

**Statement by the Netherlands to the *call for input to the report of the Special Rapporteur on violence against women and girls to the Human Rights Council on prostitution and violence against women and girls***

Chair,

I am delivering this statement on behalf of The Netherlands. The Netherlands highly appreciates that the specific human rights situation of sex workers is addressed at UN level.<sup>1</sup>

In this statement, the terms 'sex work' and 'sex workers' are preferably used instead of the more stigmatizing terms 'prostitution' and 'prostitutes'. Many countries that decriminalize, legalize or otherwise regulate the sex work industry in order to ensure visibility of sex workers and ensure access to a safe and healthy working environment prefer the term 'sex work' since this is less stigmatized terminology.

The Netherlands consider it of the utmost importance to distinguish between sex work as a legal profession practiced by adult persons on a consensual basis and (sexual) exploitation or human trafficking, which is a crime and a human rights violation.

The Netherlands understands sex work to be a controversial topic with various viewpoints. While some countries choose to criminalize (aspects of) sex work, other countries legalize, decriminalize or regulate sex work. Countries often select a system of legalization, decriminalization or regulation after careful research and consultation with health care providers and sex worker communities. We believe that a legalized or regulated sex work sector ensures visibility, legal workplaces, better and safer working conditions (with specific protective rights), and social security for sex workers. We are of the opinion that sex work will always take place. It is unlikely that criminalization of either customers or sex workers will lead to a reduction or the disappearance of sex work. On the contrary, we believe that a system of criminalization will potentially increase the illegal market, increase the risk of exploitation and violence and will result in more vulnerabilities for sex workers being forced to provide their services in secret. Criminalization of clients in general may have disastrous consequences for sex worker's rights<sup>2</sup>. The reality on the

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<sup>1</sup> The many forms of discrimination, marginalization, stigmatization and human rights abuses sex worker suffer were also recently highlighted by the *Working Group on discrimination against women and girls* in its position paper "Eliminating discrimination against sex workers and securing their human rights" <https://www.ohchr.org/en/special-procedures/wg-women-and-girls/eliminating-discrimination-against-sex-workers-and-securing-their-human-rights>.

<sup>2</sup> See e.g. Platt, L. et al. (2018). Associations between sex work laws and sex workers' health: A systematic review and meta-analysis of quantitative and qualitative studies. *PLOS Medicine*, and Oliveira, A., et al. (2023). Understanding the Impact of EU Prostitution Policies on Sex Workers: A Mixed Study Systematic Review. *Sexuality Research and Social Policy*.

ground shows that free and autonomous choice in this field, which covers a large variety of situations, do exist. This aspect aside, criminalization of clients will also have downside effects on prevention and detection of sexual exploitation and trafficking in human beings. Indeed, crimes are often detected on the basis of information provided by citizens to the police. This is particularly the case in the context of forced prostitution and labor exploitation. Punishing the user would thus have a deterrent effect, as clients may no longer be willing to contribute to identifying suspected human trafficking.

Together, we must maintain our ambition to protect the human rights of sex workers at the international level.

Thank you.

In the text below the Netherlands will provide input respectively on the questions 1, 5, 6, 11, 13, 14 and 15.

**Question 1: Provide examples of the hidden forms of prostitution, and explain to what extent they are recognized and dealt with as such?**

The Netherlands favors a visible sex work industry. The research 'The nature and effects of prostitution policy'<sup>3</sup> shows that, after reviewing studies focusing on the effects of decriminalization on the legal and social position of sex workers, as a result of decriminalization, sex workers experience improved working conditions, autonomy, and access to authorities. Sex workers explain that they feel more in control in their interactions with customers, have more means at their disposal to react to abuse and violence, and are able to work in more visible (and therefore safer) workplaces. Moreover, various studies show that decriminalization leads to more confidence in judicial bodies and institutions and increases the willingness to report misconducts and abuses.

**Question 5: Who is responsible for the perpetration of violence against women and girls in prostitution?**

Sex workers can be affected by various forms of **interpersonal violence** – sexual, physical and psychological violence, economic exploitation, domestic violence, breaches of data protection etc. – and responsibility always lies with the perpetrators involving, of course, criminal prosecution of perpetrators.

Furthermore, sex workers are always affected by **structural violence through stigmatization, discrimination and marginalization**. This also includes the language often used in the discourse on prostitution /

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<sup>3</sup> Research 'The nature and effects of prostitution policy'/ Onderzoek 'De aard en effecten van prostitutiebeleid', WODC/Regioplan 2022.

sex work. Viewing sex workers as victims in general does not reflect reality and at the same time weakens their position. Undifferentiated language disempowers people in sex work by denying them any agency and decision-making power, thereby contributing to their stigmatization and vulnerability.

It is therefore necessary to address both interpersonal violence against sex workers and victims of human trafficking, as well as structural violence.

In 2019, the Northern Irish Department of Justice published an evaluation<sup>4</sup> of the sex purchase ban introduced by law three years before. The report revealed that clients had become more disrespectful and aggressive towards sex workers. Violence rose exponentially due to client criminalization.

However, the demand for sexual services was not reduced by the new legal situation, but had merely shifted to illegality. As a result, sex workers were pushed even further to the margins of society and lost negotiating power with clients and other relevant people, such as landlords of business premises.

In 2021, the impact of Covid-19 on sex work in the Netherlands was studied.<sup>5</sup> Sex work is a profession with physical contact that during the corona crisis was prohibited due to closure of workplaces for a long time; for 9 out of 14 months during the period from March 15, 2020 to May 19, 2021. In the periods when sex work was allowed and after May 19 2021, sex work was possible in observance of the coronacrisis implemented by corona measures implemented by the government, such as conducting a health check. The study found that the corona crisis had a major impact on sex work, with many sex workers falling into serious financial difficulties and working under unsafe conditions with no recourse to the police in case of violence.

Whereas by regulating sex work in a way that focuses on the rights of sex workers, governments can have a positive impact on their working conditions and thus reduce the risk of exploitation and violence.

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

The violation of human rights that is linked to sex work, is mostly caused by the stigmatization of the work. Because of that stigma, sex workers

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<sup>4</sup> Department of Justice Northern Ireland, 'Assessment of impact criminalisation of purchasing sexual services' (17. September 2019), [Report published on impact of sex purchase offence | Department of Justice \(justice-ni.gov.uk\)](#).

<sup>5</sup> Onderzoek naar de impact van corona op sekswerk in Nederland, Erasmus MC en Stichting Aidsfonds – Soa Aids Nederland, december 2021.

experience reduced access to services in several areas, like police, health care and business.

In order to strengthen the social and legal position of sex workers, the Netherlands published a national approach in 2023. The premise here is that strengthening the social and legal position of sex workers also contributes to respecting the human rights of sex workers. In 2024, efforts will be made to implement the various actions that are introduced in this approach. The approach consists of five themes: business services (such as a business bank account and business or private insurances), municipalities, police, healthcare and communication and media. Gaining access to insurance, business bank accounts and other financial services are part of this approach. The approach also addresses the treatment of sex workers, destigmatization of sex work, information and assistance to sex workers and violence against sex workers.

**Question 11: What measures are in place to assist and support women and girls who wish to leave prostitution?**

Since 2021, there has been a decentralization allowance for exit programs for sex workers (DUUP). This structural scheme supports sex workers who want to leave the sex industry.

This program includes financing and maintaining the nationwide network of exit programs and sharing knowledge within the regions and between the regions through the nationwide DUUP days. In the meantime, the legislative process in which quitting sex workers are one of the groups that nationally receive priority by means of a declaration of urgency on the social housing market continues. Moreover, research has recently started to gain insight into the process of quitting sex work and the support offered. The aim of this research is to provide an in-depth and quantitative image of this process, from the sex workers' own point of view. In addition, the present study evaluates the cooperation and knowledge-sharing around exit programs/support and funding through the decentralization payment.

**Question 13: 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?**

The Wetenschappelijk Onderzoek- en Datacentrum (WODC)<sup>6</sup>/Regioplan 2022 study "Nature and Effects of Prostitution Policy" shows that there are advantages and disadvantages for different policy models. The impact

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<sup>6</sup> The Scientific Research and Data Center (WODC) is the knowledge institute for the rule of law. The WODC conducts independent scientific research itself or has it conducted by recognized institutes and universities, in support of policy and implementation.

of a policy model depends on various factors and how a country implements it. In any case, decriminalization seems to have proven a positive impact on the legal and social position of sex workers.

The WODC study of 2022 reveals that studies show a number of negative effects of (partial) criminalization on the legal and social position of sex workers. They experience poorer living conditions and run more risks by interacting with more demanding clients. In addition, there is a link between (partial) criminalization and health risks and limited access to health care, assistance and judicial institutions. Criminalization according to the Swedish model seems to be further associated with the stigmatization of sex workers and rising levels of violence and marginalization.

**Question 14: Are frontline organizations and survivors' organisations sufficiently included in policymaking at the national and international level?**

The Dutch Ministry of Justice involves chain partners, other relevant organizations, the sex worker community and experts in policymaking at the national and international level.<sup>7</sup> For example, by regularly engaging with them and collaborating when it comes to making laws, regulations and programs such as the national approach to strengthen the social and legal position of sex workers in the Netherlands which was published in 2023. Sex work policies should be effective, enforceable and efficient. For this reason, it is necessary to involve all parties affected by and involved in sex work policy. It should also be clearly named here that this is not exclusively about 'survivors' organizations', but mostly experts (including with sex work experience), (former) sex workers and interest groups.

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

A sex purchase ban leads to **increased stigmatization and marginalization** of sex workers and clients become more disrespectful and assaultive.<sup>8</sup> In an illegal system, sex workers lose negotiation power towards clients, property owners of business premises etc. In general, sex workers become more dependent on third parties. The COVID-19 restrictions – which included prohibition of sex work during lockdowns – have proven the negative effects of **driving the market into illegality** also in the Netherlands.

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<sup>7</sup> Here we like to mention that in the case of sex workers who have stopped practicing sex work, we prefer to speak of 'former sex workers' rather than 'survivors'.

<sup>8</sup> Department of Justice Northern Ireland, 'Assessment of impact criminalisation of purchasing sexual services' (17. September 2019), Report published on impact of sex purchase offence | Department of Justice ([justice-ni.gov.uk](http://justice-ni.gov.uk)).

Moreover, a ban on the purchase of sexual services does not create alternative income opportunities, but exacerbates the social and economic situation of sex workers.

Therefore the **European Coalition on Sex Workers Rights and Inclusion**, which is a network of 15 leading international civil society organizations in the fields of human rights, public health and migration policy, **advocates for decriminalization**<sup>9</sup> of adult consensual sex work, backed by **extensive academic research** and a wide range of international UN, human rights, health and anti-trafficking organizations that support this position.<sup>10</sup>

Hence, it is essential to distinguish clearly between sex work and (sexual) violence including trafficking to take targeted action against all forms of violence, discrimination and stigmatization.

Furthermore, only by regulating sexual services in a way that **rights of sex workers are at its center**, the state can influence working conditions. As in other areas of work with a high risk of human trafficking – such as 24-hour care, the construction industry or agriculture – efforts need to be made to **strengthen rights** and control of working conditions rather than repression. Only by **strengthening the rights of sex workers**, living and working conditions can be improved and thus the risk of exploitation and violence be reduced.

Last but not least, it has to be stated that the root causes of trafficking in human beings need to be addressed. It is therefore of utmost importance to create economic systems in which jobs ensure sufficient funds for a decent life for all.

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<sup>9</sup><https://www.amnesty.org/ar/wpcontent/uploads/2023/01/EUR0161052022ENGLISH.pdf>

<sup>10</sup>[Statement of concern re: 'The differing EU Member States' regulations on prostitution and their cross-border implications on women's rights' by Prof Andrea di Nicola](#)

Amnesty International (2016). *Amnesty International Policy on State Obligations to Respect, Protect and Fulfil the Human Rights of Sex Workers*; Human Rights Watch (2019). *Why Sex Work Should Be Decriminalized | Questions and Answers*; UNAIDS (2021). *Hiv and Sex work. Human Rights Factsheet Series*; Global Alliance Against Traffic in Women (GAATW) (2015), *GAATW-IS Comment: Amnesty International calls for the decriminalisation of sex work*; Global Commission on HIV and the Law (2018). *Risks, Rights and Health; supplement*; UNAIDS (2023). *Save Lives. Decriminalise*; UNAIDS, UNHCR, UNICEF, WFP, UNDP, UNFPA, UN Women, ILO, UNESCO, WHO, OHCHR, IOM (2017), *Joint United Nations Statement on Ending Discrimination in Healthcare Settings*; UN Special Rapporteur on the right to health. Grover, A. (2010). *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, UN GA A/HRC/14/20*; UN Working Group on discrimination against women and girls (2023). *Eliminating discrimination against sex workers and securing their human rights*; International Planned Parenthood (2022), *IPPF Policy on sex work*; ICJ (2023). *The 8 March Principles for a Human Rights-Based Approach to Criminal Law Proscribing Conduct Associated with Sex, Reproduction, Drug Use, HIV, Homelessness and Poverty*. See also: The Lancet (2014). Series on HIV and sex workers, <https://www.thelancet.com/series/hiv-and-sex-workers>; The Lancet Editorial. (2023). Protecting the health of sex workers in the EU. *The Lancet*, 401.

To prevent sexual exploitation in the sex industry, as of January 1, 2022, clients will be punishable if they purchase a sexual service from a sex worker about whom they know or have serious reason to suspect coercion, exploitation or human trafficking. This conduct is criminalized in Article 273g of the Penal Code.

In order to inform customers about the new criminalisation and to encourage responsible customer behavior, the government launched the "Not everything is what it seems" campaign on December 29, 2021. This campaign drew attention to the above through bus shelters, social media, online ads and videos until January 31, 2022.