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Comments on the first Report of the Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children,

Sigma Huda:

“Integration of the human rights of women and a gender perspective,
E/CN.4/2006/62, 20.2.2006
for the 62nd Session of the Commission on Human Rights”.

As an NGO assisting trafficked women, we were very glad that a Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children, was appointed. We anxiously awaited her first report - and are therefore very surprised to see the outcome.

We do know and acknowledge that there is international dispute on the issue of sex work being work or not. According to her mandate the special Rapporteur needs to be strictly impartial and objective. Her opinion on Prostitution though so clearly biased and far from being neutral. According to us, she is herewith not fulfilling her mandate.

The special Rapporteur has not emphasized at all on the living and working conditions of trafficked persons which are accompanied by severe human rights violations. She has decided to ignore the reality of trafficked people and instead to focus her view on what she calls “prostitute users”. This term itself is very problematic - because it reduces sex workers to “usable” people; so basically degrades them to be goods. We would have expected more respect from a Special Rapporteur and regret this disrespectful use of language.

We were surprised to see, that the Special Rapporteur decided to gather data together with the Special Rapporteur on the sale of children. It is widely agreed upon, that living and working conditions of adult women are not comparable with those of male and female minors. The historical use of the phrase “women and children” is degrading for women and very problematic.

As a German NGO, we are also surprised to see, that the only German effort against trafficking mentioned in the report - is actually an effort to prevent child sexual abuse - not only in prostitution. It actually has very little to do with trafficking. It is a pity that the Special Rapporteur was not able to analyze the situation in Germany - we wonder whether the analysis of the other countries is a similar one.

We are also very surprised to see, that trafficking in industries other than the sex industry has not been considered at all. The Special Rapporteur is herewith actually ignoring the existence of the definition provided by the Palermo Protocol. By limiting her analysis to the sex industry she in a way also limits her report to Western Europe and North America. Trafficking on the continent of Africa and also in other parts of our world entails predominantly slavery like practises in labour other then the sex industry. As a special Rapporteur she has the responsibility to consider human rights abuses of all trafficked persons; she is therefore **not fulfilling her mandate**.

The Special Rapporteur apparently is of the opinion that “demand must be understood as that which fosters exploitation...” (51), therefore suggesting, that demand needs to be reduced or at least discouraged. Keeping in mind, that trafficking unfortunately can occur in basically every industry, is the Special Rapporteur seriously suggesting to **reduce the demand** for sex work, domestic work, agricultural work and marriage?

The Rapporteur mentions the risk that criminalisation can “push prostitution out of sight, thus making trafficking victims more vulnerable to human rights abuses”.(92) Unfortunately she does not further explore this risk nor comes up with recommendations on how to reduce this risk. As an NGO in a country where the sex industry is more or less legal - we would like to emphasize, that the **criminalisation of clients** would make it impossible for them to approach an NGO and /or authorities if they come across a trafficked woman.

The Rapporteur argues that legalized prostitution increases and emboldens the commercial sex industry (...) and thereby the demand for commercial sex and fuelling the sex - trafficking demand (97). In fact, in Germany there is **no evidence** that the amount of sex establishments has actually increased since the legalisation of the sex industry.

The Rapporteur finds it, “... based on her experience and investigations, evident that most prostitution is accomplished by one or more of the illicit means outlined in subparagraph (a) of the protocol and therefore constitutes trafficking” (48), but she does not give any references to this experience and investigations. As an NGO that assists trafficked women, we can say this is certainly not the case. Many women, whom we assisted, had agreed to work in the sex industry, and therefore do not complain about working in the sex industry, but do complain about their working conditions. Further one needs to keep in mind, that some women, who where initially trafficked - decide to work in the sex industry later.

We hope our disappointment over the report of the Special Rapporteur can be understood.

We also hope the next report does consider those people, whose fundamental human rights have been violated through trafficking.

We expect the next report to be more balanced and neutral and therefore proving, that the Special Rapporteur is actually fulfilling her mandate.

Sincerely,

Nivedita Prasad
(Project coordinator Ban Ying)