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including the right to development**

Prostitution and violence against women and girls

**Report of the Special Rapporteur on violence against women and girls,
its causes and consequences, Reem Alsalem***

Summary

In the present report, the Special Rapporteur on violence against women and girls, its causes and consequences examines violence against women and girls as a form, cause and consequence of prostitution.

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I. Introduction

1. The Special Rapporteur on violence against women and girls, its causes and consequences, Reem Alsalem, submits the present report pursuant to Human Rights Council resolution 50/7. In the report, the Special Rapporteur examines violence against women and sexual exploitation as a form, cause and consequence of prostitution, assesses the key conceptual frameworks and terminologies, international human rights and legal standards, and takes stock of legislative and policy models. In response to the call for input to the report, the Special Rapporteur received some 300 submissions from a wide range of stakeholders.¹ The Special Rapporteur also convened seven online consultations with 86 experts and women with lived experiences from across all continents.

II. Activities undertaken by the Special Rapporteur

2. The Special Rapporteur conducted an official country visit to Poland from 27 February to 9 March 2023 and to the United Kingdom of Great Britain and Northern Ireland from 12 to 21 February 2024. On 3 October 2023, the Special Rapporteur addressed the General Assembly to present her report on violence against women and girls, nationality laws and statelessness.² On 11 March 2024, the Special Rapporteur delivered a statement at the opening session of the sixty-eighth session of the Commission of the Status of Women and organized a side event on the thirtieth anniversary of the mandate co-sponsored by Canada and Costa Rica. The Special Rapporteur advocated for the initiative launched by a group of countries for an Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women focusing on violence against women.

III. Terminology and definitions

3. The term “prostitution” itself is not defined in international law.³ The concept of prostitution, and the associated terminology, are contentious and polarizing. Confused translations, lack of clear definitions and euphemisms have added a layer of complications. The terminology used in the present report is based on the understanding of prostitution as a system of violence,⁴ which reduces women and girls to commodities. It is a system of inequality and discrimination based on sex and other intersecting grounds, which affects a woman’s ability to achieve equality. Three groups of actors take part in this system: individuals – usually men and boys – who buy sexual acts; individuals – usually women and girls – who are bought to satisfy these sexual acts; and third parties who organize, or profit or benefit from prostituting the latter group. The term “prostitution system” reflects the Special Rapporteur’s findings that prostitution is intrinsically linked to different forms of violence against women and girls and constitutes a form of violence in and of itself. Pornography is understood to be filmed prostitution,⁵ and is also covered in the present report.

4. In selecting terminology, the Special Rapporteur dedicated a session on terminology during the expert consultations, assessed the input received, centred a human rights-based approach and favoured language agreed on by Member States. The Special Rapporteur is aware that her approach contrasts with the terms and language used by some United Nations entities and human rights mechanisms.⁶ She uses the terms “prostituted women and girls” and “exploitation of prostitution of women and girls” because they align with international

¹ Owing to the word limit, the Special Rapporteur was unable to cite all the documents reviewed.

² A/78/256.

³ In its resolution of 14 September 2023 on the regulation of prostitution in the EU: its cross-border implications and impact on gender equality and women’s rights, the Parliament of the European Union tried to fill the gap in international law by advancing a definition of prostitution.

⁴ Joint submission by the Swedish Women’s Lobby et al.

⁵ Submission by Prostitution Research and Education.

⁶ A/HRC/WG.11/39/1.

human rights law, noting also the language recommended by the Committee on the Rights of the Child.⁷

5. Moreover, from the expert consultations, many prostituted women and frontline organizations indicated that they accepted and used these terms, and did not find them either disrespectful or stigmatizing, as they recognized that the stigma and criminal responsibility must be assigned to the perpetrators of crimes and that the abuse of power does not imply a loss of personal agency or autonomy. These terms also meet the requirements of the definition of “victim” in international law.

6. The Special Rapporteur does not use the terms “sex work” and “sex worker” in the report.⁸ A number of organizations and individuals stated that, in their view, the aforementioned terms were more appropriate as they were more respectful and dignified for prostituted women;⁹ recognized their agency, and underlined that “sex work” was a “legitimate” form of work.¹⁰ While acknowledging these arguments, the Special Rapporteur considers that the term is neither recognized nor defined in international law. In addition, the term wrongly depicts prostitution as an activity as worthy and dignified as any other work; it fails to take into account the serious human rights violations that characterize the prostitution system and “gaslights” victims and their experiences. The Special Rapporteur therefore uses the terms “victims” and “prostituted women and girls” rather than “sex worker”,¹¹ in recognition of the scale of the harm experienced and the impairment of fundamental rights and the rights to protection, assistance, compensation and reparations.¹² Lastly, since it is not “sex” that is being bought, the term “sexual act buyer” is used to refer to those who purchase sexual acts.

IV. Violence against women and girls as a form, cause and consequence of prostitution

A. Root causes of the prostitution system

7. On the macro level, the development of prostitution systems is heavily influenced by patriarchal norms and the accompanying abuse of power and sexual demand by men, exacerbated in recent decades by globalization where everything can be bought and sold,¹³ economic inequalities, conflict, occupation and increased militarization,¹⁴ destruction of ecosystems by extractive industries,¹⁵ the legacies of colonialism,¹⁶ war,¹⁷ complex emergencies and humanitarian consequences, all which result in further marginalization and forced displacement of women and girls.

8. Women and girls facing multiple and intersecting forms of discrimination and inequalities are among the most susceptible to enter, engage or remain in prostitution, and therefore to violence. Disability, age, social class, race, ethnicity, migratory and legal status, sexual orientation and gender identity¹⁸ are factors that exacerbate the risk of entry into prostitution. As a result, prostituted women and girls often have irregular status and no access to effective assistance, protection, services or livelihood opportunities. Many are homeless,

⁷ See CRC/C/156, para. 55. The Special Rapporteur uses the term “prostituted children”, which is close to the term “children who are prostituted”.

⁸ The terms used in the report may therefore be different from the preferred terms as they appear in the original submissions.

⁹ Submission by HRW.

¹⁰ Expert consultations.

¹¹ The term “victims of prostitution” is used in article 16 of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

¹² See General Assembly resolution 40/34.

¹³ Expert consultations.

¹⁴ Submission by Sisters of the Good Shepherd.

¹⁵ Submission by Ecuador.

¹⁶ Submission by Space International.

¹⁷ Joint submission by Democracy Development Center et al.

¹⁸ Submission by Transgender Europe.

housing insecure, often evicted.¹⁹ Many suffer from poverty, adverse childhood experiences, destitution and substance abuse,²⁰ and have limited or no education, while having to provide for family members. Many are deceived with false or lucrative job offers, or financial incentives in exchange for sexual acts. A large majority has a history of sexual and physical abuse, neglect and child abuse, including incest.²¹

9. Collectively, these conditions increase women's and girls' risk of further exploitation, sexual assault and coercion. Women and girls are also sold by their families or intimate partners for prostitution, child or forced marriage with the purpose of sexual exploitation. Certain religious norms are instrumentalized by men with religious authority to justify enslavement²² or the prostitution of girls through child marriage²³ in fake or temporary marriages known as *nikah mut'ah*.²⁴ Religious and animist rituals, such as Juju in West Africa, are also used at times to convince victims that they or their families will be harmed if they go to law enforcement or try to escape or leave.²⁵

B. Nexus between violence and prostitution

10. Prostitution results in egregious violations of human rights and multiple forms of violence against women and girls, who they are often dehumanized and perceived as persons without human rights. Prostitution violates the right of women and girls to dignity,²⁶ and often constitutes torture, inhuman and degrading treatment. Physical forms of violence – mainly by sex act buyers – include sexual abuse, rape and gang rape, severe beatings, including for the victim's refusal, lack of enthusiasm or dissociation.²⁷ Kidnapping, abduction and enforced disappearance are also common.²⁸ Women and girls are mutilated or burned, including with cigarettes.²⁹ They have foreign objects inserted into their bodies, urinated, defecated and ejaculated upon, and can be forced to have unprotected sex.³⁰ In pornography, acts of gagging, brutal penetration of the vagina by one or several men, are particularly common.³¹ As a result, they are often left with lasting physical disabilities.³² Prostitution also leads to femicide,³³ serial killings³⁴ and death threats.

11. Victims are also subjected to physical abuse, sadism and masochism by sexual act buyers. The more brutal and violent the sex act (such as being forced to endure sex acts with animals), the more users feel that they have received their "money's worth".³⁵ Pregnant women are not spared.³⁶ Prostituted women and girls are often kept in slavery or slavery-like conditions,³⁷ where women and girls are sexually enslaved or taken by armed groups as "wives".³⁸ Prostituted women and girls are regularly subjected to verbal abuse offline and online, shaming and blackmail. Victims or their families may be threatened, or subjected to

¹⁹ Joint submission by CREA et al.

²⁰ Submission by CEASE.

²¹ Submissions by Space International.

²² Submission by Global Forum of Communities Discriminated on Work and Descent.

²³ Submission by ECPAT International.

²⁴ Submission by ENOMW.

²⁵ Submission by Resistenza Femminista APS et al.

²⁶ See European Parliament, Directorate-General for Internal Policies, "Sexual exploitation and prostitution and its impact on gender equality", study, 20142013/2103(INI).

²⁷ Submissions by Prajwala and Elly Arrow.

²⁸ Submission by CATWLAC et al.

²⁹ Submission by APRAMP.

³⁰ Submission by Equipo La Colmena.

³¹ Fiona Vera-Gray, Clare McGlynn, Ibad Kureshi and Kate Butterby, "Sexual violence as a sexual script in mainstream online pornography", *The British Journal of Criminology*, vol. 61, No. 5, 2021.

³² Submission by Women at the Well.

³³ Submission by NIA Ending Violence.

³⁴ Submission by Space International.

³⁵ Submission by Culture Reframed.

³⁶ Submission by DIAKA.

³⁷ Submission by Anglican Communion.

³⁸ Submission by Just Planet.

unwanted contact or attempted contact, including online. Accusations of prostitution are also levied against female politicians and human rights defenders as a form of persecution.³⁹

12. Economic violence and marginalization includes receiving little or no payment,⁴⁰ being exploited for long hours, extortion,⁴¹ refusal of sexual act buyers to pay, robbery by pimps, other third-party exploiters and sexual act buyers, forced payment of “interest” to pimps, fines by the police, lifelong debt bondage⁴² and bribes to key players in the prostitution system.⁴³ Others include payment to pimps for rent, work or basic services.⁴⁴ Migrant women are often in debt bondage even before entering prostitution owing to the expenses and broker fees incurred for their journey, which is then used to coerce them to sell sexual acts.⁴⁵ Many pay taxes through their pimps, which furthers control and decreases their chances to exit.⁴⁶ Exploitative practices within the prostitution system often impede victims’ access to education, health care and other essential services, and deny them access to their most basic rights, such as to food, water, sanitation, clothes, health services and medical care. Many women and girls continue to be trapped in destitution and see their situation worsen, even after they exit prostitution.⁴⁷

13. Victims also lose their right to privacy, freedom of movement and their right to family. They are often socially isolated and cannot move freely, as pimps withhold identity documents,⁴⁸ constantly surveil them,⁴⁹ and take decisions regarding their time, the “service”⁵⁰ and the “remuneration” to be provided. The control exercised by pimps frequently obstructs victims’ right to privacy and their right to family. They are also often subjected to arbitrary and prolonged detention, irregular migratory status,⁵¹ expulsion and deportation. Prostitution often results in serious psychological violence, such as memory loss, depression, insomnia, eating disorders, substance abuse,⁵² identification with the aggressor, dissociation and suicidality, which often lead to suicide.⁵³ Frontline organizations explain that the consequences of prostitution for mental health are similar to those of victims of torture.⁵⁴ According to a study conducted in nine countries, 68 per cent met the criteria for post-traumatic stress disorder.⁵⁵ Victims suffer from hypervigilance, anxiety, changed intimacy and sexual pleasure, lack of confidence, and suicidal ideation.⁵⁶ Prostitution also results in other serious health-related consequences, such as declining life expectancy,⁵⁷ exposure to sexually transmitted diseases and HIV, and difficulties in access to treatment.⁵⁸ Prostituted women and girls can be coerced into abortions or sterilization and may suffer from forced pregnancy.⁵⁹ They may also suffer from pelvic floor degradation, urinary tract infection, bladder inflammation, fecal incontinence, infertility, cervical cancer, oral illnesses, or sleep disorders.

³⁹ Submission by Nazra for Feminist Studies.

⁴⁰ Submission by Libertas International.

⁴¹ Submission by Kisumu Sex Worker Alliance.

⁴² Submission by Collective Shout Australia.

⁴³ United Nations Development Programme, “Sex Work and the Law in Asia and the Pacific”, 2012.

⁴⁴ Joint Submission by Kofra and Initiative Stop Sexkauf

⁴⁵ Joint submission by SOLWODI Deutschland et al.

⁴⁶ Submission by Anerkennung, Respekt und Augenhöhe Trier.

⁴⁷ Submission by Prajwala and Alliance Nordic Model Germany.

⁴⁸ Submission by the Dominican Republic.

⁴⁹ Submission by APRAMP.

⁵⁰ Submission by FILIA UK.

⁵¹ Submission by Afghan Women EU.

⁵² Submission by M. D. Kreuzer.

⁵³ Joint submission by Prostitution Research and Education et al.

⁵⁴ Medicos del Mundo, “Prostitucion y trata de seres humanos con fines de explotacion sexual”, 2019.

⁵⁵ Melissa Farley, Ann Cotton et al., “Prostitution and trafficking in nine countries: an update on violence and post-traumatic stress disorder”, *Journal of Trauma Practice*, vol. 2, Nos. 3-4.

⁵⁶ Submission by Voices of Israeli Sex Trade Survivors.

⁵⁷ Submission by Anti-Trafficking Coalition Organizations in India.

⁵⁸ Submission by UNAIDS Human Rights Reference Group.

⁵⁹ Submission by COSWA Kenya.

14. The aforementioned forms of violence and their consequences are compounded by the lack of legal protections for victims, the inability of many to perceive themselves as victims,⁶⁰ the prosecution of women and girls in prostitution, lack of disaggregated data on impacts of prostitution,⁶¹ lack of exit programmes, face language barriers, social stigma against them or their families, corruption and complicity of law enforcement and other State institutions, as well as State and non-State sanctioned discrimination. Attitudes such as racism, xenophobia, sexism, racism, particularly against women of colour, lesbophobia and transphobia aggravate violence against victims.⁶² It is also influenced by the very low prosecution and conviction of sexual act buyers.⁶³ Many victims also fear the retaliation and “punitive measures” of the pimp or criminal organizations.⁶⁴

15. Violence against women is prolific in pornography. An analysis of popular pornography videos completed in 2010 uncovered that 88.2 per cent of scenes contained acts of physical assault (e.g., gagging, choking or strangulation); 48.7 per cent contained acts of degrading verbal name-calling (i.e., bitch).⁶⁵ Women in pornography often recounted being exposed to rectal and throat gonorrhoea; tearing of the throat, vagina and anus; and chlamydia of the eye.⁶⁶ Prostituted women and girls are subjected to non-consensual image-based sexual abuse and cyberflashing. The same applies to pornography generated by artificial intelligence. According to one analysis, more than 96 per cent of pornography generated by artificial intelligence was produced without the consent of the individual featured.⁶⁷ In 2022 alone, there were over 100,000 computer generated non-consensual images of women online.⁶⁸ Victims of pornography generated by artificial intelligence, adolescents, especially girls, can suffer isolation, school bullying and harassment. They are therefore often retraumatized.

Consequences for children of prostituted women, especially girls

16. Many women lose custody of their children as they are labelled bad mothers. Children of women in prostitution also suffer from violence, even while they are in their mothers’ womb. Many children are conceived as a result of a violent act of prostitution. A study on children of prostituted women found delays in neurodevelopment, unschooling, suspected maltreatment, abuse or neglect, family dysfunction, partial or total absence of a father figure, housing and caregiver instability, and anxious, avoidant or ambivalent attachment. Other findings included attention deficit and hyperactivity, language and learning disorders, developmental disharmony, depressive disorders, suicidal ideation and self-injurious behaviour, hyperoxia, insomnia,⁶⁹ cognition of guilt and worthlessness, and irritability.⁷⁰ They are also often stolen, drugged or sold in trafficking networks regularly, used for sexual abuse or rape, and often are killed too.⁷¹

C. Consequences for gender equality and the empowerment of women and girls

1. Increased pressure on marginalized women and girls

17. Prostitution thrives on sexualizing and racializing poverty, targeting women, particularly those from minority and marginalized backgrounds. It is therefore not a coincidence that, particularly in rich countries, the prostitution system is supplied by migrant

⁶⁰ Submissions by Slovenia and the Salvation Army.

⁶¹ Submission by Women’s Support Project.

⁶² Joint submission by Prout – Beratung, et al.

⁶³ Submission by Autonomous Women’s Centre.

⁶⁴ Submission by Slovenia.

⁶⁵ Ana J. Bridges et al., “Aggression and Sexual Behavior in Best-Selling Pornography Videos: A Content Analysis Update”, *Violence Against Women*, vol. 16, No. 10, 2010.

⁶⁶ Submission by Culture Reframed.

⁶⁷ Emine Saner, “Inside the Taylor Swift deepfake scandal”, *The Guardian*, 31 January 2024.

⁶⁸ *Increasing Threat of Deepfake Identities*, 2022.

⁶⁹ Submission by Center for Women War Victims – ROSA.

⁷⁰ Submission by NIA. See also: <https://www.humanium.org/en/child-prostitution/>.

⁷¹ Expert consultation.

women from impoverished and war-torn countries.⁷² Attaching a payment – whether in cash or “in kind” – to women in prostitution reduces the latter to mere objects⁷³ and normalizes the commodification of women and girls. The normalization of the purchase of sexual acts gives the sexual act a transactional value and places sexuality in the realm of the market. All women can therefore be regarded as having a price. In the Republic of Korea, it is estimated that 42 per cent of all men have bought sexual acts once in their lifetime.⁷⁴ In a study of British men, 11 per cent had purchased sex at a brothel; and buying sex and engaging in pimping is rendered easier online, as it lowers the risks for pimps and sexual act buyers.⁷⁵ This increases a sexist social pressure on the most precarious women and girls to accept the provision of a sexual act as a livelihood alternative, regardless of the inherent violence of it. In the Kingdom of the Netherlands, for example, it is now legal for a driving instructor to demand a sexual act from students as a means of payment, a practice known as “a ride for a ride”.⁷⁶ In the United Kingdom of Great Britain and Northern Ireland, the University of Leicester issued a “sex worker toolkit” to its students while failing to develop any financial support dedicated to its most precarious female students.

18. The perceived right of men to purchase a sex act normalizes the systematic violence inflicted on women through prostitution, including in pornography, as it erases the boundaries between what counts as sex and what counts as sexual violence.⁷⁷ The violence enacted against women in pornography, such as strangulation and defecation, is often re-enacted against girls and women by those who consume pornography in the physical world,⁷⁸ such as strangulation and defecation.⁷⁹ The increase in rape, including gang rape, can be linked to the increased male consumption of pornography.⁸⁰ Studies also show that men who pay for sexual acts have a low level of empathy for women in prostitution and feel that they are different from other women.⁸¹ Sexual act buyers are well aware that women in prostitution do not engage voluntarily, but they believe that absolves them of responsibility.⁸² A meta-analysis conducted in 2015 found that exposure to non-violent and violent pornography resulted in increases in both attitudes and supporting aggression and actual aggression against women and children.⁸³ More frequent users of pornography were also the most frequent users of women in prostitution.⁸⁴ Many adolescent boys seek out prostituted women and girls to be “sexually initiated”.⁸⁵

19. Pornography generated by artificial intelligence further distorts what constitutes normal sexual interaction, encouraging viewers to adopt more harmful sexual attitudes.⁸⁶ In one study, the terms “schoolgirl” (17.6 per cent), “girl” (9.6 per cent) and “teen” (8.8 per cent) were often paired with coercive and exploitative content, and the most frequent theme involved incest. Users of pornography require more novel, extreme forms of violent content to achieve the same level of arousal.⁸⁷ Virtual reality pornography may make it more difficult to find pleasure in real-life sexual encounters.⁸⁸

⁷² Fondation Scelles, 5th Global Report on Sexual Exploitation, 2019.

⁷³ Submission by Stop Demand Foundation.

⁷⁴ Submission by National Solidarity against Sexual Exploitation of Women.

⁷⁵ Submission by CEASE.

⁷⁶ Lauren Said-Moorhouse, “Dutch driving instructors can trade lessons for sex”, CNN, 21 December 2015.

⁷⁷ Fiona Vera-Gray et al., “Sexual violence as a sexual script”.

⁷⁸ Joint submission by Alyson Dearborn et al.

⁷⁹ Submission by Nordic Model Now.

⁸⁰ Global South and Migrant Women, Brief on the Case of “Protection of Privacy and Reputation on Platforms such as Pornhub”, 11 March 2021.

⁸¹ Melissa Farley et al., “Men who buy sex: Who they buy and what they know”, December 2009.

⁸² Submission by Alliance Nordic Model Germany.

⁸³ P. J. Wright et al., “Meta-Analysis of Pornography Consumption and Actual Aggression in General Population Studies”, *Journal of Communication*, vol. 66, No. 1, 2015,

⁸⁴ Submission by Osez le Féminisme.

⁸⁵ Submission by Asociația eLiberare.

⁸⁶ European Parliament, “The ethics of artificial intelligence: Issues and initiatives”, March 2020.

⁸⁷ Fiona Vera-Gray et al., “Sexual violence as a sexual script”.

⁸⁸ <https://beginagainstitute.com/blog/the-potential-risks-of-virtual-reality-pornography/>.

20. The wide reach of pornography and its negative impact on shaping the sexual expectations of men and boys should not be underestimated. It is estimated that 28,258 users are watching pornography every second, and 35 per cent of all Internet downloads are related to pornography.⁸⁹ A 2020 study by a digital marketing company noted that MindGeek's Pornhub was the technology company with the third-greatest impact on society in the twenty-first century.⁹⁰ Globally, in 2018, the first exposure to pornography among males is at 12 years of age, on average.⁹¹

21. Pornography can lead to an increase in the sexual exploitation and prostitution of children.⁹² Girls are trapped into prostitution younger and younger, including some as young as 8 years of age.⁹³ The regular exposure of children to pornography has also been linked to the quadrupling of underaged victims of sexual offenses over the past decade, where the victims are mainly girls.

2. Exacerbation of racism

22. It is frequently observed that women in prostitution in rich countries are disproportionately from minority ethnic groups, while sexual act buyers are from majority groups, reinforcing the racist dynamics at work. In the United States of America, for example, Black, latino, Indigenous and native women and girls are overrepresented in the prostitution system, and white men are overrepresented among sexual act buyers.⁹⁴ Racist fetishization and stereotyping of women in prostitution by sexual act buyers is frequently observed and used as a criterion in the choice of prostituted women. For women and girls from certain minorities and Indigenous Peoples that are discriminated against, engaging in prostitution is normalized as being “part of their culture”⁹⁵ and way of life. Prostituted women and girls from specific racial and ethnic backgrounds are frequently dehumanized and subjected to social and cultural stereotyping, and slurs. Prostitution also allows the sexualization of racism against certain ethnic or racial groups to flourish.

3. Undermining the equality of women and girls and their participation in society

23. The equal participation of women in society is impossible to achieve when prostitution is normalized and fundamentally based on an inequality between women and men.⁹⁶ Women almost exclusively represent “the supply” in the prostitution system, while men represent almost exclusively the demand for prostitution. Prostitution therefore bears a deeply archaic and sexist vision of the role of women and of the relations between women and men, as women are reduced to receptacles for men's sexual “needs”; as such, there has also been a strong correlation between men's use of prostitution and rape.⁹⁷ The existence and normalization of prostitution is also a fundamental obstacle to sexuality based on equality.

24. Digital platforms facilitating pornography like Pornhub normalize and promote male domination over women and enforce patriarchal gender roles. One recent study found that 98 per cent of deepfake videos online were pornographic, and that 99 per cent of those targeted were women or girls.⁹⁸ Many women and girls feel that pornography makes them feel uncomfortable and distressed by their “pornification” and sexualization.⁹⁹ As men and boys feel a greater sense of entitlement due to consuming pornography, girls feel compelled to submit, and many women and girls feel conditioned to remodel their bodies surgically to

⁸⁹ Taylor Tennis, “Porn and Human Trafficking”, The Exodus Road, 26 August 2021.

⁹⁰ United States, House Financial Services Committee Hearing, 2021.

⁹¹ See <https://www.covenanteyes.com/pornstats/>.

⁹² Submission by Uganda Youth Development Link.

⁹³ Joint submission by A. Villena-Moya et al.

⁹⁴ See for example rights4girls, “Racial and Gender Disparities in the Sex Trade”, 2024.

⁹⁵ Submission by Asociația eLiberare.

⁹⁶ Catherine A. MacKinnon, “Trafficking, Prostitution, and Inequality”, 2011.

⁹⁷ UNDP, UN Multi-Country Study on Men and Violence in Asia and the Pacific, 2013.

⁹⁸ See <https://www.homesecurityheroes.com/state-of-deepfakes/>.

⁹⁹ Miranda A. H. Horvath et al., Office of the Children's Commissioner, report, 30 April 2013.

bring them into line with the profit-driven pornography aesthetic.¹⁰⁰ Young women are groomed into sexual self-exploitation.¹⁰¹ “Pornified” visual landscape indoctrinates girls and women into a patriarchal mindset that the only way to be visible – in fact valuable – is to be sexually desired, “hot” and “pornified”.¹⁰² The media and some universities have played an important role in glamorizing prostitution and reinforced the objectification of women and girls.¹⁰³

4. Consequences of digitally facilitated prostitution

25. Some 75 per cent of sex trafficking victims are now advertised online; prostitution advertising websites are the most significant facilitators of sex trafficking. For example, a search by the police in Scotland of online advertisements of the sale of sexual acts identified 1,800 across four main websites in Scotland in a single day.¹⁰⁴ Digital platforms rarely enforce prohibitions against trafficking, and non-consensual material or community guidelines.¹⁰⁵ Just like buyers of prostitution, pornography users suspecting that women or girls have been trafficked will not report their concerns to law enforcement agencies.¹⁰⁶ Criminal networks capitalize on the anonymity and accessibility of the Internet to recruit and exploit victims, especially minors. Despite its prevalence, legal systems often overlook or inadequately address online prostitution. Cross-border prostitution presents a complex challenge, with criminal networks exploiting differences in legislation between countries to traffic victims across borders.¹⁰⁷ At the core of the pornography business model is the facilitation of video uploads by users.¹⁰⁸ Given minimum regulation, it contains a high percentage of prostitution and trafficking victims, rape, sexual violence, non-consensual filming and sharing of images, deepfake material, and child sexual abuse material.¹⁰⁹ Videos and images are then copied, shared and circulated without possibility of tracking or removing them online, even after the perpetrators are convicted. Moreover, adult pornography can act as the gateway to initially viewing and continuing to view sexualized images of children. Artificial intelligence-generated pornography is also used to create child sexual abuse material.¹¹⁰ In December 2023, after a federal investigation in the United States, Aylo Holdings (formerly MindGeek) admitted that it had profited from sex trafficking, agreed to pay a fine of \$1.8 million in order to avoid criminal prosecution for profiting from sex trafficking video on its site.¹¹¹ OnlyFans also reportedly has accounts that indicate the individual is being trafficked, and plays the role of the pimp in a commercial exchange, while strives to increase the e-pimps in the supply chain.¹¹² Virtual reality-generated pornography is becoming increasingly accessible and has grown massively, representing more than 10 per cent of the total virtual reality market.¹¹³

V. Perpetrators of violence

26. Different perpetrators of violence in the prostitution system have been gradually – even if unevenly – conceived of in international law. Sexual act buyers are the main perpetrators of violence, including femicide.¹¹⁴ Not only are they individually responsible for

¹⁰⁰ Joint submission by Alyson Dearborn et al.

¹⁰¹ A. P. Ruiz, “La creciente explotación de niñas y niños en medios digitales”, La Jornada, 2023.

¹⁰² Submission by Culture Reframed.

¹⁰³ Joint submission by Autonomous Women’s Centre et al.

¹⁰⁴ Submission by Ash Regan.

¹⁰⁵ Submission by Collective Shout Australia.

¹⁰⁶ European Parliament, 2013/2103(INI).

¹⁰⁷ Submission by ENOMW.

¹⁰⁸ Brown Rudnick suit against MindGeek, 2021

¹⁰⁹ CEASE, Expose Big Porn, 2021.

¹¹⁰ Internet Watch Foundation, “How AI is being abused to create child sexual abuse imagery”, 2023.

¹¹¹ United States v. Aylo Holdings S.A.R.L., 23-CR-463 (BMC).

¹¹² M. Farley et al., *Pornography Production Harm in Sweden*, 2023. See also AHTII, Expert Analysis of Open Source Material relating to Child Sexual Abuse Material and Sex Trafficking occurring on OnlyFans.com, 2022.

¹¹³ <https://bedbible.com/vr-porn-industry-statistics/>.

¹¹⁴ UNODC, Global Study on Homicide, 2019.

acts of violence; collectively, they create a demand for an inherently violent system built on the sexual subordination of women and girls. Perpetrators come from all walks of life,¹¹⁵ from various socioeconomic and racial backgrounds. To satisfy buyers' demand, third parties that organize and profit from prostitution also commit significant violence against victims. Predominantly taking the form of organized criminal networks, pimps or gangs, the act of pimping is committed sometimes by family members, partners, friends or other persons the victims trust. Figures in positions of power within law enforcement, the judiciary, religious leaders, media outlets, the hotel business or online and digital platforms may also act as third-party perpetrators of violence.¹¹⁶ State institutions may also create and foster conditions for increasing the risks of women and girls being vulnerable to entering prostitution, remaining trapped in it and being unable to exit it. States may also deliberately fail to protect prostituted women and girls because they benefit financially from the exploitation and abuse of prostituted women and girls. It is therefore relevant to speak of the "pimping State" – a State that leads efforts to sanitize and legitimize prostitution, thereby promoting the industry and render invisible its inherent exploitation.¹¹⁷ Such goals may be achieved through a variety of actions, such as criminalizing and punishing women and girls while turning a blind eye to the activities and financial gains made by pimps, or failing to take steps to stem demand or hold sexual act buyers and pimps accountable.

VI. Legal and policy models on prostitution

27. Most States have specific legislation that governs the prostitution system. Prostitution-related provisions are not stand-alone, but usually integrated into administrative and criminal law. Many have ratified related international law, including anti-trafficking conventions, but have domestic laws that contradict the State's international commitments. Generally, the detection and identification of victims of trafficking in women and girls remain low. Broadly speaking, there are four main legal frameworks that govern prostitution at the national level, with variations therein. Some legal approaches criminalize all or certain actors related to prostitution, and all criminalize sexual exploitation, especially in the context of conflict and war.

28. The prohibition approach, also known as criminalization, sanctions all actors involved, often on moralistic, cultural and/or religious grounds, and is practiced in such States as China, the Islamic Republic of Iran and most of the United States of America.¹¹⁸ In some States, such as the Russian Federation¹¹⁹ and Lebanon,¹²⁰ it sanctions the persons exploited in prostitution as well as the actors organizing and benefiting from it, without criminalizing the sexual act buyers. Some countries prohibit profiting from prostitution and third-party exploitation, even though those rules are rarely enforced. The impact of this approach is often discriminatory in that prostituted women and girls suffer most of the consequences; they are most often arrested and prosecuted, socially marginalized, persecuted, incriminated and incarcerated.¹²¹ They face barriers in housing, health and financial services, schooling for their children, and access to justice. Police and law enforcement officers in these countries are frequently reported as perpetrators of violence, as victims are more likely to be exposed to police raids, extortion, deportation and sexual abuse and violence. In other countries, prostitution can be administered or condoned under visa or labour mobility schemes, and immigration authorities may be involved in the prostitution system.¹²² Exit or support services under such frameworks usually do not exist,¹²³ except for rehabilitation programmes, which are conceived often as form of punishment. Buyers of prostitution are rarely

¹¹⁵ Submission by IROKO.

¹¹⁶ Submission by Afghan Women EU.

¹¹⁷ K. Banyard, *Pimp State*, 2017.

¹¹⁸ See <https://prostitution.procon.org/countries-and-their-prostitution-policies/>.

¹¹⁹ Submission by Safe House Foundation.

¹²⁰ Submission by Kafa

¹²¹ Submission by CREA.

¹²² Submissions by Kafa and Migrant Workers Action.

¹²³ Submission by Eve's Ribs.

apprehended, arrested or convicted,¹²⁴ and third parties are rarely held to account. Often, State authorities, law enforcement and even religious figures in positions of power are sexual act buyers and/or participate in organizing and profiting from prostitution.

29. The regulation approach is practiced in Austria,¹²⁵ Germany,¹²⁶ Switzerland¹²⁷ and Uruguay.¹²⁸ In these countries, the State legalizes, organizes, regulates and profits from the prostitution of others and all commercial sex establishments through administrative or territorial laws. The approach does not address the conduct of buyers of prostitution, except through laws on rape and sexual assault, or public order, should a prostituted woman file a complaint. Often grounded in public health or city planning requirements, this approach places control on the prostituted women, prescribing their conduct, location, timing and mandatory registration within the State. While acknowledging the harm of the “working environment characterized by pimping and exploitation”, rather than seeking to eradicate them it proposes to manage them through State interventions, such as mandatory health checks,¹²⁹ zoning, levies, contracts and the penalization of women who do not comply with regulations. The purported intentions to destigmatize prostituted women,¹³⁰ “create jobs” with social security, better health-care conditions, reduce violence and curb criminal networks have not been achieved under this approach. For example, in Germany, of the 250,000 estimated prostituted women, only 28,280 had registered with the authorities by end of 2022, and only 50 among them had an official employment contract.¹³¹ Moreover, in a fully legalized system, States benefit from the prostitution of women through personal income tax imposed on them, the corporate taxing and licensing fees required on brothels and/or cyber enabled businesses, in essence becoming a “pimp State”.¹³² In Switzerland, the annual revenue generated by the commercial sex industry is estimated to be 3.2 billion CHF.¹³³ This approach has resulted in a significant increase in foreign women in prostitution, mostly from economically challenged Eastern European countries and from the Global South. These women rarely obtain employment contracts despite the law recognizing prostitution as employment, and are in debt bondage with their pimps and traffickers. Legalization of prostitution increases the demand, fosters violence against women and girls and weakens the tools required for law enforcement to monitor, target and prosecute perpetrators, including traffickers and other third-party exploiters.¹³⁴ Courts may treat situations of violence in prostitution as “work incidents”,¹³⁵ and the rape of prostituted women by sexual act buyers as “theft of services”.

30. The decriminalization approach adopted in countries such as New Zealand and Belgium¹³⁶ is very similar to regulation in framework and impact. The approach decriminalizes and deregulates, at the federal level, third parties, buyers and prostituted persons; however, it leaves in place administrative, police or health controls to the responsibility of local municipalities. The legal and structural aspects of the regulation versus decriminalization frameworks are almost identical. It also advocates for “harm reduction” policies such as negotiating access to brothels, identifying sexually exploited children and access to reproductive checks.¹³⁷ By removing the illegality of third parties, decriminalization has aided traffickers, boosted sex tourism and expanded the overall size of the prostitution market.¹³⁸ The continued high demand creates a massive incentive for exploiters to traffic

¹²⁴ Submission by Autonomous Women’s Center.

¹²⁵ State of Austria prostitution regulations.

¹²⁶ Prostitution Act; Prostitution Protection Act; Pimping.

¹²⁷ Gesetz über die Ausübung der Prostitution.

¹²⁸ Ley Sobre el Trabajo Sexual.

¹²⁹ Submission by Austria.

¹³⁰ Submission by the Kingdom of the Netherlands.

¹³¹ Submission from the Parliamentary Group on Prostitution – German Bundestag.

¹³² Banyard, K., Pimp State, Faber & Faber, 2016.

¹³³ Swiss Federal Office for Police, Report on National Security, May 2006.

¹³⁴ Submission by SISTERS.

¹³⁵ Submission by Kofra and Initiative Stop Sexhauf.

¹³⁶ Belgium Penal Code.

¹³⁷ Submission by Human Rights Watch.

¹³⁸ Submission by Women’s Right’s Party.

and exploit vulnerable women,¹³⁹ and has failed to discourage unsafe sexual practices and widened the spectrum of “offers” to include even pregnant women, and attracted vulnerable young women into the sex trade. Decriminalizing the sex trade has kept the identification and prosecution of traffickers low, as is the case in Switzerland¹⁴⁰ and Germany.¹⁴¹ It has also placed the burden on prostituted women, especially those subjected to unsafe or slavery-like conditions, to pursue costly and protracted legal action against their employers through labour courts.¹⁴² It has increased the demand with new mega brothels, and emboldened entitlement among buyers, leading to increase in violence.¹⁴³ The approach also lacks State mechanisms for exiting prostitution or obtaining social and professional integration.

31. Both the regulation and decriminalization approaches view prostitution as inevitable and the elimination of male demand for sexual acts impossible. Researchers have discovered that, in 150 countries, demand increased when prostitution was legal.¹⁴⁴ Countries that have legalized or decriminalized prostitution have recorded higher rates of sex trafficking, violence, abuse and rape and increased prospects for money laundering and drug trafficking.¹⁴⁵

32. The abolition approach, also known as the “Nordic” or “equality model”, adopted in Sweden,¹⁴⁶ France,¹⁴⁷ Ireland¹⁴⁸ and Canada,¹⁴⁹ maintains the international standard on the sexual exploitation of the prostitution of others and trafficking in persons by criminalizing third parties and decriminalizing prostituted persons, but adds the criminalization of buyers as the main actors who drive the demand and fuel the commercial sex industry. By shifting the criminal responsibility to the buyer and considering prostituted persons as victims of systemic discrimination, as well as violence against women, it offers prevention, protection and exiting alternatives to them. This approach has demonstrated concrete positive results by improving the situation of persons in or at risk of exploitation; deterring buyers and third parties; and reducing harmful gender stereotypes. For example, in Sweden, no murders of prostituted women by buyers or pimps have been reported, and a large percentage of women have successfully exited the system with the support of specialized organizations.¹⁵⁰ In Canada, there has been a noticeable drop in the number of murders of prostituted women and in the number of women guilty of minor offences.¹⁵¹ France has fined nearly 8,000 buyers and increased victims’ compensation as a result of a 54 per cent increase in proceedings against pimps and buyers.¹⁵² Ireland has implemented national campaigns to educate young people about the risks of recruitment into the sex trade.¹⁵³ The legal obligation to treat prostituted women as victims entitled to protection and rights has resulted in the expansion of State-sponsored victim-support services.¹⁵⁴ All States have introduced public awareness courses to discourage demand, and training for law enforcement on a victim-centred, trauma-informed approach. Courts in both France and Canada have ruled that prostitution is inseparable from pimping and human trafficking, violates human dignity and undermines women’s right to equality.¹⁵⁵

¹³⁹ Submission by Stop Demand Foundation.

¹⁴⁰ Plate Forme Traite, Alternative Report on the Implementation of COE CETS 197 in Switzerland, 2023.

¹⁴¹ Submission from SOLWODI.

¹⁴² Submission by Women’s Right Party et al.

¹⁴³ Submission by Nordic Model Now!

¹⁴⁴ S. Cho et al. Does Legalized Prostitution Increase Human Trafficking?, *World Development*, 2013, 41(C).

¹⁴⁵ Submission by Sisters

¹⁴⁶ Regeringens proposition 1997/98:55.

¹⁴⁷ LOI n° 2016-444.

¹⁴⁸ Criminal Law (Sexual Offences) Act 2017.

¹⁴⁹ Bill C-36.

¹⁵⁰ Submission by Sweden, Unizon et al.

¹⁵¹ Submission by Women Space Vancouver.

¹⁵² Submission by Le Mouvement du Nid.

¹⁵³ Submission by the Irish Human Rights and Equality Commission.

¹⁵⁴ Submission by Amicale du Nid.

¹⁵⁵ Decision of France Constitutional Court n° 2018-761 QPC and Ontario Superior Court of Justice ruling CV-21-659594.

Role of civil society organizations

33. The ability of civil society organizations and frontline service providers to have an impact on the design and implementation of policies and to assist victims depends on the approach of engagement of the States, and their exposure to harassment and attacks by sex industry advocates and criminal networks,¹⁵⁶ as well as access to funding. In some countries, organizations have experienced the withdrawal of funding for adopting abolitionist approaches or articulating victims' needs to single-sex services.

VII. Applicable international human rights standards

A. International legal framework

34. Early international agreements¹⁵⁷ linked prostitution to traffic, slavery and slavery-like practices with a view to selling or exchanging a human being through control and ownership, often accompanied by the threat of violence. Prostitution is also incompatible with the international standards for decent work.¹⁵⁸

35. A year after the adoption of the Universal Declaration of Human Rights, which established dignity, equality and freedom as key principles and fundamental rights, the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others recognized prostitution as being incompatible with the dignity and the worth of the human person. It also prohibited the "exploitation of prostitution" in all forms, including procuring and exploiting the prostitution of another person, and knowingly managing or financing places for this purpose, to which no person may consent (arts. 1-4).

36. The Convention on the Elimination of All Forms of Discrimination against Women requires States parties to take all appropriate measures, including legislation, to suppress all forms of trafficking in women and exploitation of prostitution of women, using the same language that made third parties responsible in the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others. It introduced "all forms", thereby acknowledging that new forms would emerge and should be eliminated. As such, it recognized the prostitution of women as a form of discrimination against women within the meaning of article 1 of the Convention, obliging States to adopt all measures to eliminate it.

37. The Committee on the Elimination of Discrimination against Women expanded the interpretation of the definition of discrimination against women to include gender-based violence against women in article 1 of the Convention.¹⁵⁹ In its general recommendation No. 38 (2020), the Committee acknowledged trafficking and the exploitation of prostitution of women as a phenomenon rooted in structural, sex-based discrimination, constituting gender-based violence.¹⁶⁰ The general recommendation built on the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Trafficking in Persons Protocol), reinforcing the indivisible link between trafficking and sexual exploitation, calling upon States to take all appropriate measures to suppress all forms of trafficking and exploitation of prostitution of women.¹⁶¹ In its general recommendation, the Committee made it clear that article 6 should be read as an indivisible provision linking trafficking and sexual exploitation, and explicitly recognized that international law on

¹⁵⁶ Submission by Not Buying It.

¹⁵⁷ First Convention on Slavery (1936) and Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices White Slave Traffic, 1910 and the Covenant of the League of Nations of 1919.

¹⁵⁸ ILO, Tripartite Meeting of Experts on the Measurement of Decent Work, 2008 and Sustainable Development Goal 8.

¹⁵⁹ Committee on the Elimination of Discrimination against Women, general comment No. 19 (1992), para. 6.

¹⁶⁰ Committee on the Elimination of Discrimination against Women, general comment No. 38 (2020), para. 10.

¹⁶¹ *Ibid.*

combating all forms of trafficking and exploitation of prostitution of women had been codified and developed in the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others.¹⁶²

38. The Committee further recognized that sexual exploitation persisted due to the failure of States to effectively discourage the demand that fosters exploitation and leads to trafficking.¹⁶³ Similarly, in its resolution 77/194 on trafficking in women and girls, the General Assembly reiterated the need to eliminate the demand that fosters sex trafficking.

39. As the most common form of human trafficking is sexual exploitation (accounting for 79 per cent), of whom the majority of victims are women and girls,¹⁶⁴ the Trafficking in Persons Protocol is also relevant. It defined the crime of trafficking in persons as an act (e.g., recruitment); the means (e.g., abuse of power or of a position of vulnerability); and the purpose (e.g., exploitation). The Protocol indicates that exploitation includes, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation. The same article affirms that, when these three elements are met, the consent of the trafficked person becomes irrelevant. Moreover, article 9 (5) of the Protocol calls upon States parties to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking. The European Parliament resolution on the regulation of prostitution in the European Union, adopted on 14 September 2023, reaffirms the same principles, recognizing prostitution as a serious demand-driven violation of women's rights and as incompatible with human dignity, affirming the necessity to address the demand for prostitution.

40. The Trafficking in Persons Protocol includes a more cumbersome criterion on trafficking than the definition by the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, expanding the purposes of trafficking to include purposes other than sexual exploitation. Some countries have attempted to use the approach put forward by the Trafficking in Persons Protocol. This misinterpretation has led to the implementation of policies in which only the acts meeting the criterion defined in article 3 of the Trafficking in Persons Protocol would be penalized, while acts defined in articles 1 and 2 of the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others would not. The scope of the Trafficking in Persons Protocol is focused on the offences that are transnational in nature and involve an organized criminal group, as it is part and parcel of the United Nations Convention against Transnational Organized Crime.¹⁶⁵ Taken together, these aspects have negatively affected the fight against the exploitation of the prostitution of others and against trafficking, allowing the development of legal facades for pimps while at the same time complicating the work of law enforcement due to the difficulty of gathering all the elements needed to prove a trafficking situation according to the criteria of the Trafficking in Persons Protocol. Considering the magnitude of the crimes involved, the results achieved are modest.

41. The Rome Statute of the International Criminal Court is significant in being the first international criminal law instrument that recognizes forms of sexual violence, such as rape, sexual slavery, enforced prostitution and enforced sterilization, as distinct war crimes.

B. Prostitution and sexual exploitation of children, especially girls

42. International law prohibits the sale of children, child prostitution and child pornography, emphasizing that a child cannot consent to their own sexual exploitation. Under article 3 (c) of the Trafficking in Persons Protocol, a sexually exploited child is deemed to be a trafficking victim. International law has established special protection for children by prohibiting the sale of children, children who are prostituted and the exploitation of children

¹⁶² *Ibid.*, para. 8.

¹⁶³ *Ibid.*, para. 30.

¹⁶⁴ UNODC, *Global Report on Trafficking in Persons*, 2022.

¹⁶⁵ Trafficking in Persons Protocol, art. 4.

in pornography.¹⁶⁶ Globally, girls are the fastest growing group among detected trafficked persons.¹⁶⁷

C. Decriminalization and protection of and support for prostituted persons

43. Article 16 of the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others recognizes the status of “victim of prostitution”, which is incompatible with the criminalization of prostituted persons. The call to punish the exploitation of the prostitution of another person, even with the consent of that person, further emphasizes that prostituted persons cannot be held accountable for their own situation of exploitation. In terms of prevention and support, the Convention creates an obligation for Member States to enforce prevention and rehabilitation policies (arts. 16, 20); to provide open access to justice and to financial compensation to victims from out of the State (art. 5); to repeal all discriminatory laws and measures specifically targeting prostituted persons (art. 6); and to make suitable provisions for the temporary care and maintenance of non-national victims of trafficking for the purpose of prostitution (art. 19). In its resolution on the regulation of prostitution in the European Union, the European Parliament also called for the decriminalization of prostituted persons.

D. Obligation of the State

44. According to the Beijing Declaration and Platform of Action, States have an obligation under international human rights to develop and implement prevention and protection measures enabling the proper investigation, prosecution and punishment of all acts of violence against women and girls, including the prostitution of women. Furthermore, article 2 (g) of the Convention on the Elimination of All Forms of Discrimination against Women obliges States to repeal all criminal laws that discriminate against women, including laws that criminalize women in prostitution.

45. The Committee on the Elimination of Discrimination against Women has clarified the meaning and application of the Convention in addressing prostitution, sexual exploitation and sex trafficking as a trifecta of harmful cultural practices, violence, sexual violence, and discrimination against women and girls. In article 5 (12) of its general recommendation No. 19 (1992), the Committee also recognized that discrimination against women and girls stems from traditional attitudes that contribute to the propagation of pornography and the depiction and other commercial exploitation of women as sexual objects, which in turn contributes to gender-based violence against women.

46. Under article 5 of the Convention on the Elimination of All Forms of Discrimination against Women, States parties must take all appropriate measures to alter the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

47. According to the Convention, States parties must also protect victims and prevent harm by developing educational, health, social, economic and other related services for victims. In its general recommendation No. 38 (2020), the Committee develops these obligations by recommending appropriate legislation and guaranteeing access to justice for victims, specifically highlighting migrant women and children. The Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others obliges States to ensure that the most marginalized women and girls are protected from exploitation schemes in which the exercise of real consent is impossible.

¹⁶⁶ See CRC/C/156.

¹⁶⁷ United Nations Office on Drugs and Crime, Annual Report 2018.

48. In addition, Member States having established regulated prostitution systems could be regarded as being in violation of article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

E. Outstanding international legal challenges

49. International law does not address the prostitution system as a whole or defined it, but has rather focused on rights and protections of prostituted persons, especially women and children and the responsibility of third parties. Furthermore, it has not defined the terms “exploitation” or “exploitation of prostitution” either.¹⁶⁸ Despite their global impact, other forms of sexual exploitation, such as pornography, have not been adequately addressed in international law.

50. International law has established the issue of “irrelevance of consent” within the framework of trafficking crimes and the exploitation of the prostitution of others. Moreover, there is now a universal trend towards regarding lack of consent as the essential element of rape and sexual abuse.¹⁶⁹ These principles have not, however, been applied to prostitution. The payment and/or promise of payment is the most visible sign of a person being purchased rather than freely giving consent. Survivors frequently attest that, without payment, they would not engage in sexual activities with unknown men; many describe prostitution as “paid rape.”¹⁷⁰ Furthermore, the consent obtained in the context of prostitution is often coerced through abuse of power by pimps and buyers, as well as by the dire social and economic circumstances faced by prostituted women, where equal economic and social power, physical and mental safety, and real alternatives, are missing for true consent to be possible. Lastly, testimonies of many individuals who report that they had agreed to engage in prostitution on their own reveal patterns of abuse of vulnerability and power, manipulation or coerced prostitution or trafficking while in it, or have been enticed through “lover boy” or other “romantic” relationships.

51. The applicability of standards with regard to crimes against humanity, slavery, rape, torture, including non-State torture, inhuman and degrading treatment, and decent work have also not been analysed in detail in the case of studies on prostitution and pornography.

VIII. Conclusions and recommendations

52. Prostitution is a system of exploitation and an aggregated form of male violence against women and girls that intersects with other forms of structural discrimination. It is exercised systematically by a wide web of State and non-State actors that subjugate, control and exploit women and girls in violation of their fundamental human rights. The extreme levels of violence inflicted on women in prostitution – which would never be accepted in other contexts – are blanketed by a financial transaction, designed to materialize a so-called “consent” that cannot be expressed freely in the prostitution system. In this context, the very concept of “consent” is weaponized against women in prostitution, as it is extorted through physical or economic coercion, manipulation and violence. Coercion is built into the prostitution system, facilitating entry factors as well as control and exploitation by pimps, traffickers and States. Attempts to ignore the devastating causes and consequences for women and girls and wider society are an extension of the historic normalization of women’s stereotyped role in society and the commodification of female sexual and reproductive capacities. Similarly, societies that

¹⁶⁸ Article 1 of the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, however, clearly calls for the punishment of anyone who (1) procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person; (2) exploits the prostitution of another person, even with the consent of that person. According to article 2 of the Convention, States parties further agree to punish any person who (1) keeps or manages, or knowingly finances or takes part in the financing of, a brothel; (2) knowingly lets or rents a building or other place or any part thereof for the purpose of the prostitution of other.

¹⁶⁹ A/HRC/47/26, para. 31.

¹⁷⁰ See <https://www.spaceintl.org/>.

have accepted that the most marginalized women and girls are overrepresented in prostitution have been legitimizing violence against them and their exploitation by normalizing the prostitution system as a means of livelihood and survival.

53. Technology-facilitated prostitution and trafficking for sexual exploitation are growing at such an alarming rate that the industry and law enforcement have been unable to keep track of them. Technology-facilitated platforms are complicit in facilitating exploitation from certain segments of the industry, like pornography and sexual services.

54. States must avoid becoming “pimp States” by abolishing laws that allow, tolerate or condone the violence and exploitation in the prostitution system and pornography. Moreover, States have a responsibility to protect, assist and protect victims of prostitution in a gender-sensitive manner, and to provide reparations. They must also address the underlying causes of violence against women, such as those perpetuated by the prostitution system, including by eliminating demand for prostitution by addressing socioeconomic inequalities, discrimination and marginalization.

55. The Special Rapporteur recommends that States:

(a) Address prostitution through a rights-based approach and implement legislation and standards that guarantee that women and girls have the right of access to equality, freedom from violence, right to life, liberty, security, dignity, and freedom from torture and inhuman and degrading treatment;

(b) Strictly adopt legislation based on articles 1 and 2 of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, article 6 of the Convention on the Elimination of All Forms of Discrimination against Women and article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime to fight against the exploitation of prostitution of others and trafficking for the purpose of sexual exploitation; and note that the criminalization of the exploitation of the prostitution of another person is effective even with the consent of that person, thus validating the irrelevance of the concept of consent in the context of prostitution;

(c) Together with international institutions, address cross-border cybertrafficking, allowing evidence-sharing across borders in any upcoming United Nations digital compact or international treaties and address online sexual exploitation explicitly; in the absence of an international treaty on cybercrime, adopt the Convention on Cybercrime to address responsibilities in the area of cybercrimes, including the prevention of technology-facilitated child sexual exploitation;

(d) Recognize prostitution with its connected variations, such as pornography, as a system of exploitation and violence, in part by considering the full spectrum of international human rights standards that apply in the context of prostitution (e.g., prostitution as a crime of rape, a crime against humanity, torture, slavery or femicide); States that consider prostitution a taboo issue must engage in its recognition;

(e) Adopt the abolitionist legal framework and its five pillars, including the decriminalization of women in prostitution; providing comprehensive support and exit pathways; criminalizing the purchase of sexual acts; criminalizing all forms of pimping; and implementing sensitization campaigns for sexual act buyers;

(f) Work to end demand for buying sexual acts by, inter alia:

- (i) Increasing obstacles to the purchase of sexual acts;
- (ii) Creating greater inconvenience for buyers through legislation, such as including their names in a registry of sex offenders;
- (iii) Normalizing the illegality of purchasing sexual acts;
- (iv) Raising awareness in society at large about the negative consequences of participating in the prostitution system;

(g) Mandate by law the provision of comprehensive tailored services to victims of prostitution; increase such services, including single-sex spaces to prostituted women and girls, irrespective of their migration status, as well as on housing, psychosocial support, rehabilitation, trauma healing, child support, support to exit prostitution, education, vocational training, access to a documented status and income generation; give due consideration to victims' agency, and avoid conditioning aid and support for victims on their official condemnation of prostitution; and increase outreach to victims, including through translation services;

(h) Together with international organizations, use human rights-based terminology and language to describe prostitution, and refrain from using terminology that would mischaracterize it and minimize its serious human rights violations;

(i) Decriminalize all women and girls in prostitution and offer them recognition as victims, which would afford them protection, validate their experiences, and support their recovery; such reframing would entitle victims to mandatory assistance, protection, support and compensation; in this regard, a fund to support victims should be established;

(j) Refrain from adding conditions to the criminalization of pimping, such as the burden of proof required to validate the situation of trafficking or subordination by the exploiter of the prostituted person; the criminalization of the purchase of sexual acts must not be related to the need to prove a potential situation of trafficking;

(k) Prevent the weaponization of anti-trafficking policies to avoid addressing the issue of prostitution as a form of violence against women by creating a harmful and artificial dissociation between so-called "forced" prostitution assimilated to trafficking from a so-called "free" prostitution assimilated to "sex work";

(l) Proactively investigate and classify the commission of crimes under the prostitution system (e.g., classify the killing of women and girls in prostitution as femicide), suspect exploitation in prostitution when women and girls go missing, and apply the same commitment dedicated to abolishing slavery;

(m) Analyse aggravating factors and added victimization of women leading to their exploitation in prostitution in the context of and as a result of armed conflicts, and humanitarian settings;

(n) Establish interministerial and inter-institutional coordination committees with the full involvement of frontline and victim-led organizations in the design and implementation of relevant policy, including through the creation of a victims'/survivors' council or reference group;

(o) Gather disaggregated data on the profile of victims of prostitution, including pornography, as well as the impact of prostitution on their well-being;

(p) Clear the judicial records of victims of the prostitution system for charges relating to their exploitation in prostitution; provide, where one does not exist, a legal residence permits for victims; strengthen social safety nets for women from marginalized groups; and provide safe, legal migration pathways to reduce vulnerability to exploitation, including access to asylum away from gender-based persecution;

(q) Overhaul the approach of law enforcement and the judiciary to address victims' fear and lack of trust; reduce reporting barriers and tackle impunity and corruption; delink the provision of support by law enforcement from the legal status of victims and their readiness to cooperate; and provide victims with a minimum reflection period and effective witness protection;

(r) Address the root causes of the prostitution system, including sexism, racism and class-based domination, gender-discriminatory laws that trap women and children into poverty and make them vulnerable to prostitution;

(s) Work with offenders while they are still in time to stop or prevent them from offending; and address the systemic and structural issues that continue to create vulnerability to exploitation from prostitution and trafficking in persons;

(t) Work with the media to cover prostitution-related matters in a victim-sensitive manner, shifting the burden of responsibility to perpetrators, tackling stigma and fostering respect for dignity and humanity of prostituted women and girls;

(u) Promote human rights and sex and gender-equal education in school, including on mutual respect and healthy sexual relations; and implement effective campaigns on the harmful consequences of prostitution for all, as well as the dangers of the grooming and recruitment of women and girls;

(v) Promote the right of freedom of assembly and association as victims/survivors, and ensure that frontline and survivors-led organizations receive sufficient long-term and predictable funding and support, are protected against defamation, and are invited to policy discussions at all levels;

(w) Recognize the prevalence of young girls entering prostitution, particularly from marginalized backgrounds, and implement initiatives that offer alternatives, promoting education and economic empowerment;

(x) Hold businesses and industries accountable for their role in the exploitation of prostitution; with regard to the technology industry, close websites that promote trafficking in women and sexual exploitation, and disrupt the business model of websites advertising prostitution;

(y) Inquire separately into the causes of death of transgender persons in prostitution and assess how their experiences are specific to them;

(z) Consider entities that take profits from the prostitution system, rather than focus only on individual sellers and buyers of sexual acts.

56. United Nations agencies, the treaty bodies and the special procedures of the Human Rights Council should adopt a rights-centred approach on prostitution. More specifically, the International Labour Organization should prepare a report on how prostitution fails to uphold the principles of decent work, and the World Health Organization should carry out a study on the psychological and physical consequences of prostitution beyond HIV/AIDS prevention.

57. With regard to pornography and other forms of prostitution facilitated by digital platforms, the Special Rapporteur recommends that States:

(a) Adopt regulations that comprehensively target pornographic content and explicitly criminalize the possession, production or hosting of material as they violate the right to life and dignity, and constitute torture or inhumane or degrading treatment; adopt international legislation to abolish pornography and its consumption; immediately remove sexual images of minors and digitally facilitated pornography that might be accessible in any way to minors; and enforce compliance throughout the industry.

(b) Pending the abolition of pornography, apply a strict age verification system on all online pornography, rigorous moderation, labelling and warning systems, and mandated filtering by Internet service providers with options for adult opt-in; and sanction pornography and social media sites for hosting illegal pornographic sites.