Submission to the United Nations OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

**CALL FOR INPUT | Special Procedures**

**ISSUED BY Special Procedures**

**Violence against women and girls to the Human Rights Council on prostitution and violence against women and girls.**

**Submitting Organization: BROKEN CHALK**

**January 2024**

**By**

**Daphne Rein**

**Ioana-Sorina Alexa**

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**Sterre Krijnen**

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**Broken Chalk** is an Amsterdam-based non-governmental organisation (NGO) committed to addressing human rights violations in the education sector. It was established in October 2020. A multinational team of dedicated human rights advocates collaborates extensively on researching violations in every corner of the world.

The organisation's primary activities include removing obstacles to education, promoting peace and tranquillity in society through intercultural tolerance, preventing radicalism and polarisation, and eliminating educational opportunity gaps across different demographics.

Broken Chalk works hard in advocacy and lobbying on behalf of these educational victims, engaging with international organisations to prompt action. Additionally, the volunteers and interns working remotely worldwide at Broken Chalk prepare comprehensive reports for international organisations, stakeholders, and governments, highlighting human rights violations in education. These reports aim to draw attention to the often-overlooked aspects of human rights violations, providing stakeholders with a complete understanding and calling for the international community to act in cases where conflict halts access to education and endangers civilians’ lives. This approach ensures that awareness is raised and necessary actions are taken to address these violations. Broken Chalk is genuinely international, achieving a local and global perspective in its work.

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# **Provide examples of the hidden forms of prostitution, and explain to what extent they are recognised and dealt with as such.**

In the Netherlands, where prostitution is legalised, hidden forms of prostitution are characterised under illegal forms of prostitution by Dutch law. The city of Amsterdam is well known for its many districts where prostitution attracts tourists[[1]](#footnote-1), and in this city, hidden forms of prostitution are illegal. For example, it is illegal for massage parlours to supply sexual services without a licence[[2]](#footnote-2). In addition, it is illegal to supply sexual services in private residences unless it is an individual working alone who holds a licence under the municipality of the city to carry out this activity[[3]](#footnote-3).

And even if it is illegal and can be prosecuted, child pornography can be considered a hidden form of prostitution[[4]](#footnote-4). In the Netherlands, the production, distribution, exhibition, importation, forwarding, exportation, and possession of child pornography are explicitly outlawed under various sections of the Dutch Penal Code[[5]](#footnote-5). Specifically, **Article 240b** criminalises these activities, making them illegal and subject to prosecution. This legal provision, along with related sections such as **Article 240c** addressing the grooming of minors and **Article 240a** concerning engaging in sexual acts with minors, forms the comprehensive legal framework aimed at combating child pornography. However, despite these stringent laws, a significant challenge persists. The Internet Watch Foundation revealed in 2019 that the Netherlands hosted 71% of known URLs containing child pornography content online within the European Union[[6]](#footnote-6). This alarming revelation underscores the complexity of tackling the issue, prompting a critical examination of the effectiveness of existing laws and the need for enhanced measures to address the online hosting of such illicit content.

# **Describe the profile of women and girls affected by prostitution in your country, and provide disaggregated data, where possible.**

In the Netherlands, women and girls impacted by prostitution exhibit diverse profiles. The majority falls within the age range of 20 to 30 years, with notable variations[[7]](#footnote-7). Regarding origin, a significant proportion comprises both Dutch nationals (about 20%)[[8]](#footnote-8) and individuals from Eastern Europe, Africa, and Southeast Asia[[9]](#footnote-9). Disaggregated data highlights a correlation between involvement in prostitution and economic vulnerability, with many facing limited educational opportunities and financial hardship[[10]](#footnote-10). Considering that the origins of sex workers vary significantly in the Netherlands, the European Court of Justice ruled that Dutch brothel owners must speak the same language as sex workers to prevent trafficking[[11]](#footnote-11). This ensures effective communication to check for coercion or exploitation. Legal regulations set a minimum age of 18 for individuals engaging in prostitution in the Netherlands, ensuring they are adults capable of autonomous decision-making. Some cities have raised this age to 21, reflecting a commitment to enhance safeguards[[12]](#footnote-12).

# **Describe the profile of those who solicit women in prostitution and whether such relations are regulated, and provide supporting data, where possible.**

Most clients who solicit women in prostitution are men[[13]](#footnote-13). In Amsterdam, prostitutes that hold a licence report having a highly diverse clientele[[14]](#footnote-14)According to them, a vast majority of the clients do not reside in the city of Amsterdam but live in other parts of the Netherlands or come from abroad[[15]](#footnote-15). The Government of the Netherlands does not publicly share data concerning the profile of those who solicit women in prostitution. However, the government has tried to regulate the relations between the sex worker and the client. For example, in Amsterdam, in all districts known for having sex workers, brothels have been ordered to close at 3 am instead of 6 am to try to regulate the flow of tourists who come to Amsterdam to purchase sexual services[[16]](#footnote-16).

# **What forms of violence are prostituted women and girls subjected to (physical, psychological, sexual, economic, administrative, or other)?**

In the Netherlands, prostituted women and girls encounter various forms of violence, with distinctions evident between regulated and unregulated sex work. In regulated settings, such as licensed brothels, measures like security protocols and mandatory health checks aim to enhance safety[[17]](#footnote-17). However, challenges persist, and psychological abuse, economic exploitation, and administrative issues can affect individuals[[18]](#footnote-18). Unregulated or informal sex work, including street prostitution, exposes individuals to higher risks, lacking the oversight and legal protection found in regulated environments[[19]](#footnote-19). Both contexts witness physical and sexual violence, emphasising the complexity of the situation. One concrete example of administrative violence against prostituted individuals in the Netherlands is the practice of some brothel owners confiscating passports or identification documents from sex workers[[20]](#footnote-20). This act restricts the freedom of movement and creates a power dynamic that makes it difficult for individuals to leave exploitative situations, further contributing to their vulnerability and dependence on those managing the establishments.

# **Who is responsible for the perpetration of violence against women and girls in prostitution?**

Research from the AidsFonds on violence against sex workers in the Netherlands found that 97% of those involved in prostitution had experienced some form of severe physical or sexual abuse from pimps and clients[[21]](#footnote-21). This information allows us to conclude that the persons responsible for the perpetration of violence against sex workers are the clients and the pimps. In regulated settings, the working conditions of sex workers have been improved over the last few years; they have a legal status and need a licence to operate, which enhances their safety[[22]](#footnote-22). However, these improved conditions do not protect sex workers against the perpetration of violence against them in unregulated settings or even in regulated settings.

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

Prostitution is a legal profession in the Netherlands. Prohibiting women from choosing prostitution as their profession would be considered a violation of human rights (Art. 23.1 UDHR). For legal prostitution, safeguards are in place to prevent human rights violations. For example, sex workers in the Netherlands have the right to choose their customers and medical assistance, meaning they cannot be forced to have medical exams. This is to ensure sex workers have the autonomy to decide over their own bodies.[[23]](#footnote-23)

Illegal prostitution is inherently a violation of human rights. Prostitution is illegal if the sex worker is forced or exploited (violation of Art. 6 CEDAW) or when the sex worker is a minor (violation of Art. 34 CRC).[[24]](#footnote-24)

Furthermore, human trafficking is closely related to illegal prostitution, as prostitution is often a goal of human trafficking. There is a continuing tension between ensuring rights in legal prostitution and fighting human trafficking in Dutch law.[[25]](#footnote-25)

# **What links are there between pornography and/or other forms of sexual exploitation and prostitution?**

In the Netherlands, the relationship between pornography, sexual exploitation, and prostitution intersects with various legal frameworks. Media and entertainment laws govern the portrayal of women, and while explicit links between these laws and prostitution may not be direct, they influence societal attitudes[[26]](#footnote-26). Privacy laws, particularly concerning online data, play a crucial role in safeguarding individuals. In the Netherlands, the relationship between pornography, sexual exploitation, and prostitution is influenced by legal frameworks, with the General Data Protection Regulation (GDPR) playing a key role in governing data protection and privacy[[27]](#footnote-27). While there isn't a specific "Personal Data Protection Act (PDPA)" in the Netherlands, the GDPR sets the standard for safeguarding against the potential misuse of online data, including emerging challenges like photo morphing[[28]](#footnote-28).The educational perspective on these issues within Dutch schools may lack uniform standardisation. Furthermore, an examination of media and entertainment laws in the Netherlands is pertinent, particularly in terms of how women are portrayed.

The integration of artificial intelligence (AI) in addressing prostitution-related issues in the Netherlands offers the potential to enhance law enforcement efforts against human trafficking. However, concerns arise regarding the misuse of AI, including deepfake technology, which may exacerbate the exploitation of individuals involved in sex work. Striking a balance between leveraging AI for combating trafficking and safeguarding privacy is essential in navigating this complex intersection.

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

In the Netherlands, meaningful consent is acknowledged in legal prostitution, where individuals willingly choose this profession. However, we cannot speak of meaningful consent in illegal prostitution because illegal prostitution relates to cases of coercion and exploitation or minors working in prostitution.

In July 2023, the Dutch House of Representatives passed a new law on sexual violence (i.e., *Wetgeving Seksuele Misdrijven).* This law shifts focus from proving coercion to prioritising consent.[[29]](#footnote-29) The law mandates initiators of sex to assess and explicitly seek consent for sexual acts, enhancing protection for victims.[[30]](#footnote-30)

When it comes to attention to consent in education, Rutgers, an organisation focused on sexual and reproductive health, advocates for comprehensive sexual education in schools, extending beyond biology to cover wishes, boundaries, respect, and, particularly, consent. Rutgers advises emphasising prevention, culture change, and elimination of harmful norms.[[31]](#footnote-31)

# **How effective have legislative frameworks and policies been in preventing and responding to violence against women and girls in prostitution?**

Since 2000, the Netherlands has decriminalised prostitution to combat coerced prostitution, protect sex workers and prevent minors from entering the trade. However, this decriminalisation hasn't effectively addressed the issue of illegal prostitution. There remains an ongoing tension between efforts to combat human trafficking and the rights of sex workers.[[32]](#footnote-32)

In 2023, 182 court rulings were issued on prostitution cases, slightly down from 204 in 2022.[[33]](#footnote-33)These cases include various legal matters, indicating consequences for illegal prostitution. However, Defence for Children reports that more than 4000 women experience sexual exploitation per year. This means a grave majority of women do not have access to justice.[[34]](#footnote-34) However, when criminal proceedings are followed, the victims often receive substantial material damages. GRETA mentions numerous examples of this.[[35]](#footnote-35)

To tackle impunity, a client is conducting a criminal offence when having sex with a sex worker in illegal prostitution from January 1, 2022 (section 273g in the criminal code).[[36]](#footnote-36)

# **What measures are in place to collect and analyse data at the national level to better understanding the impact that prostitution has on the rights of women and girls?**

Regarding the collection and analysis of data on the impact that prostitution has on the rights of women and girls, it is very much unclear in the Netherlands. The Dutch Government has a very liberal view of prostitution and sex work; therefore, it is considered to be a flourishing business[[37]](#footnote-37). This view of sex work prevents the Dutch government from collecting and analysing the impact of sex work on the rights of women and girls. But more effort should be required by the Dutch Government because the Netherlands in 2022 remained in the top 5 countries with the most human trafficking (which includes sexual exploitation) according to the Dutch Coordination Center for Human Trafficking (CoMensha)[[38]](#footnote-38). In many cases, women who are prostitutes in the Netherlands are victims of human trafficking[[39]](#footnote-39).

# **What measures are in place to assist and support women and girls who wish to leave prostitution?**

In municipalities where ‘exit programs’ are available, several organisations collaborate to help the sex worker find other work, a new home, or appropriate care.[[40]](#footnote-40) According to a web survey that included municipalities and health/welfare organisations, interviews, and information from RUPS II accountability documents, 90% of the responding municipalities have exit programs, while 9% plan to establish them.

Sekswerk.info is an online resource for female, male, and transgender sex workers, offering information on sexual health, safety, work, and regulations. The website features a Complaints Desk where sex workers can seek guidance or file complaints about entities like banks or Tax Authorities. Additionally, the site maintains an extensive list of websites for diverse organisations, many of which offer assistance to those who want to stop working in prostitution, such as RUPS (Regional Exit Program for Prostitutes), Terwille Groningen en Overijssel, De Haven, P&G292, Belle, SPOT56, Door2Door, and others.[[41]](#footnote-41)

# **What are the obstacles faced by organisations and frontline service providers in their mission to support victims and survivors of prostitution?**

A full nationwide network of exit programs has not yet been realised. Some regions are insufficiently served due to the absence of dedicated policies, a lack of understanding of the target group's needs, and the lack of support services in the region.

Exit programs generally lack a focus on specific gender target groups or sectors within sex work, and there is a recognised challenge in adequately reaching male sex workers, home workers, illegal sex workers, victims of sexual exploitation, and transgender individuals, suggesting a need for specialised exit initiatives.[[42]](#footnote-42)

Participants in the Dutch “COSM program’ designed to aid sex trafficking survivors sometimes encounter challenges such as increased dependency on authorities, child separation, complex trafficking procedures, and work/education restrictions. One participant expressed, "You’re the one who needs help, so you’re the one who needs to accept everything." Another remarked, "I am here, but I don’t know what is going on. They will never tell you what will happen. You’re just here and never know what is next." The COSM shelters, initially for short stays, sometimes impede progress, causing disruptions.[[43]](#footnote-43)

# **What are some of the lessons learned about what works and what does not when it comes to stemming any negative human rights consequences from the prostitution of women and girls?**

One important aspect that has a negative human rights consequence is stemming from the current social stigma surrounding prostitution. Ensuring contemporary public policy in such a domain is not sufficient, de-stigmatisation is crucial especially when creating new laws in the sex industry, seeing how stigmatisations of prostitution may hinder the deliberation process of a new policy.[[44]](#footnote-44)

Furthermore, a rising issue in a country which has legalised prostitution is human trafficking for sexual exploitation.[[45]](#footnote-45) Hence, the Dutch government has implemented a new law which stipulates a sex worker customer will be punished if he knows or has serious reason to suspect that the sex worker is forced to work. Moreover, an age restriction has been set, whereas sexual activities with individuals under 16 are punishable and paid sexual services under the age of 18 are also prohibited.[[46]](#footnote-46)

To promote understanding of these regulations, encompassing human trafficking and its indicators, the Dutch government has compiled a comprehensive list of examples on its official website. This initiative aims to raise awareness and foster adherence to universal standards.[[47]](#footnote-47)

In the realm of education, the Netherlands implements a project titled "Lentekriebels" (Spring Fever), an annual week of courses designed for primary schools (children aged 4-12) focusing on relationships and sexuality. This underscores the integral nature of sexuality and sexual diversity as subjects, requiring both primary and secondary schools to address them. Schools retain autonomy in determining the approach and selection of teaching materials for these lessons, potentially resulting in discretionary application.[[48]](#footnote-48)

# **Are frontline organisations and survivors' organisations sufficiently included in policymaking at the national and international level?**

Frontline and survivors' organisations in the Netherlands voice their expert opinion on policy making regarding prostitution in the media and consultation processes. An example is the new bill, 'Wet Regulering Sekswerk'. This bill aims to increase the legal age for sex workers from 18 to 21, and implement a permit requirement.[[49]](#footnote-49) Fier, a survivors’ organisation, emphasises in the media the law should be implemented as soon as possible,[[50]](#footnote-50) while Amnesty International Nederland states in the consultation process this bill will increase human rights violations.[[51]](#footnote-51) Whether and how such opinions are included in the eventual law- and policy-making is unclear.

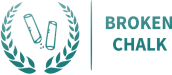
The government collaborates with civil society organisations, exemplified by the ‘Sekswerk Goed Geregeld’ website which offers information to legal and illegal sex workers and is managed by Soa Aids Nederland.[[52]](#footnote-52)

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

To address the issue of violence associated with prostitution in the Netherlands, it is crucial to implement a multifaceted approach. Firstly, comprehensive legislation should be enacted to ensure the protection of sex workers' rights and safety. This includes stringent measures against exploitation, human trafficking, and violence within the industry. Regularly reviewing and updating these laws can adapt to evolving challenges.

Furthermore, promoting public awareness campaigns is essential to destigmatise sex work and foster understanding. Education programs should be implemented to empower women and girls, providing them with alternatives and support to exit the industry if they wish. Collaborative efforts with NGOs and social services can offer counselling, rehabilitation, and reintegration programs.

Drawing insights from successful international models, such as Nordic and German approaches, can inform best practices. The Dutch government should engage in ongoing dialogue with stakeholders to assess and refine policies, ensuring a holistic strategy that prioritises the well-being and rights of women and girls involved in prostitution.



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