**6. Describe the linkages, if any, between prostitution and the violation of the human rights of women and girls**

By its nature, prostitution inherently violates human rights of the person[[1]](#footnote-1), because mainly girls and women (95% are female) are instrumentalized systematically by reducing them *per se* to the role of objects for the sexual satisfaction of men.[[2]](#footnote-2) Official sources confirm the fact that more than 90% of the prostitutes do not carry out their actions freely, but are captured in dependences or any form of blackmailability, including direct or indirect coercion by third parties. It can be assumed that they would immediately abandon prostitution without external pressure or need.[[3]](#footnote-3) Over 60% are victims of human trafficking for sexual exploitation.[[4]](#footnote-4) Insofar, laws that allow prostitution legitimize a systemic objectification as it comes down to the possibility of purchasing and using the bodies of human beings at random. This includes degrading sexual practices, including sex with highly pregnant women or fecal matters.[[5]](#footnote-5) The buyer of sex neither bears the responsibility nor the consequences for the physical and mental abuse or the negative resulting conditions of the people in prostitution. Fundamentally considered, prostitution is a modern form of slavery or servitude[[6]](#footnote-6), as it amounts to being subservient and carrying out the orders of the buyers, regardless of the psycho-physical conditions of the prostitutes (e.g. pregnancy, pain, illness, age - including children, addiction to drugs, alcohol or the state of intoxication).[[7]](#footnote-7) Hence, the relationship between the prostituted person and the merchant inherits an immanent asymmetry of power and a lack of sexual self-determination on one side; even the freedom to abort or object to the buyer of sex is often denied.[[8]](#footnote-8) Consequently, prostitution as a legal system violates Articles 1, 2, 4 and 5 of the Universal Declaration of Human Rights.[[9]](#footnote-9) For, under the condition of the commercial sex purchase, it cannot be guaranteed that the sexual interaction is non-violent, voluntary, fee, self-determined or done without degradation or humiliation. Sex under dignified conditions fundamentally requires a qualified consensus before and during the sexual act itself, which embodies the right to exit and terminate, free from any pressure or coercion. Furthermore, due to the inability to control and check the voluntariness of prostitutes, as well as the proved multilateral psychological and physical damages caused by prostitution, including the consequences of coercive sexual intercourse and practices, regulated prostitution must be considered a violation of Article 36(2) of The Council of Europe´s Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention). The rule of law cannot guarantee the dignity of the person in the context of prostitution as well as the autonomy of the person is not secured by a sex purchase contract. For, this includes an obligation to sex, whatever the prostitute decides during the encounter. So, the right to sexual self-determination cannot be ensured during the practice of prostitution. Logically, this leads to the fundamental question of the legitimacy of the institution of prostitution itself. If the protection of fundamental rights of the individual cannot be guaranteed, due to asymmetric power dynamics in prostitution, this institution must be considered a violation of the dignity and the autonomy of the person, which should be guaranteed by the Human Rights Convention.[[10]](#footnote-10)

**8. How is the issue of consent dealt with? Is it possible to speak about meaningful consent for prostituted women and girls?**

All experts confirm that the vast majority of women and girls in prostitution submit to sexual activities against their free will and do not offer them on a voluntary basis. So, we cannot talk about informed or free consent, when the people in prostitution are mainly found in multilateral relationships of dependence and personal, familial, or financial coercion.[[11]](#footnote-11) 80-90% of those who offer sexual activities are fraught with coercion by third parties conditioning women and girls even violently. This includes threats of direct and indirect violence to engage in prostitution and to obey blindly to the sexual wishes that clients might have.[[12]](#footnote-12) 60-70% of the women in prostitution are victims of rape while offering prostitution.[[13]](#footnote-13) 87% have experienced physical and 82% psychological violence by clients.[[14]](#footnote-14) In fact, their right to sexual self-determination and autonomy of the person is excluded due to the inability to reject prostitution, additionally conditioned by psychological pressure. In most cases, their assumed consent is not free or voluntary, so they offer their body in prostitution with an inner rejection. Therefore, they often dissociate by numbing themselves with alcohol (55%) and drugs (94%) or by abusing drugs to relieve their physical and mental pain.[[15]](#footnote-15) This is their only way to bear a life in prostitution.

The main problem is that it is not possible to establish a reliable criterion for determining the actual existence of consent within the framework of legal provisions (particularly in criminal law). This difficulty arises from the challenge of the following legal requirements:

1) To keep the declared consent free from external coercion. Therefore, it must be guaranteed that no direct or indirect coercive measures are used against the prostitute, her family members or other persons close to her. It must be guaranteed that no external pressure is exerted by third parties (including family members) which could physically or psychologically force the prostitute into prostitution and undermine her declaration of voluntariness.

2) To guarantee the permanence of consent, which is dynamic in nature and may change during the act of prostitution. Legal regulations can neither guarantee consent during the act itself nor the self-determination of the prostitute during sexual intercourse.

3) The guarantee that the consent is independent from possible determinations, such as childhood sexual abuse and the resulting trauma. So, the victim's self-esteem might be broken beforehand. It is worth noting that between 40 % and 75 % of people working in prostitution are victims of sexual abuse in childhood (CSA), resulting from post-traumatic stress disorder (PTSD) and other extreme stress disorders (DESNOS).[[16]](#footnote-16)

If a person is to be sexually available to another person in return for payment, it is not possible for the legislator to guarantee freedom from violence by the customer and the brothel operator as well as possible pimps. From a criminal statistics perspective, prostitution is regularly characterized by coercion by pimps and violence by clients. From a psychotherapeutic point of view, many women suffer lasting damage to their lives, health and mental well-being, especially because most of them have a migration background or are characterized by poverty, language barriers and a low level of education. The lack of the autonomy in prostitution is a fact proven by scientific studies, as well as the lack of sexual self-determination during the act of prostitution.[[17]](#footnote-17) The right to voluntarily perform sexual acts cannot be normatively guaranteed, insofar as the influence of external powers on the free will of the individual cannot be eliminated. In this respect, regulated, legalized prostitution, which *de iure* assumes voluntariness and thus shifts prostitution from the area of criminal law to civil law, violates human dignity and the right to self-determination.

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

Following data from independent and national research institutes, as well as research papers and social workers, we recommend the implementation of a Nordic Model of prostitution to be the most efficient option to contain prostitution and make the sex business unattractive to organized crime and human trafficking. A Nordic Model does not stigmatize the women in prostitution, but particularly strengthens their position against potential customers, because only the latter are committing a crime by purchasing sex and by turning others to sexual objects of their pleasure. This remains the only effective mechanism in preventing and combating violence associated to prostitution.[[18]](#footnote-18) The first element is a punishable prohibition of the purchase of sexual services (acts) in general, while the people who still offer sex will receive social support and alternative employment opportunities. This particularly strengthens the position of the women or people in prostitution against potential customers, because only the latter are committing a crime by purchasing sex and by turning others to sexual objects of their pleasure. The second element is the prohibition of all kinds of brothels or houses, apartments or places intentionally or under the knowledge (or awareness) of the owners reserved for prostitution as well as the brokering of or the advertisement for sexual services of a third party. This works best if these deeds are punished in the same way as human trafficking. The third element is a political one, for these juridical measures usually raise public awareness of many negative effects of prostitution: the injustice of buying sex, for the negative social and dehumanizing consequences for the people in prostitution, physical as well as psychological ones, and the degradation of those who have to bear one-sided and exploitative sex, usually females.[[19]](#footnote-19)

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