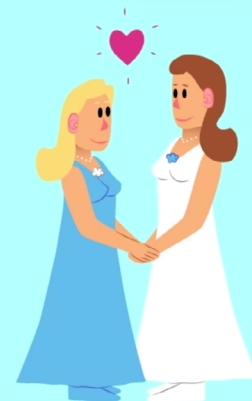


## The Implementation of the Women's Rights Convention in Switzerland

CEDAW Shadow Report by the NGO-Coordination post Beijing Switzerland

May 2021





Dachverband der Behindertenorganisationen Schweiz  
Association fédérale des organisations suisses de personnes handicapées  
Associazione mantello delle organizzazioni di persone con disabilità



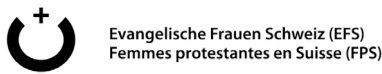
FRI Schweizerisches Institut für feministische Rechtswissenschaft und Gender Law  
FRI institut suisse d'études juridiques féministes et gender law  
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— FIZ Advocacy and Support for Migrant Women and Victims of Trafficking

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# Introduction

The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) was adopted by the UN General Assembly in 1979, entering into force in 1981. Switzerland signed the Convention as early as 1981, but only ratified it in 1997. In addition, Switzerland ratified the Optional Protocol in 2008, which entered into force in 2000. This enables two procedures whereby individual women or groups can report national legal violations concerning CEDAW directly to the CEDAW Committee. In addition to the legally binding Convention, the Committee drafts General Recommendations on various topics which serve to interpret the Convention. These are not legally binding and are considered "soft law".

The Convention contains a mechanism for monitoring its implementation in the States Parties. In a four-year cycle, states report to the Committee on the status of implementation of the Convention in their own country, including on the implementation of recommendations made to the state by the Committee. Switzerland is now in the cycle of the 6th State report, which was submitted at the end of November 2020.

In November 2019, the CEDAW Committee drafted a list of issues for Switzerland, the so-called list of issues prior to reporting, or LOIPR. Civil society was able to contribute to this process. The questions are based on the recommendations (Concluding Observations) that the Committee made in response to the last State Report in 2016. The LOIPR serves as a template for the State Report. This means that Switzerland can focus on the topics and questions raised in the LOIPR in its state report.

## The shadow report

The NGO Coordination post Beijing Switzerland, as an umbrella organisation, submits a shadow report, i.e. an alternative report to the State Report, with the participation of its members and other experts. The report is preceded by monitoring. It serves to observe whether the state is complying with its obligations, implementing recommendations or violating commitments. Good monitoring can build political pressure and is halfway to a shadow report. This in turn helps civil society to point out demands, grievances and gaps and to advance gender equality in Switzerland.

The purpose of a shadow report is to provide information on the status of implementation and possible measures for improvement. This is not only with regard to the status in Switzerland, but also in comparison to the information in the State Report. It is a critique of the State Report.

The shadow report is thus composed of the findings of the moni-

toring carried out since the last cycle. In order to present a good shadow report, whose demands are taken up by the Committee and which leads to new recommendations to Switzerland, gaps in the State Report must be highlighted and it must be supplemented with civil society observations and demands. Misrepresentations and divergences between the state and civil society should be highlighted.

This shadow report was drawn up by the NGO-Coordination post Beijing Switzerland, a network of 35 CSOs, as well as other invited expert CSOs<sup>1</sup>. The reporting relates to the period 2016-2020 and does not reflect political and legislative developments and decisions in the first half of 2021. The structure of the report is based on the List of Issues of the CEDAW Committee.

Our perspective is an inclusive and intersectional one: by the term "women" we refer to persons who identify fully or partially as female, are always or sometimes read by others as female, and/or have been/are raised as girls/women. By this definition we explicitly include trans persons as well as intersex and cisgender women. If not explicitly mentioned, we read the term women in an intersectional way. Furthermore, intersectionality is understood to be transversal in relation to all the issues raised.

Because of Switzerland's federalist nature, the implementation of gender equality as well as measures and laws against discrimination and violence are repeatedly hampered and delayed.

For practically all the topics, data is lacking, especially with regard to intersectionality.

**Recommendations to Switzerland are presented in these boxes.**

<sup>1</sup> Inclusion Handicap, Fachstelle Zwangsheirat – Kompetenzzentrum des Bundes (Swiss Centre of Competence against Forced Marriage), Netzwerk gegen Mädchenbeschneidung Schweiz.

# General

## Data collection

Trans and especially non-binary people and intersex women are not included in any data collection at the Federal level (except HIV infections and hospitalisations under the diagnosis “transsexualism”) and only in extremely few cases on the cantonal/municipal level.

**Integrate trans and non-binary people as well as intersex women into its data collection, which must provide consistently disaggregated data (sex, gender, age, disability...) in order to leave no one behind.**

## Visibility of the Convention

For the first time in Switzerland, there is an explanatory film that translates the message of CEDAW into easily understandable images. It is intended to make CEDAW known to a broad public. The clip was launched by the NGO-Coordination post Beijing Switzerland in cooperation with the Federal Commission for Women’s Issues.<sup>2</sup>

## Legislative and policy framework

There are still many legal provisions in Switzerland that provide for different legal consequences for “men” and “women”, without there either being any valid reason for doing so or clarifications of the terms “men” and “women”. Swiss laws include terminology that lacks precision in its application to trans persons (e.g. who is a “person of the same sex” as a trans female person with male legal gender and androgynous gender expression?; refusal of Federal law makers to use the international term “gender identity” as a general reference to trans persons) or overlooks their existence (e.g. references to “motherhood” ignore trans men’s pregnancies). In addition, Swiss law does not provide for non-binary people. It requires registration as “female” or “male” and uses binary terminology in its legislation.

**Make sure legal terminology is precise and non-discriminatory. To this aim: when referring to everyone, use language explicitly inclusive of non-binary persons instead of masculine and feminine terms only. When referring to specific groups only, use precise terminology, especially the term “gender identity” (not “sex”) when referring to trans persons and the term “sex characteristics” when referring to intersex women/men/non-binary, and refrain from stereotype-based references applying to majority groups only.**

<sup>2</sup> [CEDAW in brief - the UN Convention on the Rights of Women and Switzerland.](#)

In 2021, the Federal Council intends to adopt a national strategy for gender equality. The first draft was available to a selected group of NGOs. Unfortunately, this draft was limited to the issues of equal pay, reconciling family and work and combating violence and sexism – the issues that the Federal Office for Gender Equality already deals with today. The first draft focuses in large parts one-sidedly on working life and leaves central issues unaddressed, above all the question of how the redistribution of unpaid (care) work from women to men can finally be advanced. The draft cements a binary gender order in which there are no other gender categories except “man” and “woman.” And it ignores the recognition that gender-based discrimination and violence must always be considered and addressed intersectionally. There has been no democratic participation process so far: apart from the small circle of NGOs, civil society with its professional expertise has not been included in the elaboration process.

**Develop a gender equality strategy with the participation of NGOs, activist networks, specialised agencies and academia, covering a broader range of issues and taking into account diversity of gender identities, sexual orientation and sex characteristics as well as intersectionality.**

## Access to justice

A short study<sup>3</sup> by the Swiss Centre of Expertise in Human Rights shows that significantly fewer women than men are involved in proceedings before the Federal Court. The imbalance is particularly strong in the areas of road traffic, in the Federal Act on Foreign Nationals and Integration or in criminal procedure law, but also in family law, debt collection cases or contract law.

Rights-related awareness-raising (State Report para. 25) fails to reach a significant number of women with disabilities, in particular those living in institutions. Based on denial of capacity to act or capacity of judgment, procedural standing and capacity to testify can be disallowed. Support in the exercise of legal capacity is lacking and procedural or communication accommodations are not granted systematically. In addition to the denial of legal capacity, deep-rooted prejudices and a lack of expertise by judicial authorities make them more likely to question the credibility of victims and witnesses with disabilities and thereby potentially deliver miscarriages of justice.

**A better understanding of these research results requires a uniform methodology for collecting data from all courts. Furthermore, factors such as age, profession, origin or educational**

3 SKMR (2019): Weniger Frauen als Männer vor Bundesgericht, Kurzstudie: Auswertung von 4383 Urteilen.



**background of complainants should be analysed. Questions inherent in the system need to be clarified: what role does the low proportion of female judges and judges belonging to minorities in the supreme court play, or the level of procedural costs?**

**Greatly increase awareness-raising efforts towards all women with disabilities as well as towards judges, and provide professional, independent support in the exercise of legal capacity instead of denying it.**

## Extraterritorial obligations

Activities of multinational corporations time and again cause human rights violations and environmental damage. The adoption of the UN Guiding Principles on Business and Human Rights in 2011 led to a paradigm shift. Since then, it has become clear that voluntary commitments to corporate social responsibility are not enough. In line with the Guiding Principles, the Swiss Responsible Business Initiative called for corporations based in Switzerland and their subsidiaries to be held liable for human rights violations or environmental damage, including abroad. Those affected should be able to file a complaint in Switzerland. The initiative won the popular vote on 29 November 2020 but not the majority of cantons, and was subsequently rejected. The counterproposal that will now instead be implemented foresees reporting and due diligence obligations in thematic areas of conflict minerals and child labour for Switzerland-based companies. However, contrary to the initiative, there is no legally binding accountability mechanism in cases of human rights violations and environmental damage abroad.

Human rights violations and environmental damage have gendered effects, and have specific impacts on women. Women are affected by precarious and exploitative working conditions, sexualised and gender-based violence (SGBV) and lack of protection against it. The larger proportion of people working in agriculture are women, who are consequently exposed to human rights-related violations, especially in situations of land grabbing.

Due to their gendered roles and economic and social conditions, women are particularly strongly impacted by environmental damage. They bear the main responsibility for care work. The conditions under which care work is carried out are affected by environmental damage.

**Ensure that multinational corporations based in Switzerland and their subsidiaries abroad comply with human rights and environmental standards. Violations against these standards must have consequences and corporations must be held accountable for human rights violations and environmental damage caused. Binding legal instruments are necessary; voluntary commitments to corporate social responsibility are not enough.**

# Women, peace and security (WPS)

## Arms (trade) and sexualised and gender-based violence (SGBV)

Studies<sup>4</sup> show that the availability of arms exacerbates violence in general and gender-based violence in particular. Even though Switzerland is promoting human rights, it continues to export arms which are used for human rights violations in the receiving country or diverted or transferred to other destinations.

**Limit access to (fire)arms in Switzerland.**

**Commission an in-depth independent study on the link between the arms trade, arms possession and gender-based-violence.**

**Consider its conflicting position as both an arms exporting country and a defendant of human rights.**

**Develop a monitoring system to make sure that arms exports do not downgrade the safety of women in the receiving country at the moment of transaction or later.**

## Prevention of Violent Extremism (PVE)

There remain major concerns about the integration of the "Women, Peace and Security" (WPS) and the "Prevention of Violent Extremism" (PVE) agendas. The PVE security architecture risks reproducing the masculinistic logic of state-centred security approaches. In addition, the unclear definition of what constitutes "violent extremism" enables the expansion of states' legal and political powers, which poses risks to human rights and contributes to the narrowing of civil society space. Anti-Muslim racism has been on the rise since the beginning of the "global war on terror". In Switzerland and elsewhere, domestic PVE agendas have come under scrutiny for the ways in which they conflate Islam with "violent extremism" and for their often exclusive focus on Muslim communities, even as violence enacted by right wing nationalists and white supremacists is on the rise.

The Federal Council and Parliament propose a new Federal law on police measures to fight terrorism (Bundesgesetz über polizeiliche Massnahmen zur Bekämpfung von Terrorismus PMT) which will be put to the vote on 13 June 2021. The proposed law is highly problematic. The proposed legislation violates human rights standards by expanding the definition of terrorism to non-violent acts and potential future danger.<sup>5</sup> The proposed preventive measures even affect children. The law would set a dangerous example for authoritarian governments suppressing political dissent. It is formulated in a vague way and opens the door to abuse and discrimination such as the tar-

4 Eg.: Markwalder, Nora; Killias, Martin (2012): Firearms and Homicide in Europe. In: Marieke Liem and William Alex Pridermore (eds.): Handbook of European Homicide Research: Patterns, Explanations, and Country Studies. New York: Springer, pp. 261–72.

5 OHCHR (2020): Switzerland's new "terrorism" definition sets a dangerous precedent worldwide, UN human rights experts warn.

getting of certain groups of people and an increase in racial profiling. This would particularly affect racialised groups, including racialised women. Furthermore, the law does not promote security but arbitrary police action, and money spent on such measures could instead be spent on measures to contribute to women's genuine security. In addition, women's inclusion in PVE largely happens without addressing structural gender inequality, which constrains women's political participation in the first place.

- **Ensure that the state's PVE policy reflects the concerns of women and women's organisations and does not harm women, women's rights, children's rights, and civil society.**
- **Carefully consider the recommendations regarding the link of the WPS and PVE agendas made in the civil society report in the context of the current Swiss NAP 1325.<sup>6</sup>**
- **Analyse gendered dynamics of conflicts, including the role of masculinities in the prevention and perpetration of violence. Switzerland should be cautious not to promote violence prevention programming which reinforces gender stereotypes.**
- **Ensure that the state's legislation and police practices are not discriminatory and are in line with international human rights standards.**
- **Recognise and combat the problem of racial profiling and police violence.**
- **Address negative connotations and impacts of PVE and Counter Terrorism (CT) strategies, including the issue of shrinking civil society space and human rights violations caused by CT and PVE legislation and practice.**

#### Participation of women in peace processes

We understand peace promotion as being inseparable from gender justice. Peace must be understood in its broadest sense (positive peace), constructed on a daily basis and must fight structural and cultural violence. Thus the meaningful participation of women, general participatory processes and an intersectional perspective are essential for the sustainability of social cohesion and peace. However, the participation of women in peace processes and political life remains consistently low.

- **Take concrete steps to enable the participation of women and not only encourage doing so (as stated in the Swiss NAP report).**
- **Take measures to ensure participation from grassroots to senior levels.**
- **Include women in every decision-making process, which also applies to critical situations such as the COVID-19 pandemic.**

<sup>6</sup> [cfd, KOFF, PWAG \(2019\): Women, Peace and Security and the Prevention of Violence: Reflections from Civil Society in the Context of the Fourth Swiss National Action Plan 1325.](#)

[cfd, KOFF, PWAG \(2019\): Policy Brief. Women, Peace and Security and the Prevention of Violence: Reflections from Civil Society in the Context of the Fourth Swiss National Action Plan 1325.](#)

# National machinery for the advancement of women

Parliament has started, with some delay, its consideration of the law proposed by the Government for creating an independent national human rights institution (NHRI). However, the current proposal falls short in terms of the comprehensive nature of its mandate as well as the necessary financial autonomy of the future NHRI. Both in terms of the amount foreseen and the failure to provide multiyear funding, most experts believe the NHRI will not be able to fulfil its broad mandate.

The existence of gender equality offices in the cantons is repeatedly called into question. Among other things, the gender equality office in the canton of Aargau was abolished in the course of budget restructuring<sup>7</sup> and the Canton of Zug still does not have an office dealing with gender equality, contrary to CEDAW obligations.

**Create, in law, an independent national human rights institution (NHRI) with the necessary broad mandate and financial autonomy to obtain A-status under the Paris Principles. Gender equality including SGBV should be fully integrated in the mandate and functioning of the NHRI.**

**Every canton needs a specialist office for gender equality.**

## Temporary special measures

In Switzerland, quotas are well known for other criteria but are often not called as such. For example, the representation of the different language regions is a self-evident fact in many political areas, but is not referred to as a "language quota". To date, there is no political majority for the introduction or implementation of quotas to achieve equality of women and men in politics.

In critical situations, equal representation is ignored or made second priority. The unequal gender composition of the Swiss National Covid-19 Science Task Force is only one example. The minimal presence of women in the taskforce, expert group and departmental staff violates the constitutional article on gender equality and the CEDAW convention (only 2 out of 14 members were women in the departmental staff group).

Insofar as (un)equal representation and societal participation of women and men is mentioned publicly at all, intersectionality seems to be left out.

<sup>7</sup> [Media release on the merger of the specialised agencies of the Canton of Aargau.](#)

**Introduce time-bound goals and quotas for areas in which women, including women with disabilities, Roma women and migrant, asylum-seeking and refugee women, are underrepresented or disadvantaged (political, public and private sectors).**

## Stereotypes

### Leisure time and sports

The Federal Government's data on institutionalised voluntary work shows that women are more likely to carry out basic tasks than men and men more often perform executive tasks in comparison to women. Additionally, women are more likely to be involved in social organisations compared to men, who are more likely to choose cultural or sports organisations.

Sports make up a large part of leisure activities and are part of professional life in which girls and women are still severely disadvantaged. In a study<sup>8</sup> about trans people's experiences in sports, 75% reported negative experiences and 10% verbal, physical, or sexual violence.

- Collect data on gender distribution within the voluntary work sector in relation to basic and managerial tasks and on holiday regulations for young people (Art. 329e OR).**
- Collect data about the representation of migrant women and women with disabilities in leisure activities.**
- Be aware of different forms of leisure activities (e.g. dance classes or culture clubs) and support them in ways equal to soccer clubs and other well-known leisure activities.**
- "Jugend + Sport" brochures have to be checked for gender-neutral presentation and the avoidance of stereotypical role models.**
- Support and promote girls and women in non-stereotypical sports.**
- In particular, in the context of "Jugend + Sport", make sure that female and male participants of sporting activities benefit equally from Federal subsidies.**
- "Jugend + Sport" has to make sure that stereotypical sporting activities attain greater gender equality.**
- Take measures to allow trans people's participation in sports at all levels, free from violence and discrimination.**

### Religion

The Roman Catholic Church and evangelical circles contribute to discriminatory stereotypes. Traditional gender roles of men and women and heteronormativity are portrayed as the divine order of creation; a negative image of women and LGBTIQ women/men/non-binary persons is being portrayed that continues to be felt even today

8 IGNS (2020): Transmenschen im Sport: Hindernisse und Bedürfnisse.

in the secular sphere. Due to the exclusion of women from ordination, the Roman Catholic Church also violates the state equality law. As a new Swiss study<sup>9</sup> shows, religion has a decisive influence on young men's propensity to violence.

**The freedom of religion and of religious communities must not be valued higher than the constitutional principle of gender equality.**

#### Body image and representation

Assumptions of what a woman's body must look like are still prevalent. Examples are the physical descriptions in the media of women with a position in public office compared to men in similar positions, and transphobia. These assumptions are linked to a variety of stereotypes, for example about body size, gender expression, sex characteristics (intersex), age or Black women.

**Commission studies to spread knowledge about such experiences of discrimination and its consequences, as well as prevention campaigns against such discrimination and hate speech.**

#### Sexist reporting and advertising in the media

Gender equality in the media is still lacking in structural terms and in terms of content. There is also a lack of strategic involvement from the media on the problem of gender stereotyping. The media (and advertisers) have a wide-ranging impact and an opportunity to create a different, alternative image to that of the classic role model and to play a decisive role in challenging gender stereotypes and transphobia. Media coverage of trans people is still too often based on stereotypes, such as focusing on medical gender affirmation, is non-objective and conflicts with scientific knowledge, and increasingly attacks the dignity and rights of trans minors. Lesbian women are being increasingly pushed into invisibility as they are clearly under-represented in the media compared to cis gay men. Women with disabilities are often ignored or portrayed in a very limited range of roles. Where disability is highlighted, the women concerned are considered as if they were genderless.

Although action is being taken, such as the proposed law against sexist advertising in the Canton of Vaud, it remains marginal. Neither journalists nor advertisers are currently trained on the issue and there is no Federal funding to support associations which aim to prevent this. Moreover, no mention of this issue appears in the Electronic Media Act. There is an objectification of women, a reinforcing of the binary system, differential treatment of men and women and, even worse, a continuation of rape culture in the news media and advertising.

<sup>9</sup> Baier et al (2019): "Toxische Männlichkeit": die Folgen gewaltlegitimierender Männlichkeitsnormen für Einstellungen und Verhaltensweisen.

- **Challenge stereotypical and harmful representation of LGBTIQ and persons with disabilities and the discrimination against them.**
- **Develop specific means in order to eliminate discriminatory stereotypes against women, in particular with regard to the establishment of an education strategy for media professionals.**
- **Prohibit sexist advertising promoting discrimination and violence, especially against women. This requires effective institutional instruments in addition to the existing commission.**
- **Provide basic training for PR professionals and journalists on the topic of violence against women.**

### Culture and history

Switzerland's patriarchal ideas of gender roles are preserved, maintained, and passed on in historical and cultural documentation, museums, and monuments. Throughout history, images of women have been passed on that show them in the role models desired by the system. Normative and received gender specific ideas and images are still used in all types of media, commercials, and teaching materials. In addition, women who did not live according to the societal norm are rarely documented in archives in accordance with their true impact on Switzerland.

As a result of historical perceptions of the state and the ability to remember, historical documents about women's activities have been and continue to be rarely archived and are often difficult for historians to access.

- **Oblige historical institutions to produce documentation that illustrates women's impact on cultural heritage and history.**
- **The motion 19.3627 calls for the development of a concept for a women's museum or a house of women's history yesterday – today – tomorrow. The motion must be adopted by the Councils, so the work on the history of women in Switzerland may be developed to counteract stereotypes and to replace them with a realistic perception.**
- **The archiving of archival holdings by and about women must be guaranteed.**

## Harmful practices

### Female genital mutilation/cutting (FGM/C)

FGM/C is prohibited in Switzerland, even if committed abroad (Art. 124 Swiss Criminal Code). There has been one court ruling under Art. 124 since it came into force in 2012.<sup>10</sup> In 2019 a first conviction at the Federal Court put into practice the far-reaching universality principle

<sup>10</sup> Rapport du Conseil fédéral donnant suite au postulat 18.3551 Rickli Natalie du 14 juin (2018): Mesures contre les mutilations génitales féminines, Novembre 2020, p. 22f.

contained in Art.124 for FGM/C.<sup>11</sup> In 2018 approximately 22,410 girls/women in Switzerland were affected or threatened by FGM/C.<sup>12</sup> The Federal Council has agreed to continue its financial support of the Network against Female Genital Cutting Switzerland.<sup>13</sup> There is still a great need for systematic and sustainable action against FGM/C. The support, protection, and prevention of affected or threatened girls/women depends on the canton and its professionals and is restricted, especially for asylum-seekers and undocumented migrants. Specialised victim assistance is not available if FGM/C was done to the woman/girl when she was not residing in Switzerland. The Support for Torture Victims mentioned in the State Report (para. 66) is not specialised on FGM/C.

**Implement the measures from the Swiss government report of 11.2020 on FGM/C.**

**Improve data and monitoring of FGM/C.**

**Victim assistance needs to be available when FGM/C was done to the woman/girl at a time when she was not residing in Switzerland.**

**Cantons need to increase their measures against FGM/C in coordination with the Swiss Network against FGM/C.**

**FGM/C should be part of the curricula for the training of relevant (health) professionals.**

#### Intersex genital mutilation/cutting (IGM/C)

There is no legal ban of IGM/C-practices in Switzerland. Health problems of intersex women (and men) result from these interventions (e.g. hormone replacement therapies, psychological trauma). The children concerned and their families are denied access to adequate psychosocial support and empowerment. The recommendations of the National Ethics Commission have not been implemented yet. To date, no reliable figures on IGM/C practices are available. Comparable data exists for Germany. We recommend considering InterAction's detailed report. "Intersex" is an identical term to "Variations of sex characteristics (VSC)" and should be distinguished from "LGBT" or non-binary identity.

**Legally ban any modification of sex characteristics of a child and forced sterilisation of intersex girls in the Swiss Criminal Code. Provide adequate compensation to intersex women and men affected by IGM/C.**

**Provide detailed and independent data on IGM/C and on any modifications of sex characteristics of a child, by age at the time of the intervention, sex, type of intervention, variation present, clinic of hormonal/surgical treatments since 2006.**

**Provide families of intersex children with adequate counselling and peer-to-peer support.**

11 Judgement from the federal court ([CPEN.2018.76](#)).

12 [Rapport du Conseil fédéral donnant suite au postulat 18.3551 Rickli Natalie du 14 juin 2018, Mesures contre les mutilations génitales féminines, Novembre 2020, p. 16.](#)

13 [Ibid. p. 61 f.](#)



- **Extend the retention period for medical records to a minimum of 40 years after a person comes of age.**
- **Guarantee access to healthcare for adult intersex women (and men).**
- **Recognise variations of sex characteristics as a healthy variation of the human body in medical curricula.**

#### Forced and early marriage

Early and forced marriage is on the rise. In 2020 the Swiss Centre of Competence against Forced and Child Marriage noted more cases than ever – 361 afflicted persons have been counselled and accompanied. In these cases, as in previous years, minors make up a third of the annual total. In addition, religious weddings that take place before the civil marriage are, as of late, occurring more frequently. Often, it is minors who are affected. Even if betrothals and religious marriages are not legally binding in Switzerland, they are regarded as mandatory by the involved families. With the adoption of motion 20.3011 by the Swiss Parliament, the time of the wedding would become the relevant point of reference. Hence a marriage of a fourteen-year-old would no longer result in legal recognition in a Swiss court two years later through the process of the weighing of interests for 16- and 17-year-olds. Also, motion 20.3011 calls for the cancelling of said weighing of interests for those between 16 and 18 years, who were married abroad and for their marriages to be annulled. Additionally, the Federal Council suggested that child marriage should be only automatically “cured” (legal term for “recognised”) when the person who was forcibly married or married before the legal age turns 25 – instead of an automatic recognition of the marriage at the age of 18, as it is currently handled. Another problem relates to the fact that non-citizens who have gone abroad or were lured into going abroad and possibly forced into a betrothal or marriage stand to lose their right to return to Switzerland and the right to unlimited residence after having stayed abroad for six months. According to the statistics supplied by the Swiss Centre of Competence against Forced Marriage, approximately 80% of those affected were born and/or raised in Switzerland.

- **Cancel the weighing of interests for 16- to 18-year-olds who have been married abroad.**
- **Set the moment when a marriage is concluded as the relevant point of reference.**
- **Implement automatic (legal) “curing” only after afflicted persons reach the age of 25 years.**
- **Launch sensitisation campaigns regarding religious weddings taking place before the civil marriage.**
- **Prohibit betrothals of minors in Switzerland.**
- **Extend the right to return for those persons who have been lured or brought abroad and held captive there for marriage/betrothal purposes.**

# Gender-based violence against women (GBV)

In Switzerland at least 59% of women experience sexualised harassment. A minimum of 22% of women experience sexual violence in the legal sense. At least 12% of women experience intercourse against their will<sup>14</sup>. Every second week there is a femicide and every week a reported attempt of femicide.<sup>15</sup> Women who experience multiple discrimination have an even higher risk of GBV: women with disabilities, trans and intersex women, and refugees suffer from high rates of GBV, even if data is often completely lacking.

**Provide systematic and inclusive data on sexualised violence (with reference to age, gender identity, including non-binary), gender expression, sexual orientation, intersex variations (VSC), disability, residence permit, the place of the incident (domestic/public/institutional, and home or centre (for elderly or disabled people, asylum-seekers, or detention centres). Ensure that specific, adapted measures are taken. Ensure regular and systematic surveys on all sexualised violence, not only for cases of offences against the penal code. Only this way can the number of unreported cases be reduced, the true extent of GBV be recognised, and appropriate measures be taken.**

**Take measures to encourage the reporting of GBV, including training police forces, prosecutors, and courts.**

**Conduct qualitative research on the diversity of GBV victims.**

**Ensure a human rights-based approach, the scientific quality and sufficient funding of the report on violence against persons with disabilities in Switzerland.<sup>16</sup>**

**Launch regular public and national campaigns against off- and online GBV that include the specific groups concerned.**

**Ensure mandatory training of caregivers, security and medical staff on GBV and violence against LGBTIQ.**

**Ensure early identification of victims of violence, including early measures for the support and protection of the victims.**

**Ensure early triage of all victims of violence to specialised services, regardless of where the violence happened and regardless of their residency status.**

## Definition of rape

The Swiss Criminal Code limits victims of rape to "person of the female sex", interpreted by the Federal Court as persons with a vagina, leaving open whether women without a vagina and people of other genders with a vagina are covered by this definition. Refugee

<sup>14</sup> Gfs Bern (2019): Sexuelle Belästigung und sexuelle Gewalt an Frauen sind in der Schweiz verbreitet. Im Auftrag von Amnesty International.

<sup>15</sup> Polizeiliche Kriminalstatistik 2009-2019, Stopp Femizid.

<sup>16</sup> See the respective postulate by member of the National Council Franziska Roth.

women and LGBTIQ refugees also suffer disproportionately from GBV, including within the asylum system.

The proposed revision of the sexual criminal code by the Parliamentary Commission in the Swiss Parliament refrains from putting consent at the centre of the definition. The proposed revision does not provide a basis on which all sexual acts against the will of the involved persons, regardless of their gender identity and sex characteristics, can be adequately prosecuted.

**Recognise in law any vaginal, oral or anal penetration without consent as rape, regardless of the gender identity and sex characteristics of the person concerned.**

**Classify other serious sexual acts without consent as sexual assault (Art. 189)<sup>17</sup>.**

#### National Action Plan (NAP)

GBV/domestic violence makes up around half of the reported violent crimes<sup>18</sup>. The measures often fall short, and resources are insufficient. There is a lack of political will to put in place a NAP on SGBV. The steps towards the implementation of the Istanbul Convention do not eliminate the need for a NAP on GBV. There is no comprehensive and intersectional national gender strategy.

**Build a NAP on off- and online GBV including dimensions of multiple discrimination (sexual orientation, gender identity, age, nationality, disability, race, etc.) and elaborate specific measures.**

**Provide adequate human, technical and financial resources for the implementation, monitoring and assessment of the NAP.**

**Define harmful practices in the NAP.**

**Include in the NAP measures to raise awareness about intersex variations (VSC) at all levels, including in medical curricula – and particularly FGM/C and IGM/C as harmful practices.**

**Include civil society actors in the elaboration and implementation of the NAP.**

#### Training/sensitising authorities

The training of state authorities, including criminal prosecution authorities at Federal, cantonal, and municipal levels, does not systematically include GBV and discrimination against LGBTIQ persons. There is a lack of guidelines on how to work with GBV and discrimination based on gender and sexual orientation. A certain amount of training for authorities on hate speech and GBV has been introduced<sup>19</sup>, albeit with limited access. Institutions on the cantonal level (police, social services, schools, etc.) reproduce harmful practices (racial profiling, sexism, ableism, etc.).

<sup>17</sup> [Vernehmlassung Revision Sexualstrafrecht.](#)

<sup>18</sup> [Polizeiliche Kriminalstatistik \(PKS\): Jahresbericht 2020 der polizeilich registrierten Straftaten | Publikation | Bundesamt für Statistik \(admin.ch\)](#)

<sup>19</sup> [Infotagung zur polizeilichen Prävention; Kantonales Bedrohungsmanagement.](#)

Research and various recent media reports<sup>20</sup> show that persons with intellectual disabilities who have experienced sexual violence have little chance of obtaining justice in criminal proceedings, and that judges tend to treat women and child victims with intellectual disabilities in a discriminatory and sometimes blatantly degrading manner.

**Provide regular, systematic, and mandatory training on GBV and discrimination against LGBTIQ persons for state authorities and provision of binding guidelines.**

**Define privileges, intersectionality, and multiple discriminations as part of compulsory training for new state employees and of continuous training programmes.**

**Provide pedagogical material for all levels of school education on non-stereotypical roles, GBV and LGBTIQ.**

#### Hate crime

Hate crimes against LGBTIQ people are a widespread reality in Switzerland: in 2019, 66 hate crimes were reported to an NGO helpline, of which only 18% were reported to the police<sup>21</sup>. Specific studies on hate crimes against intersex women/men/non-binary persons in Switzerland are completely lacking.

**Collect data for hate crime in cooperation with LGBTIQ NGOs.**

**Take measures against anti-LGBTIQ hate crimes.**

#### Digital violence/hate speech

A study by the city of Lausanne shows that 16% of 16-year-olds have experienced cyber bullying. This kind of violence results in post-traumatic stress disorder. Harassment is primarily directed at vulnerable groups and women. Hatred on the internet affects all minorities, including LGBTIQ.

**Consider all forms of off- and online expressions to be tackled by measures against GBV.**

**Launch awareness campaigns by public institutions with the input from experts and peer groups/organisations.**

**Make sure that social media companies ensure the safety of their users.**

**Research the number of of hate-speech or violent contents on platforms, trace short and long-term potential spikes to assess their connection to offline events.**

20 Niehaus/Caviezel Schmitz/Krüger (2014): Zur Situation geistig behinderter Opfer sexueller Gewalt im Strafverfahren: Unwissen erschwert die juristische Arbeit. In one case at the cantonal level from 2018, the court justified a relatively lenient punishment of a man for sexual acts with a child i.a. by arguing that the consequences of the acts for the victim „probably did not turn out to be very serious“ due to her mental impairment.

21 Pink Cross, TGNS, LOS (2020): Hate Crimes an LGBTQ-Menschen in der Schweiz.

## Implementation of the Istanbul Convention

The Istanbul Convention must be implemented fully and in a non-discriminatory and non-arbitrary way, including on grounds of gender identity or FGM/C, IGM/C or residency status (see article 4 IC). The reservations must be withdrawn.

- Implement the IC fully and without discrimination for all victims of violence, independently of their residency status.**
- Guarantee access to specialised support services for women/girls who suffered violence abroad.**
- Withdraw the reservations on Art. 59 IC regarding an independent residence status for victims of partner violence.**

## Protection

Cases from legal counselling point to large gaps in terms of independent reporting/contact points for women living in institutional settings. When reporting incidents of violence to the designated cantonal ombuds services, women with disabilities and their relatives regularly experience a certain proximity of those services to residential homes; victim support services, on the other hand, often declare themselves not competent for these cases.

There are hurdles in the access to victim support and protection services (availability, language, means of communication, limited area of responsibility, etc.). There are not sufficient places in shelters for both women and girls<sup>22</sup>. The differences between the cantons are huge. There is only one specialised shelter for LGBTIQ (youth; Le Refuge, Geneva). There is a need to fund psychosocial support and readaptation programmes. These services must be accessible in all cantons for women with disabilities as well as refugees, substance users, mothers with adolescent sons, etc.

- Take measures to encourage the reporting of GBV.**
- Provide all women and girls living in institutional settings, including residential homes and psychiatric hospitals, with information on their rights and on reporting procedures.**
- Establish a low-threshold reporting procedure accessible for women and girls with all types of disabilities in all institutional settings that allows them to confidentially contact the nearest victim support service.**
- Regularly and systematically monitor all institutional settings in order to prevent women and girls from abuse and violence.**
- Ensure adequate provision and secure funding for women's shelters, specific girls' shelters, and specific LGBTIQ shelters throughout Switzerland.**
- Ensure that shelters are accessible to women and girls with disabilities, refugees, substance users, mothers with adolescent sons and other groups with specific needs. Provide funding**

for specific infrastructure and training of staff.

Provide funding for follow-up solutions.

Ensure fully inclusive and accessible victim support services for all women and girls, including women living in institutions (especially for elderly women, refugee women, women with disabilities and incarcerated women). Provide specific staff training.

Establish a 24-hour nationwide counselling service that is easily accessible for all, including for women and girls with all types of disabilities, and barrier-free websites.

## Human trafficking

Only parts of the 2017-2020 National Action Plan (NAP) on human trafficking have been implemented. Future measurements regarding a subsequent NAP are unclear.

Two crucial gaps remain concerning victims of trafficking (VOT) in the asylum procedure: i) the State Secretary for Migration refuses to establish contact with victim support organisations in cases of suspicion of trafficking. ii) When trafficking in human beings has occurred abroad, VOT have no access to victim support. In addition, short deadlines and the precedence of Dublin Procedures over the human trafficking protection framework discriminate against VOT who were exploited abroad and who fall under the Dublin-III-regulation. Short-term permits are issued for victims collaborating with the law enforcement authorities.

A VOT can usually stay in Switzerland for the duration of the criminal procedures. Afterwards, victims can apply for a humanitarian permit. This extensive procedure contradicts the need for stability and protection. The positive decision regarding a humanitarian permit depends upon the goodwill of the cantonal and national authorities. There are persistent cantonal disparities concerning identification, the granting of residence permits, protection and/or adequate assistance.

Generally, no data is available on victims of trafficking with disabilities, nor on related identification practices and the provision of disability-sensitive protection, support, and assistance.

Ensure that all victims of trafficking can access protection and specialised assistance regardless of place of exploitation, cantonal responsibility, residence status, disabilities, Dublin regulations or criminal proceedings.

# Exploitation of sex workers

The situation regarding trafficking in women and exploitation in sex work has not improved. The increased regulation of the sex industry is creating more repression. Sex work carries more risks. However, since a court ruling in 2021, sex workers can sue for their wages in court if the client refuses to pay.

**Improve sex workers' working conditions by acknowledging their work as a profession, providing access to support, health care, and justice.**

# Participation in political and public life

In politics, women continue to be underrepresented in the government and in parliament at the national, cantonal and municipal levels; trans persons are (completely) absent. According to statistics published by the Federal Office in 2020<sup>23</sup>, women make up 24.7% of cantonal governments. Women's representation in cantonal parliaments is 30%.

In cantonal and municipal parliaments, maternity pay policy is very irregular and, in some cases, not regulated at all. Compensation for Members of Parliament is not always covered by social insurance, and there is a lack of rules on maternity cover.

Women in political bodies are often subjected to sexual harassment, bullying and hate speech.

**Aim to ensure adequate representation of (intersectional) minorities, such as LGBTIQ women, women of Colour and women with disabilities.**

**Take efforts to increase the number of women in elected decision-making bodies at all levels and to achieve equal representation of women and men in political and public life.**

**Adopt proactive measures to address the structural obstacles to the achievement of substantive equality of women and men in political and public life.**

**Take measures to ensure that there are more women on the boards of trustees of pension funds that decide on assets and benefits.**

**Ensure the adequate representation of women affected by multiple, intersecting discriminations in public and political life.**

**Take measures to improve the reconciliation of family, career and political activity.**

**Consolidate maternity pay and maternity representation regulations for women parliamentarians at all levels as well as social insurance for maternity benefits.**

**Mobilise more women in rural areas.**

**Protect women who hold political office from bullying, stalking and hate speech.**

According to research<sup>24</sup>, parity has not been achieved among judges in Switzerland, i.e. the statements in the State Report are wrong. This is because the statistics of the Federal Statistical Office are (in this case) inaccurate and not differentiated enough. There is no trans or intersex judge at any level of the state.

- **Compile detailed and more differentiated statistics on women judges in Switzerland.**
- **Ensure that there are no more courts without professional female judges.**
- **Ensure an adequate representation of women judges at higher instances and in all divisions.**
- **Provide part-time work options for judgeships.**
- **Aim to ensure adequate representation among judges of (intersectional) minorities, such as LGBTIQ women, Black women and women of Colour, women with disabilities.**

## Education

### Educational material

Teaching materials often still include stereotypical roles, families, bodies and expressions and may be freely selected by teachers in Switzerland; there are at most cantonal stipulations.

- **Monitor frequently used teaching materials for all aspects of equality in all Federal languages and in the illustrations used.**
- **Support teachers in entering into dialogue with children and young people about stereotypical role behaviour at school and at home.**

### Inclusive education at all levels

Women are massively underrepresented as employees at universities and colleges, even though the number of women studying is now higher than the number of men. The higher one climbs the academic career ladder, the lower the proportion of women (the so-called leaky pipeline phenomenon). Gender differences in academic careers can be observed from PhD level onwards. The fact that women have limited access to the highest levels in the academic world, even compared to the number of applicants, is mainly due to implicit prejudices against the female gender, which disadvantage them throughout their academic career. This gender imbalance, which runs from mid-level to professorship to management, also affects knowledge production and teaching, so that the perspective of at least 50% of society is insufficiently integrated into scientific research processes.

24 Nina Ochsenbein: Richterinnen an Schweizer Gerichten – Völker, verfassungs- und gesetzesrechtliche Grundlagen, empirische Analyse sowie Fördermassnahmen, PhD thesis. Bern, will be published in 2021; Zoe Geissler: Master thesis.



The choice of career is still strongly influenced by stereotypical and received patterns. Although there has been a corresponding Vocational Training Act for some time, there is still no clear Federal funding project to achieve equality at all levels of education. Similarly, many cantons still lack a corresponding anchoring in education legislation.

Due to the lack of a truly inclusive education system in line with Art. 24 CRPD, girls, especially those with intellectual disabilities, are already regularly educated in special schools at the primary level. From secondary school onwards, the girls concerned hardly receive any integrated schooling, let alone inclusive vocational training. At the same time, girls with disabilities who do meet the standardised requirements of regular education have difficulties obtaining reasonable accommodation.

- Promote research into gender inequality in research and teaching and develop and promote measures for gender and diversity-sensitive teaching.**
- Implement promotion and support instruments in order to structurally improve women's career opportunities at universities.**
- Collect gender-sensitive data at all career levels in order to evaluate actual equality at universities and colleges.**
- Ensure intersectional and equal knowledge production.**
- Do research into gender stereotypical study and career choices.**
- Promote "gender-untypical" career choices among girls and boys and sensitise them to gender stereotyped job profiles.**
- Collect and publish gender-segregated data at all career levels. Through regular checks, pre-set gender equality goals must be evaluated, problems analysed and the potential for solutions contained therein exploited.**
- Abolish gender-specific career barriers and, ultimately, reach an adequate representation of women in research, offering special attention to women affected by multiple discrimination. With regard to vertical segregation, ensure that career paths of highly qualified women and of mothers in particular are free from gender-specific obstacles.**
- Ensure that funding and research agencies are gender sensitive. When it comes to the allocation of research funds, funding criteria must be handled in a centralised manner. Third-party funding bodies must be sensitised to the promotion of intersectional knowledge production.**
- Promote intersectional, interdisciplinary, and participatory knowledge production because its analysis is an essential contribution to the evaluation of socio-political needs for action. To this end, the structures of universities and universities of applied sciences must first be corrected in such a way that the intersectional perspective forms an integral part of all higher education policy and particularly of personnel policy.**
- Develop a comprehensive action plan in order to establish an inclusive education system at all levels pursuant to Article 24 CRPD, containing concrete measures, a time frame, targets, measurable indicators and sufficient budget.**

## Sexuality Education

Disparities for children and adolescents still exist in relation to access to comprehensive sexuality education (CSE)<sup>25</sup> in Switzerland<sup>26</sup>. CSE is not included in the curricula in all cantons. CSE is important since it promotes human rights, health, a positive approach to sexuality and gender equality. CSE contributes to the prevention of unwanted pregnancies, STIs and gender-based violence as well as to the empowerment of adolescents and women.

**Ensure access to comprehensive sex education based on WHO standards to all children and adolescents. CSE must be included in curricula in all cantons and training must be provided to all teachers.**

## Trans pupils/students

Too many trans pupils and students are still frightened of experiencing bullying, violence and discrimination from colleagues and school staff. Geneva is the only canton that has specific guidelines for protecting trans children at school. Some universities have guidelines on the administrative recognition of trans students' gender identity. However, not all of them fully fulfil the human rights of trans students, and they lack further measures to prevent harm and promote equality.

**Ensure every canton and every university has guidelines in order to fully respect, protect and fulfil every trans pupil's and student's rights.**

# Employment

## Minority groups

The share of women with disabilities not participating in the labour market is significantly high.<sup>27</sup> They are also particularly badly off in terms of full-time<sup>28</sup> and managerial positions, atypical working conditions<sup>29</sup> and discrimination/violence at work<sup>30</sup>. Despite the larger percentage of women among persons with disabilities of working

25 CSE as defined by WHO-Standards for comprehensive sexuality education in Europe.

26 Rapport d'experts sur l'éducation sexuelle en Suisse, référence faite à des documents de principe internationaux et comparaison avec des pays choisis (2018) // Concluding observations of the CEDAW committee on the combined fourth and fifth periodic reports of Switzerland (2016).

27 In 2015, the percentage was 30.2% for women with disabilities, 22.4% for men with disabilities, and 17.3% for women without disabilities.

28 In 2015, 46% of women with disabilities had full-time jobs, compared to 80.8% of men with disabilities and 50.6% of women without disabilities.

29 Women with disabilities are affected the most by temporary contracts, weekend work, as well as changing and involuntary irregular work schedules.

30 27% women with disabilities compared to 16.6% women without disabilities and 24% men with disabilities had experienced at least one form of discrimination or violence.

age and the urgent need for integration measures, women receive collectively fewer integration and assessment measures from invalidity insurance (IV) than men.<sup>31</sup> Sufficiently differentiated, current statistics on the participation of women with various disabilities in the open – as well as in the so-called protected – labour market are, however, lacking. Research and awareness-raising measures planned 20 years ago have never even been realised.<sup>32</sup>

It is hardly surprising that no targeted measures to create job opportunities for women with disabilities (CEDAW/C/CHE/CO/4-5, 37(f), 2016) have been initiated, either by the Federal Office for Gender Equality, Federal Office for the Equality of Persons with Disabilities (EBGB), State Secretariat for Economy or other Federal agencies. The EBGB's "Equality and Work" programme (State Report para. 45 f.) focuses on the promotion of voluntary equality/integration measures by companies instead of binding requirements and effective incentives; the parenthetical phrase that special attention should be paid to improving the situation for women with disabilities<sup>33</sup> is not substantiated in any way. After all, the EBGB funded a research and awareness project on stereotypical job profiles and the promotion of self-determined career choices for women with disabilities,<sup>34</sup> but otherwise did not pursue the issue further.

**Based on targeted research and surveys in a timely manner, finally introduce effective temporary special measures in order to significantly increase decent employment for women with all types of disabilities in the open labour market.**

#### Women in media professions

The recent news about the Swiss television and radio company SRG SSR and Tamedia publishing group has highlighted the harassment of women journalists. According to a study by the Tamedia group, 50% of women journalists have already experienced harassment in their workplace<sup>35</sup>.

**Take measures to quantify the phenomenon, prevent it and provide appropriate follow-up for victims.**

**Take measures to promote equal representation of women in all areas and at hierarchical levels of the media.**

31 In 2018, 167,330 men compared to 146,314 women took advantage of integration and clarification measures.

32 Switzerland's action plan on equality between women and men, measures 33, 42 und 44 in the area of economics.

33 EBGB (2018): Report Disability Policy (2018), p. 48.

34 avanti donne (2015): Representation of the interests of women with disabilities, Education without barriers.

35 Swissinfo (2019): Schweizer Umfrage: Jede zweite Journalistin im Job belästigt.

## Equal pay

The latest studies (2018) show that the average gender pay gap is still 11,5 %.<sup>36</sup> The so-called "explicable portion" of 54,6 % of the data analysed unjustly includes criteria such as civil status. The gender pay gap is particularly large between women and men in higher management positions.

Art. 6 of the Gender Equality Act lays down a two-step procedure concerning gender pay discrimination cases. In a first step, the court examines whether the employee can prove pay discrimination. At that stage, the employee benefits from a reduced burden of proof, hence only prima facie proof has to be provided concerning pay discrimination. If the court comes to the conclusion that this hurdle has been met, the burden of proof then shifts: if in this second step the employer can prove that the pay gap is nonexistent or that the pay gap is not connected to gender but is based on objective reasons, the claim of pay discrimination is rejected. To that end, the employer has to meet the normal burden of strict proof. However, in many instances the courts, including the Federal court, do not comply with the two-step procedure in Switzerland. Since the outlined procedural structure is integral to a complainant's opportunity to successfully prove their case, their chances of succeeding with a discrimination case in Switzerland are slim.

**Take measures to eliminate the gender wage gap and ensure equal opportunities for women and men in the labour market.**

**Take measures to punish companies which still have a gender pay gap. Moreover, the current, temporary legislation obliging companies to analyse their pay policies should become permanent.**

**Ensure that the literature on Art. 6 and thus the two-step procedure are taken into account more consistently by the courts. In addition, the opinions of the Federal Equality Office must be acknowledged in the judgments/decisions in each case (which too often does not happen today).**

## Health

### Health care

Not all women have equal access to health care, including sexual and reproductive health care services. Women with disabilities face physical barriers in health care, as well as barriers in communication and access to information. Their right to choose their doctor is particularly restricted in gynaecological care. Furthermore, women with disabilities are not (or not adequately) considered in health research and preventive healthcare. Migrant women also face barriers relat-

36

BFS (2018): Lohnunterschied.

ed to access to health services, including sexual and reproductive health and rights (SRHR) services such as language barriers, while some asylum-seekers are not being referred at all to the specialists they need.

Switzerland has not acted at all on COB 39 (d), which aims to ensure that the costs for gender-affirming treatment for trans people be reimbursed. Transgender Network Switzerland alone receives a weekly average of 1.5 requests for help. Specialised lawyers win nearly every case for gender-affirming treatment against health insurances. In addition, in regard to the poor quality of some surgery and the seriously low number of cases (phalloplasty: only 5-6 surgeries p.a. in total), there has been no significant improvement.

Switzerland has also not acted at all on COB 25(c). Several recommendations of the National Ethics Commission have not yet been fulfilled. IGM/C has irreversible, severe, and lifelong consequences on the health of intersex women, men and non-binary intersex persons.

**Take disability-specific measures to eliminate these inequalities and barriers to access.**

**Develop comprehensive health surveys and registers with disaggregated data on sex, sexual orientation, intersex variations (VSC) and gender identity that also provide information on the health status of LGBTIQ persons, allowing the development of health strategies and programmes that leave no one behind.**

**Guarantee access to healthcare for adult intersex women/men/non-binary persons with a variation of sex development/characteristics (VSC).**

**Evaluate existing strategies, including specific questions on the different criteria.**

**Make sure that health services are accessible, acceptable, affordable and non-discriminatory, including for migrant women and for LGBTIQ women/men/non-binary persons. In particular, explicitly stipulate in an ordinance the duty to reimburse gender-affirming treatment for all trans persons while ensuring good quality treatment.**

### Sexual and reproductive health and rights (SRHR)

There are (financial) barriers to SRHR services, for example in the access to contraception and abortion. During the Covid-19 pandemic many women were no longer able to afford contraception<sup>37</sup>.

Women refugees have little access to information on SRHR<sup>38</sup>. Their choice of contraceptive methods is restricted. There is a lack of low-threshold access to contraception. The usual access via nursing professionals is not suitable, as the cultural hurdles are often too high<sup>39</sup>. Refugee women cannot self-determine their sexuality and family planning in asylum centres. In centres for rejected asylum-seekers

37 SEXUELLE GESUNDHEIT SCHWEIZ (2021): Fonds Covid-19.

38 SKMR (2019): Postulat Feri 16.3407. Analyse der Situation von Flüchtlingsfrauen. Zur Situation in den Kantonen.

39 NKVF (2021): Bericht betreffend die Überprüfung der Bundesasylzentren durch die Nationale Kommission zur Verhütung von Folter (2019-2020).

there is often no practical access to menstrual hygiene products. Trans asylum-seekers often have no or delayed access to gender-affirming treatment (hormonal, surgical, etc.), psychological help, and to medical treatment that is not transition-related. The preparatory work to implement the new diagnosis for trans people, "gender incongruence" of the ICD-11, is limited to technical aspects. Without training specialised medical professionals and general practitioners/paediatricians, the aim of this new diagnosis, to de-psychopathologise trans people, cannot be achieved.

Women with disabilities are prevented from exercising their SRHR in several ways. Information, counselling, assistance, support, and medical services in relation to self-determined sexuality as well as family planning lack inclusivity. Access is particularly difficult and is often a taboo for women living in institutions and for women with intellectual disabilities. Supported parenting services are still very scarce and greatly lack funding.

- Revise the situation during the Covid-19 pandemic to ensure access to SRHR services for all.**
- Ensure access to contraception for all. Consider creating reimbursement for contraception for all women of reproductive age, in particular ensuring that vulnerable groups and adolescents are covered.**
- Provide access for women and LGBTIQ refugees to systematic and regular information on SRHR, including translation/interpretation.**
- Provide low-threshold access to free contraceptives for refugee women and women with limited financial possibilities.**
- Prevent period poverty and provide access to (free) hygiene products for all women, including for those with a rejected asylum decision.**
- Guarantee self-determined sexuality in asylum structures.**
- Provide fast access to gender-affirming treatment for trans asylum-seekers, reimbursement by health insurance, psychological help, (continuation) of hormonal treatment, surgery, and non transition-related medical treatment.**
- Implement the ICD-11 diagnosis for trans people "gender incongruence" to ensure the shift from classification as "mental and behavioural disorder" to "condition related to sexual health" in medical practice.**
- Ensure trans persons have access to fertility treatment without discrimination and are recognised as parents in line with their registered gender.**
- Offer non-binary gender identity options in the civil register and ensure the inclusion of non-binary experts in the law-making process.**
- Develop SRH services that are consistently inclusive and accessible for all women with disabilities, raise awareness about SRHR of persons with disabilities, significantly expand supported parenting services and adequately fund them.**
- Ensure that legal gender recognition based on self-determination is accessible to every minor and person subject to a general deputyship without any barrier and without a court procedure.**

## Stereotypes

Medicine is known to have different effects on women and men. Incidence of disease, health problems, the course of a disease and the success of a therapy may depend on gender. Women as accident victims have other injuries, as impact studies are usually conducted on male-based crash test dummies. Medicines are tested on men, leaving their effects on women unknown. Although it is known that medical research is still done predominantly on men, the results are applied to the treatment of women (gender medicine).

**Women-specific differences have to be taken into account and taught in pharmaceutical and medical training.**

**Stereotypes must not influence medical diagnoses. This problem has to be highlighted during the studies.**

**Investigate the impact of accidents and medicines on women.**

**Invest in drug research that is not only based on male experimental animals.**

## Economic and social benefits

### Poverty

In Switzerland too, the face of poverty is female, with single mothers, older women, large families and trans people being disproportionately affected. This trend is further increased due to various rules in relation to children's rights and divorce laws, which frequently have an adverse impact on women. Because women earn less during their working life, work only part-time or retire completely from working life early, they are often poor in old age. The assumption of unpaid care work leads to part-time work or even to interruptions in employment, which are reflected in low old-age pensions. Almost two thirds of those receiving supplementary benefits are women. We do not yet know the impact of the Covid-19 pandemic on women's employment conditions in Switzerland – initial figures on this from the USA are worrying.

Due to their lower employment, fewer women than men with disabilities receive a full invalidity insurance (IV) pension and more women receive only a partial pension. In addition, the low wages and part-time work of women with disabilities lead to disadvantages in occupational benefits (minimal second pillar benefits or none at all).

The Federal requirements for calculating child maintenance are very rudimentary. It was and is left to the judiciary to develop standards here. Overall, it can be stated that the concrete calculation of child support can still vary from court to court, from canton to canton and from authority to authority (cf. KESB, family courts, district courts). In

addition, in the case of divorce the sharing of deficits (“Mankoteilung”) has still not been accomplished. As a rule, the risk of poverty is still borne by single mothers and the children. In addition, child support contributions are only paid in advance if such child support can be fixed.

- **Implement a gender-equal poverty strategy with complementary, scientifically supported monitoring.**
- **Mandate that the administration and the social partners work together to develop an action plan to eliminate gender and disability discrimination in the Swiss social security system.**
- **Develop specific support services in each municipality.**
- **Include gender aspects whenever there are discussions about pensions.**
- **Destigmatise accepting financial assistance.**
- **Designate a body with the mandate to carry out national monitoring of outstanding family maintenance claims so that implementation can be monitored.**

## Rural women

70% (= more than 30,000)<sup>40</sup> of female family members working on a farm are neither paid nor have social insurance in their names. Without pay, their work is not recognised; they are not considered as gainfully employed. This means, for instance, that they cannot benefit from maternity insurance even though they are working. If they work for a company, they may be replaced and supported financially in the event of illness or disability. In the event of separation, divorce, retirement or widowhood, women working on farms are at risk of financial insecurity.

- **Take measures to ensure social security coverage for women farmers.**

## Disadvantaged groups of women

The Federal Office for Gender Equality (FOQE) funds certain individual projects in favour of disadvantaged groups of women, but lacks a systematic approach to eliminate multiple and intersectional forms of discrimination against women. As pointed out above, the first draft of the national strategy for gender equality fails to provide for such an approach.



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**Define the elimination of multiple and intersecting forms of discrimination against women as a separate field of action in the draft national strategy for gender equality.**

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Discrimination against women with disabilities

There has not been any further specification of the State's obligation to take account of the specific needs of women with disabilities pursuant to Art. 5 (I) of the Disability Discrimination Act (DDA) (State Report para. 172), neither legally nor politically. Nor has any follow-up taken place on the numerous concrete recommendations contained in the "thematic dossier" on the equality of women with disabilities from 2013. Such "elaboration of reference documents" without entailing any implementation measures clearly fails to effectively combat discrimination against women with disabilities.

Reflecting the fundamental lack of effort to tackle intersecting forms of discrimination, neither the FOQE nor the EBGB have a clear and institutionalised mandate concerning the rights of women with disabilities.

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**Establish an official Federal Office mandate for the promotion of the rights of women with disabilities and provide the financial resources necessary to fulfil this mandate.**

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**Include concrete measures in order to realise the rights of women with disabilities according to Art. 6 CRPD and Art. 5 (I) DDA in the draft national strategy for gender equality, thereby ensuring the meaningful participation of women with disabilities, and implement them in a timely manner.**

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Migrant women

When trying to obtain residence permits and citizenship, migrant women face hurdles that limit their access to employment, professional training and social benefits. Many migrant women live in long-term precarity. Migrant women who claim social assistance risk losing their residence status or not being able to obtain a better residence status or citizenship. Social discrimination limits refugee women from access to housing, health care, political and public life.

There is a lack of sites for travelling Roma, Yenish and Sinti. Many cantons only permit "Swiss Travellers" on their sites. The Action Plan to improve the situation of Yenish, Sinti and Roma lacks gender specific aspects and has not been fully implemented. There is no monitoring mechanism. There is no systematic political representation of Yenish, Sinti and Roma in general and of women in particular.

- **Take specific integration measures for the professional and social integration of migrant women.**
- **Ensure that claiming social benefits does not correlate with the right to a residence permit.**
- **Facilitate access to Swiss citizenship.**
- **Eliminate discrimination against migrant women with disabilities, and ensure access to political/public life, education, professional training, employment, health care, housing, social benefits.**
- **Ensure systematic political representation of Yenish, Sinti and Roma women. Ensure immediate and gender-sensitive implementation of the Action Plan for Yenish, Sinti and Roma.**

#### Forced sterilisation and abortion

On the basis of substituted consent, Swiss law still allows forced sterilisation (under the rather restrictive conditions of Art. 7 (2) Federal Act on sterilisation) and coercive abortion (Art. 119 (3) Swiss Criminal Code) on women considered “permanently incapable of judgement”, thus mainly women with intellectual and psychosocial disabilities. Publicly accessible case numbers are not available. Without any substantiation, in terms of forced sterilisation, the State Report (174) claims that “this topic” is no longer an issue in Switzerland. Current medical ethical guidelines indicate though that said sterilisations still “are an issue”<sup>41</sup>, and according to some inquiries with adult protection authorities, they did give their consent, at least in individual cases. As a legal basis for grave forms of gender-based violence, both provisions must be abolished in line with the CRPD committee’s General Comment No. 3 (2016) on women and girls with disabilities. Sterilisation is no longer required for changing one’s legal gender. Sterilisation of intersex girls still occurs for medically non-urgent reasons.

In 2019, cases of sterilisation and abortion of asylum-seeking women without their consent, due to lack of translation, were reported.

- **Abolish legal provisions allowing forced sterilisation and abortion on the basis of substituted consent; provide the concerned women with disabilities with professional, independent support in the exercise of legal capacity as well as with comprehensive and fully accessible sexual and reproductive health and rights services, including family planning and supported parenting.**
- **Prohibit sterilisation of intersex girls for medically non-urgent reasons.**
- **Prohibit sterilisations and abortions without informed consent (through professional translation) in the asylum sector.**

<sup>41</sup> The SAMW guidelines stipulate that from a physician’s point of view, the implementation of this legal provision is very difficult: SAMW (2017), Medizinische Behandlung und Betreuung von Menschen mit Behinderung, p. 26.

# Refugee and asylum-seeking women

## Human trafficking

The establishment of the new Federal reception centres for asylum-seekers in 2019 has not led to an improvement of the situation of women and girls who are victims of violence and exploitation, such as victims of trafficking (VOT), but instead worsened their situation. Staff in the centres are not informed who is a VOT and there is no special treatment provision for VOT. Accommodation, security, care-taking, etc. are the same for VOT as for all other asylum-seekers. It is extremely difficult to obtain psychological or psycho-social aid, let alone specialised trauma therapy. When a Dublin return is foreseen, it is almost impossible and has been denied in some cases.

Despite the newly defined internal procedures, no institutionalised co-operation with specialised victim support organisations is foreseen in the case of potential VOTs. Currently referrals only occur thanks to the goodwill and commitment of civil society actors. When exploitation has occurred abroad, the services of specialised victim organisations are not funded by the state. Steps to regulate and ensure this access for all VOTs are neglected and/or denied by the authorities.

**Provide early and proactive identification in cooperation with specialised victim organisations.**

**Ensure that all victims in the asylum sector (regardless of the place of exploitation) have access to specialised victim support and victim rights, including VOT under the Dublin regulation.**

**Ensure that care, security, health care or legal advice staff in the asylum sector who deal with victims of GBV are female, specially trained and are obliged to get in contact with a specialised victim organisation in case a woman is a suspected VOT.**

## Housing/accommodation

Women and LGBTIQ refugees do not feel safe in the collective accommodation provided today by the state and the cantons. They don't experience equality, primarily because of the infrastructure of the shelters and the existing care relationships. Reports in 2019 and 2021<sup>42</sup> showed a severe lack in the identification of GBV victims, support, protection, prevention, training of staff and safe infrastructure in asylum centres. Women, including LGBTIQ refugees, suffer from GBV (by external and internal staff, co-residents and family members); systematic data is missing. Non-binding cantonal guidelines for victims of GBV are planned for 2021. On a Federal level, lockable dormitories and gender-separated sanitary facilities were implemented in 2020. A report on all implemented measures and binding guidelines for

42 SKMR (2019): Postulat Feri 16.3407, Analyse der Situation von Flüchtlingsfrauen. Zur Situation in den Kantonen.; NKVF (2021): Bericht betreffend die Überprüfung der Bundesasylzentren durch die Nationale Kommission zur Verhütung von Folter (2019-2020).

victims of GBV is planned for the end of 2021. But as the recommendations of the reports are not binding, there is no political pressure to implement them. All trans and most LGBTIQ asylum-seekers in collective accommodation suffer from violence and most of them experience health problems. Sometimes employees falsely assign gender categories, reveal sexual orientation against the wishes of the asylum-seeker and hinder indicated medical treatment.

Up to now, there have been no concepts to identify women and girls with disabilities in asylum centres and to respond to their specific rights to protection, accessible lodging/infrastructure and communication, support, and health care. Asylum-seekers and refugees with psychosocial disabilities are inadequately provided for in terms of psychiatric-psychotherapeutic care.

- Accommodate LGBTIQ women/men/non-binary persons in an asylum centre according to their gender identity, personal needs or if desired in separate safe housing.**
- Ensure mandatory GBV guidelines for all aspects of housing and services to all refugees, especially LGBTIQ, monitored and implemented by state parties and contractors. Ensure that the guidelines cover all asylum-seekers “with specific needs”.**
- Develop guidelines that guarantee the rights of women and girls with disabilities concerning lodging, support, (health) care, covering i.e. early identification, individual case assessment and reasonable accommodation (e.g. regarding communication, daily routines and infrastructure). Develop analogous guidelines for subsequent lodging, support and (health) care in cantonal asylum shelters.**
- Ensure mandatory gender-separated sanitary facilities, safe access, lounges reserved for women.**
- Provide adequate accommodation for women and LGBTIQ women/men/non-binary refugees, women with disabilities, pregnant women, women with new-born babies, women with trauma, etc.**
- Provide training of care, security, health care or legal advice staff; ensure female staff are obliged to get in contact with a specialised victim organisation in case of GBV.**
- Report on the situation of LGBTIQ, including women refugees in centres for rejected asylum-seekers and in administrative detention.**

#### Asylum procedures

Structural deficits and a lack of knowledge on the situation of women and, regardless of their sex, sexual orientation, gender identity or intersex variation (VSC) are hurdles for their protection in Switzerland. They are not adequately informed about gender or sex specific reasons for flight. Women refugees are not systematically interviewed and accompanied by an exclusively female team. For LGBTIQ asylum-seekers, problems such as fear of coming out in the first interview, fear of the interpreters, lack of words to describe themselves, lack of country-of-origin information, lack of interviewers' awareness and knowledge, and lack of protection, especially in the asylum centres,

lead to unfair procedures and denied protection for persecuted persons.

The above comments on the lack of concepts concerning women and girls with disabilities apply equally to the asylum procedure and the procedure on return.

- Fully consider gendered motives for fleeing, including by specialist interviewers.**
- Abolish the principle of safe countries or at least a substantive examination in cases of GBV concerned and LGBTIQ asylum-seekers.**
- Use the right of self-entry in Dublin cases involving GBV or LGBTIQ asylum-seekers.**
- Inform all refugees of their rights in the asylum procedure.**
- Change to the extended procedure if there are indications of GBV, suspending the asylum procedure if necessary.**
- Provide a mandatory female interview team, interpreters and legal advisors and representatives.**
- Consistently recognise GBV as persecution relevant to asylum.**
- Give asylum for LGBTIQ applicants from countries criminalising LGBTIQ or where criminal law (such as criminalisation of loitering or sex work) are used to prosecute LGBTIQ persons.**
- Grant asylum to LGBTIQ applicants from countries criminalising LGBTIQ (independent of application of the law or sanctions) or where criminal law (such as criminalisation of loitering or sex work) are used to prosecute LGBTIQ women/men/non-binary persons.**
- Ensure that future guidelines for federal asylum centres guarantee the rights of women and girls with disabilities in asylum procedures as well as in an eventual procedure on return, e.g. regarding procedural accommodations, disability-sensitive interview techniques, determination of refugee status and obstacles to expulsion.**
- Explicitly include disability-specific reasons for flight in Swiss asylum law.**

### GBV

The current Victim Assistance Act does not allow the provision of support to women refugees who have experienced violence while fleeing or in their country of origin. The services provided by the Health Insurance Act cannot guarantee specialised support to victims of violence. Most women and LGBTIQ refugees in Switzerland have experienced GBV and many suffer from trauma. Despite the advocacy of many NGOs on the subject, as well as international obligations (Istanbul Convention, European Convention against Human Trafficking), the responsible authorities continue not to cooperate towards creating any solutions to close this gap to support victims of violence.

- **Guarantee access to specialised support services to all victims of violence, independent of their residence permit.**
- **Provide access to criminal prosecution for victims who suffered violence abroad.**
- **Ensure that all refugees, especially LGBTIQ, can choose the gender of the assessor and screener on GBV and other specific needs.**
- **Provide concepts for the prevention of GBV in all asylum centres.**

#### Residence permits

Migrant women's residence permits often depend on their living together with their Swiss husbands. If they separate from violent husbands, they risk losing their residence permit and being deported. For fear of losing their permit, foreign women who are victims of domestic violence are even less inclined to leave their husbands; they keep quiet about the violence, which often gets worse. Some cantons report police interventions due to domestic violence directly to the migration offices.

- **Revise the Federal Act on Foreign Nationals and Integration and withdraw the reservation to Art. 59 IC. Victims of partner violence must obtain an independent residence permit upon termination of their marriage.**

## Marriage and family relations

#### Unpaid care work and parental leave

Women do two thirds of unpaid care work. The resulting loss of paid work in combination with wage inequality leads to a total financial loss of about 100 billion CHF per year for all women in Switzerland. It is also important that full-time and part-time jobs are available regardless of gender.

Maternity is still very poorly socially protected in Switzerland. Mothers are entitled to the minimum leave of 14 weeks according to the ILO Convention. No social protection is provided for the period before childbirth, which de facto leads to expectant mothers having to take sick leave and creates planning uncertainty for employers. The very short maternity leave in comparison to other European countries leads to mothers taking additional unpaid maternity leave if they can afford it financially or dropping out of the labour force completely or partially after maternity leave. The fact that the extra-familial care of children is paid for to a very high percentage by the parents themselves, means that above a certain number of children, the economic pressure for one parent to give up gainful employment in favour of childcare is very high.

Switzerland finally has a paternity leave law (as of 1 January 2021).

However, the newly introduced paternity leave of two weeks is very short and not sufficient to enable an equal distribution of childcare between parents. This would require additional parental leave of 24 weeks. Furthermore, the law privileges hetero-cis normative relationships and excludes family arrangements that do not fit in with this norm.

**Take measures to promote awareness of and for a fairer distribution of unpaid work between different genders.**

**Implement parental leave of 24 weeks in addition to maternity leave for all families, regardless of sexual orientation.**

**Ensure that the time before giving birth is covered by additional maternity leave of several weeks.**

**Ensure extra-familial childcare is offered more affordably.**

**Reduce working hours when unpaid work must be done.**

**Protect migrants in the private care-work sector.**

**Make sure that full-time and part-time jobs are available regardless of gender.**

#### Divorce and separation

Since 1 July 2014, shared parental custody has been the general legal ruling, without providing for an equal division of parental childcare responsibilities. Courts will examine this possibility upon request. The main responsibility for caring for the children continues to be exercised primarily by mothers. Examining such a possibility as a matter of principle would be more in line with the times and serve the equivalence/equal rights of parents. Since mothers often bear the disadvantages of their previously chosen life model (part-time work, interruption of employment, lower wages, less training...), attention must be paid to ensuring that such alternating care is only applied if it is in the interest of all parties involved. It should not lead to the mother being assigned more duties and the father having to pay less maintenance.

**Ensure that a division of parental childcare responsibilities is promoted as a measure of equality, provided that this does not have a negative impact on women and the children.**

In order to contribute to the implementation of CEDAW in Switzerland, we rely on the expertise and contributions of our member organisations. At this point, a big thank you goes to the tireless commitment of our members!

However, in order to be able to carry out the coordination and networking work and to ensure that a consolidated shadow report is available to the CEDAW Committee in each reporting cycle, we also need financial support.

Would you like to help implement gender equality in Switzerland and reduce gender-based violence? With your donation, we are working towards this with the help of the Women's Rights Convention. Every contribution is welcome and appreciated!

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