WOMEN ARE NOT PROTECTED BY TREATING THEM LIKE CHILDREN

The claim that no woman can voluntarily consent to sex work is based on the assumption that some categories of women, notably sex workers, lack the capacity to make choices about their own body and live. In terms of Article 8 of the ECHR, the capacity for self-determination. This includes the right to personal and sexual autonomy (ECtHR, *Pretty v UK*, 2002).

RIGHT TO SELF-DETERMINATION AND PERSONAL AND SEXUAL AUTONOMY

The right to sexual self-determination can nowadays be considered a basic principle for the criminal regulation of sexuality. An example is the increasingly important role of consent in the criminalisation of rape and other forms of sexual violence. Excluding certain categories of women – like sex workers – from the ability to give or refuse consent is a form of dehumanisation and excludes them from the protection of a fundamental human right.

Treating women like children and questioning their capacity for self-determination does not protect them from violence or abuse. This is a strategy that is also used, for example, by the anti-abortion movement to restrict access to abortion, e.g. by casting suspicion on women's motives for having an abortion.

Nor do you combat violence and exploitation by expanding the concept of human trafficking to include all sex work. The question is, what are you actually combating? Sex work or violence? In the first case, it is diametrically opposed to any policy that aims to improve the position of sex workers. In the second case, you achieve the opposite effect.

CRIMINALISING SEX WORK DOES NOT PROTECT WOMEN

If we know anything, it is that criminalising third parties or clients does not protect sex workers from violence and abuse, whether they work voluntarily or under coercion. Rather it undermines their autonomy, safety, health and rights and makes it more difficult to protect themselves against violence or escape coercive or exploitative situations. We know this from experience and from a large amount of research. Nor does criminalisation reduce sex work or the number of sex workers, instead it increases stigma and worsens their working and living conditions. There is a long list of studies on the negative effects of criminalisation in any form on the safety, health and human rights of sex workers (see literature overview).

SEX WORKERS HAVE HUMAN RIGHTS

Sometimes you hear the argument that in the interest of combating trafficking and protecting victims, it is okay to compromise the rights of sex workers. This is obviously problematic from a moral and human rights perspective – taking measures that you know will endanger an already stigmatised and marginalised group – but it is also incorrect. Sex workers also have the right to be protected from violence and abuse, and sex workers can also become victims of human trafficking.

In reality, as with other forms of human trafficking, the majority of human trafficking cases involving sex work are not about the nature of the work, but about forced working conditions, as e.g. research by the National Rapporteur on Trafficking in Human Beings shows. Contrary to the stereotype of the 'innocent' victim who is forced into prostitution against her will, in many cases trafficking victims have consciously chosen to engage in sex work or knew they were going to do sex work, but are then forced to work in unfree and exploitative conditions, in which they cannot decide for themselves when and how they want to work, cannot dispose over the money they earn, and cannot stop when they want to.

CRIMINALISING SEX WORK PUNISHES WOMEN FOR THE UNEQUAL RELATIONSHIPS IN THE WORLD.

Economic circumstances or poverty are sometimes mentioned as a means of coercion in the discussion. But human trafficking is about coercion and exploitation by third parties, not about the economic circumstances under which women decide that sex work is the best choice for them among the options available. Economic

circumstances cannot be combated with criminal law. Other measures are needed for that. Criminalising sex work effectively punishes women for the unequal (gender and economic) relationships in the world.

Dutch CEDAW-Network/SekswerkExpertise
Marjan Wijers, February 2026