixture of both. Typically, the pimp makes contact with the operator of an often distant brothel. He himself does not appear in the brothel. The woman is supposed therefore to be independent~~.~~

The relationship between the prostitute and the brothel operator is characterised by control. He unobtrusively monitors her activities (turnover, behaviour, etc.) using cameras and/or security.

The relationship between the pimp and the brothel operator is characterised by mutual trust, agreements and a shared interest in profit.

**4.** Melissa Farley et al. describe the forms of violence to which prostitutes in Germany are exposed in Tables 2 and 3[[7]](#footnote-7) . There is also a study on this by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) [[8]](#footnote-8)

As a gynaecologist in Hamburg, the Munich doctor Liane Bissinger discovered countless injuries among prostitutes at the "Central Advice Centre for Sexually Transmitted Diseases"[[9]](#footnote-9) .

The physician Dr Wolfgang Heide describes the serious consequences of violence against prostitutes, especially during pregnancy[[10]](#footnote-10) . The damage to unborn children must also be taken into account here.

Psychologist Dr Ingeborg Kraus, together with more than 200 experts from the "Trauma and Prostitution" network, draws particular attention to the psychological consequences of prostitution, especially post-traumatic stress disorder[[11]](#footnote-11).

The trial of the Paradise brothel in Stuttgart proves that the traffickers involved used violence to force the women into prostitution[[12]](#footnote-12) .

A guide to counselling prostitutes published by the BMFSFJ lists a large number of different serious risks for prostitutes.[[13]](#footnote-13) If the ministry wanted to live up to its name, it would have to strongly advise against such services.

**5.** See answer to question 3, i.e. the personal pimps, partly in cooperation with brothel operators, as well as clients and indirectly the legislator, who does not enact effective protective regulations for prostitutes.

**6.** Unless it is voluntary, prostitution is always a violation of human rights. The basis for this and for human dignity is autonomy. However, this cannot be guaranteed by law in prostitution, as German legislation has endeavoured to do. This is documented below with reference to "Sexkauf - Eine rechtliche und rechtsethische Untersuchung der Prostitution"[[14]](#footnote-14) :

* firstly by facts from the crime statistics:
	+ Prostitution is inherently characterised by coercion by pimps and violence by clients.
	+ Prostitution produces almost exclusively female victims, most of whom have a migration background or are characterised by poverty, language barriers and educational poverty.
* then by experts from the fields of medicine and trauma research:
	+ Due to the serial and continuous sexual heteronomy, including the regular experience of acts of violence, prostitutes suffer an existential, deep humiliation and thus a violation of their dignity, as well as a violation of their rights.
* finally by insights from legal ethics and legal philosophy:
	+ Every attempt to take possession of a person's body causes a degree of disregard and humiliation that reaches deeper into a person's soul than other forms of disregard.
	+ Therefore, if a person is sexually available to another person in return for payment, it is impossible for the state to guarantee freedom from violence by the client, health protection by the brothel operator and the right to physical integrity, the general right of personality, as well as the autonomy and dignity of prostitutes.
	+ In general, there is a power imbalance between the woman on the one hand and the clients and brothel management on the other,
	+ The German legislator's hope of being able to guarantee women's autonomy and dignity was therefore based on a logical fallacy.

**7.** Pornography is filmed prostitution. The correlation is shown by Farley et al[[15]](#footnote-15) in Table 4.

Porn websites offer topics on "human trafficking", "trafficking in girls", "kidnapping", Porn films etc., without visibly distinguishing between acted and real scenes[[16]](#footnote-16) .

Right up to the complete copy of a pornographic script for the prostitutes, clients integrate pornography into purchased sex.[[17]](#footnote-17) . This prostitution in front of the camera, i.e. the fulfilment of "customer" wishes in real time, is actually booming.[[18]](#footnote-18)

Prostitutes who were already early victims of child pornography/child prostitution tend to continue prostitution in order to maintain the dissociation of the trauma they experienced.

**8.** In "Sexkauf" by Mack/Rommelfanger[[19]](#footnote-19) , it is stated that most women have a typical victim character, are subject to heteronomy or belong to vulnerable groups. For this reason, experts criticise the "lack of victim orientation"[[20]](#footnote-20) of the ProstSchG [German Prostitutes Protection Act] and the presumption of voluntariness as false."

It goes on to say in "Sexkauf":[[21]](#footnote-21) : "It is essential.... to maintain and guarantee the ongoing consent of all persons involved. For ...... prostitutive sexual intercourse [is] precisely not associated with the intention of contributing to the well-being of the other person, of treating the other person for their own benefit or with care and respect, but with the opposite, as is shockingly demonstrated by the self-disclosure of clients."[[22]](#footnote-22)

**9.** Also in "Sexkauf"[[23]](#footnote-23) it says "The results of our survey of various counselling centres make one thing clear above all: prostitutes also in Germany are exposed to ongoing experiences of violence despite the ProstSchG [Prostitutes Protection Act]."

It can even be said that the law actually favours violence against women and girls in prostitution, as it severely restricts the authorities' ability to investigate.[[24]](#footnote-24) Trials against violent pimps and human traffickers are rare and not very successful[[25]](#footnote-25) . According to estimates by the Criminological Institute of Lower Saxony, KfN, 90% of human trafficking offences remain unsolved[[26]](#footnote-26) . This encourages the traffickers and discourages potential witnesses due to their continued threat.

In 2016, German lawmakers irresponsibly rejected requests from experts to ban prostitution for under 21-year-olds, disabled and illiterate persons.

**10.** The ProstSchG of 2016 has failed completely. There is no practicable networking between public order and health authorities as well as the police. This hinders the recognition of victims and perpetrators.

The aforementioned KfN has been commissioned by the BMFSFJ to evaluate the effects of the Prostitutes Protection Act and is expected to present its findings by the end of 2025. However, the study will only focus on the content of the Prostitution Protection Act, such as registration, authorisation requirements, counselling, etc., but not on criminal policy and human rights issues.

The aforementioned publication "Sexkauf" by Mack/Rommelfanger provides a civil society diagnosis of current prostitution in Germany, emphasising legal and legal-ethical aspects[[27]](#footnote-27) .
In addition, there are surveys by initiatives such as the "Sexindustry kills" project, which analyses all murders of prostitutes[[28]](#footnote-28) .

**11.** Those wishing to leave are supported by civil society organisations such as Solwodi (SOLidarity with WOmen in Distress), Sisters (Exiting Prostitution e.V.), Ella (Network for Exited as well as still Prostitutive Women), KOFRA (Communication Centre for Women Concerning Work and Life Situations e. V.), INGA (Initiative Against Exploitation of Women in Prostitution e. V.), Amalie (Exit Counselling Diakonie Mannheim), and Karo e. V. (Initiative Against Forced Prostitution, Human Trafficking and Sexual Exploitation of Children).

In contrast, the state-supported counselling centres, with a few exceptions, do not work in an exit-oriented manner, but in some cases even provide advice on entering prostitution.

**12.** Obstacles to the protection of prostitutes:

* Protection from the perpetrators is only insufficiently possible for women who are willing to testify, firstly because those affected and their families are subject to repression in their home country, and secondly because convictions of perpetrators are only possible with a victim statement, but victims are often intimidated, as stated before, and because the penalties for the perpetrators are usually very low. In most cases, there are no lengthy prison sentences, only suspended sentences and fines, despite the fact that the offenders have committed serious offences.
* No state support structure and therefore deficits in problems such as psychological traumatisation, debt, housing shortage, right to stay, illness, social benefits,
* Insensitive authorities,
* Support only after charges have been filed against pimps or traffickers during the ongoing investigation (and then often only arbitrarily),
* Ultimately, the lack of political will and funding.

**13.** The following lessons can be learnt from the attempts to curb the negative human rights consequences of the prostitution of women and girls:

* German prostitution policy has completely failed. The liberalised framework has created ideal conditions for profiteers in the market to conceal criminal structures and exploit women, who are predominantly victimised and therefore particularly easy to manipulate. Liberalisation has also led to a sharp increase in the number of clients, combined with destructive competition between women, who are under pressure just because of the high brothel fixed costs of up to 200 euros per day. Germany is now the brothel of Europe. Prostitutes enjoy no de facto protection.
* Ultimately, only the marginalisation of demand through a ban on buying sex along the lines of the Nordic model will help. See also question 15.

**14.** A clear NO.

Although the actually self-employed prostitutes only make up a marginal share of 2-5%, they and their lobby organisations largely determine the political discussion. In contrast, only a few aid organisations raise the problems of those who are not self-employed.

Such organisations are invited, if at all, rather as an alibi to hide the fact that it is mainly the representatives of the brothel lobby who have the ear of politicians.

**15.** The following **interim solutions** are proposed until the realisation of a sex purchase ban:

short to medium term[[29]](#footnote-29) :

* a minimum age of 21 years for the practice of prostitution,
* mandatory registration and deregistration for prostitutes in every city, including presentation for health counselling and the possibility of voluntary examinations
* a ban on prostitution for particularly vulnerable people such as disabled, illiterate people, people without German language skills, etc,
* Complete abolition of the brothel operator’s right to issue instructions to prostitutes,
* Closing hours regulation for brothels with limited working hours for prostitutes,
* Limitation of daily brothel rents,
* Prohibition of street prostitution,
* Criminal liability of johns for prostitution practicing in restricted areas,
* Ban on advertising prostitution,
* Prohibition of prostitution entry counselling,
* Extension of the special protection provisions for adolescents in Section 232a/I StGB (forced prostitution) to all prostitutes,
* better investigation capacities, such as the possibility of telecommunications surveillance in cases of suspected pimping or exploitation of prostitutes,
* more police operations,
* Increased social work

longer term:

* a sex purchase ban based on the Nordic Model, taking into account special German particularities.
1. Sporer, Helmut: https://www.diaka.org/der-neue-deutsche-weg/, Chapter 5 (english version included) [↑](#footnote-ref-1)
2. Melissa Farley et al, "Prostitution and Trafficking in Nine Countries", Journal of Trauma Practice, Volume 2, 2004 - Issue 3- 4 [↑](#footnote-ref-2)
3. Zumbeck, Sibylle: "Die Prävalenz traumatischer Erfahrungen, Posttraumatische Bela-stungsstörungen und Dissoziation bei Prostituierten", Hamburg, 2001 [↑](#footnote-ref-3)
4. Damant, Guay, https://doi.org/10.1111/j.1755-618X.2005.tb02458.x, accessed 20/01/2024 [↑](#footnote-ref-4)
5. Schröttle, Müller, https://link.springer.com/chapter/10.1007/978-3-531-94160-8\_14 [↑](#footnote-ref-5)
6. Sporer, Helmut: https://www.diaka.org/der-neue-deutsche-weg/, Chapter 4 [↑](#footnote-ref-6)
7. Melissa Farley et al, "Prostitution and Trafficking in Nine Countries", Journal of Trauma Practice, Volume 2, 2004 - Issue 3- 4, Table 2 and 3 [↑](#footnote-ref-7)
8. BMFSFJ - Schröttle/ Müller, 2004, Health, Well-Being and Personal Safety of Women in Germany (with the supplemental sub-group "women in prostitution") [↑](#footnote-ref-8)
9. http://abolition2014.blogspot.com/2019/11/korperliche-schaden-der-prostitution.html [↑](#footnote-ref-9)
10. https://www.trauma-and-prostitution.eu/2016/06/05/stellungnahme-von-wolfgang-heide-facharzt-fuer-gynaekologie-und-geburtshilfe/ [↑](#footnote-ref-10)
11. https://www.trauma-and-prostitution.eu/2018/05/11/prostitution-und-gesundheit/ [↑](#footnote-ref-11)
12. https://www.swp.de/panorama/\_viele-werden-in-die-bordelle-gepruegelt\_-30103442.html [↑](#footnote-ref-12)
13. BMFSFJ: Guidelines on health counselling according to §10 of the Prostitutes Protection Act (ProstSchG), 34 - 48 [↑](#footnote-ref-13)
14. Elke Mack, Ulrich Rommelfanger "Buying sex - A legal and legal-ethical analysis".

Investigation of prostitution", Nomos-Verlag [↑](#footnote-ref-14)
15. Melissa Farley et al, "Prostitution and Trafficking in Nine Countries", Journal of Trauma Practice, Volume 2, 2004 - Issue 3- 4, Table 4 [↑](#footnote-ref-15)
16. https://www.safersurfing.org/menschenhandel-pornos-prostitution-es-liegt-an-uns/Pornografie, Prostitution, Menschenhandel - Die verkaufte Sexualität, 30.03.2023 (accessed 27.11.2023) [↑](#footnote-ref-16)
17. https://www.hopeforthefuture.at/de/pornografie-als-einstieg-in-das-freier-dasein/ [↑](#footnote-ref-17)
18. https://www.insider.com/onlyfans-sex-workers-escorts-porn-2021-9 [↑](#footnote-ref-18)
19. Elke Mack, Ulrich Rommelfanger "Buying sex - A legal and legal-ethical analysis".

Investigation of prostitution", Nomos-Verlag, 231 [↑](#footnote-ref-19)
20. Sporer, Helmut: [https:](https://www.diaka.org/der-neue-deutsche-weg/)//www.diaka.org/der-neue-deutsche-weg/, 29 [↑](#footnote-ref-20)
21. Elke Mack, Ulrich Rommelfanger "Buying sex - A legal and legal-ethical analysis".

Investigation of prostitution", Nomos-Verlag, 234 [↑](#footnote-ref-21)
22. ibid., cf. chapter 3.7 [↑](#footnote-ref-22)
23. ibid., 189 [↑](#footnote-ref-23)
24. Schmidbauer, Wilhelm: The Prostitution Act between claim and reality

from a police perspective, in: NJW, 2005, 871. [↑](#footnote-ref-24)
25. http://www.economics-human-traffi-cking.net/mediapool/99/998280/data/Menschenhandel\_Deutshcland\_beim\_Opferschutz\_nur\_Mittelmass.pdf, retrieved 03.01.2024 [↑](#footnote-ref-25)
26. Sporer, Helmut: https://www.diaka.org/der-neue-deutsche-weg/, Chapter 6.6 [↑](#footnote-ref-26)
27. Elke Mack, Ulrich Rommelfanger "Buying sex - A legal and legal-ethical analysis".

Investigation of prostitution", Nomos-Verlag [↑](#footnote-ref-27)
28. www.sexindustry-kills.de, retrieved 20/02/2024 [↑](#footnote-ref-28)
29. Sporer, Helmut: https://www.diaka.org/der-neue-deutsche-weg/, Chapter 7.2 [↑](#footnote-ref-29)