



## Consultation seeking views on UN Women approach to sex work, the sex trade and prostitution

CAP international is a coalition of 14 frontline NGOs providing direct assistance to prostituted persons and victims of trafficking for sexual exploitation in 12 countries (India, USA, South Africa, The Netherlands, France, Lebanon, Canada, Denmark, Spain, Latvia, Ireland, Germany).

**Question 1)** The 2030 Agenda commits to universality, human rights and leaving nobody behind. How do you interpret these principles in relation to sex work/trade or prostitution?

### UNGA agreed language and UN agencies constituent obligation to protect and promote “human dignity”

As a preamble to our submission, we would like to invite all UN agencies to respect the use of UNGA agreed language when it comes to “prostitution” and its exploitation. **ALL** UN binding conventions related to this issue refer to “*prostitution*” and “*exploitation of the prostitution of others*”<sup>1</sup>. None of these binding treaties use the term “sex work”.

Prostitution and its exploitation cannot not be qualified by UN agencies as “work” since binding international human rights law recognizes that prostitution, and its exploitation, violate human rights.

One year only after the adoption of the Universal Declaration of Human Rights (1948), the General Assembly of the United Nations adopted the **Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others (1949)**. This Convention is **part of formally recognized UN “universal human rights instruments”**<sup>2</sup> and is a binding treaty. It is the only UN binding instrument focusing specifically on prostitution and its exploitation. In its preamble the UN 1949 Convention states that prostitution and traffic in persons are “*incompatible with the dignity and worth of the human person*”.

The qualification of prostitution as a violation of human dignity is crucial since **the protection of the dignity and worth of the human person is a cornerstone of the whole human rights system and Law**.

The very first sentence of the **Universal Declaration of Human Rights (UDHR)** states that “*recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world*”.

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<sup>1</sup> Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949) - Convention on the Elimination of All Forms of Discrimination against Women (1979) - Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000)

<sup>2</sup> See OHCHR compilation of international instruments – Volume 1, Second part “Universal instruments” : <http://www.ohchr.org/Documents/Publications/Compilation2en.pdf>

The protection of the dignity and worth of the human person is not only recognized as a fundamental principle by the UDHR but is also quoted as one of the « *ideals and common goals of all People whose Governments have gathered to create the United Nations*” in the **Preamble of the Charter of the United Nations** (1945).

All UN agencies and programs have a **constituent obligation to promote and respect “human dignity” and thus to abstain from legitimizing or trivializing prostitution**, which is recognized by international law as a violation of human dignity.

Furthermore, we would like to highlight that **paying for sex is internally explicitly recognized by the UN as a “sexual abuse”** and an abusive use of differential power. In his Special Bulletin on “*Special measures for protection from sexual exploitation and sexual abuse*”<sup>3</sup>, the Secretary General of the United Nations defines as a sexual abuse any “*actual or threatened physical intrusion of a sexual nature under **unequal or coercive conditions***”. The UNSG Special Bulletin specifically targets and prohibits the purchase of a sexual intercourse by UN personnel: “**Exchange of money, employment, goods or services for sex is prohibited**”.

**Question 2)** The Sustainable Development Goals (SDGs) set out to achieve gender equality and to empower all women and girls. The SDGs also include several targets pertinent to women’s empowerment, such as

- a) reproductive rights
- b) women’s ownership of land and assets
- c) building peaceful and inclusive societies
- d) ending the trafficking of women
- e) eliminating violence against women.

How do you suggest that policies on sex work/trade/prostitution can promote such targets and objectives?

**Prostitution and its exploitation are not only a violation of human dignity, but also a form of male sexual violence, a fundamental obstacle to gender equality and to women’s empowerment.** CAP international member organizations provide direct assistance to thousands of prostituted persons in 12 countries and can demonstrate that prostitution violates the most fundamental human rights to security, physical and psychological integrity, health, and equality.

**In order to achieve the targets and objectives identified in SDGs, we strongly recommend States and international organizations to promote the adoption of policies that:**

**Priority 1:** repeal all forms of criminalization of prostituted persons and victims of trafficking for the purpose of prostitution.

**Priority 2:** criminalize all forms of pimping, procuring and trafficking in human beings and thus reject any attempt to decriminalize “acceptable” forms of pimping and procuring.

**Priority 3:** offer real alternatives and exit options for those being sold or selling sex and guarantee access to fundamental social rights such as: right to housing, right to a decent job, and right to health.

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<sup>3</sup> UNSG Special Bulletin on “*Special measures for protection from sexual exploitation and sexual abuse*: <http://www.pseataaskforce.org/uploads/tools/1365153401.pdf>

**Priority 4:** develop protection and access to justice and rights programs for prostituted persons and victims of trafficking in human being, including access to a protection residency permit for foreign victims, access to financial compensation for all victims, and access to effective protection as witness or victim.

**Priority 5:** criminalize the purchase of sex and thus extend the prohibition to impose sex acts, being by the physical, psychological or the financial constraint. Prohibiting the purchase of sex is also the most effective and proportionate measure to implement States obligation to eliminate trafficking in human beings and the exploitation of the prostitution of women.

**Question 3)** The sex trade is gendered. How best can we protect women in the trade from harm, violence, stigma and discrimination?

All over the world, and throughout history, **the most systemically disadvantaged groups have been overrepresented in sexual exploitation and prostitution.** Prostitution is a highly gendered and patriarchal system that disproportionately affects the poorest women and young children. Victims of incest and sexual violence, indigenous women and children, low caste communities, migrant women and children, and women and girls from ethnic minorities are still the primary victims of sexual exploitation by pimps, traffickers and sex buyers.

**More generally, prostitution is part of a continuum of sexual violence and of a long patriarchal tradition of making women and their bodies available for men's profit.** A sex act imposed by the physical or financial constraint is a rape. Sex acts imposed by the abuse of authority (an employer on an employee, an adult on a child) constitute sexual harassment or incest. As stated by UNSG Kofi Annan, a sex act imposed "*under unequal or coercive conditions*" is a "*sexual abuse*". Thus, a sex act imposed by the financial constraint is also, in itself, a sexual abuse. Sex buyers are men who exploit the precariousness and vulnerability of prostituted persons to impose a sex act by the financial constraint.

**Prostitution and trafficking for sexual exploitation are thus inherently violent and harmful. The only way to protect women "from harm, violence, stigma and discrimination" is to end the sex trade.** While doing so, States should immediately:

- Stop any form of criminalization of prostituted persons themselves
- Offer them protection, access to fundamental rights and exit options.
- Put an end to the impunity of those who economically and sexually exploit women, men and children (traffickers, pimps, sex buyers)

**The specificity of the exploitation of prostitution of others and of trafficking for sexual exploitation, compared to other forms of crimes, is that these human rights violations are driven by profit.** Traffickers, pimps and procurers exploit women, men and children only to meet sex buyers' demand. No women would be harmed, abused, violence, stigmatized and discriminated in the sex trade if men did not pay for sex acts.

Please send your input to [consultation@unwomen.org](mailto:consultation@unwomen.org) by 16 October 2016 with the subject title "Written submission".