

# THE SITUATION OF MIGRANT SEX WORKERS IN THE NETHERLANDS



**Health**



**Housing**



**Workplace and  
Work safety**



**Trafficking**



**Stigma**



**Police**

### **Authors**

Jules James  
Myrte Hamburg

### **Research and coordination**

Alejandra Ortiz  
Chris  
Jules James  
Lilly  
Myrte Hamburg

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Atelier Victoria Catalina

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**TRANS UNITED**  
EUROPE



# INTRODUCTION

Sex work consists of providing sexual services in exchange for money or goods. Sex work is legal in the Netherlands as long as it happens between consenting adults and the sex worker is a national of an EU member state or possesses a legal residence permit required for employment. In the year 2000 the Netherlands lifted the brothel ban, already not really enforced for a decade, and became one of the first countries to de-criminalize sex work by taking brothel-keeping out of the criminal law. Since then running a sex business for voluntary prostitution by consenting adults is legal. There is no national law regarding sex work; municipalities are free to implement their own local prostitution policies.<sup>1</sup> After 2000 most cities introduced a licensing system for sex businesses, while setting a maximum on the number of licenses.

There are different ways to practice sex work in the Netherlands. Sex businesses, such as brothels, clubs, windows, and escort agencies need a license to operate. The number of licenses and the conditions to obtain one are determined by the municipalities. Working in the streets is forbidden in almost all municipalities but some cities still have a street zone. Most cities prohibit working from home in their local regulations (called APV in Dutch) and through city zoning by-laws. Sex businesses have to be registered at the Chamber of Commerce and pay taxes.<sup>1</sup> It is very difficult or impossible for independent home-based sex workers to obtain a license from the municipality, but it is still possible to register at the Chamber of Commerce as a non-sex business and pay taxes while working without a license. However, home-based sex workers without a license risk fines or eviction.

In principle sex work is recognized as a form of labor. Therefore sex workers from countries in the European Union can work legally in the Netherlands. Sex workers from outside the European Union cannot get a Dutch sex work permit since prostitution is the only labor sector in the Netherlands for which the Migrant Workers Act prohibits the issuing of a working permit.<sup>1</sup>

The different status of migrants affects their access to the labor market and can be divided as follows: migrants who have the same rights as national citizens (EU citizens and migrants holding a residence permit/a permit that allows them to freely work in the Netherlands); migrants who are not allowed to work in the Netherlands and cannot access licensed places to do sex work (asylum seekers during the asylum procedure/without a residence permit and non-EU country citizens without a residence/working permit).<sup>2</sup>

Migrants represent 65% of the sex workers' population in Western Europe.<sup>2</sup> The majority of migrant sex workers in western EU countries are coming primarily from EU and non-EU Eastern European countries, others come from Central Asia, Africa, Latin America, and Asian countries.<sup>6</sup> Transnationality

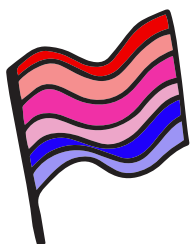


is a reality in the field of sex work not only on a regional level but also on a global level. Since the 1970's the number of women migrating increased significantly since the feminization of poverty pushes women to look for better opportunities for their own survival or to support their families.<sup>2</sup> Currently female labor migrants make up more than 40% of labor migrants world-wide.<sup>3,4</sup>

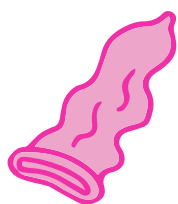


Migrants move to other countries for the following reasons: the income gap between the country of origin and the country of destination, the lack of

social and economic opportunities in the country of origin, the institutional persecution of LGBT+ persons and the high levels of homophobia and transphobia - partly due to laws introduced during colonization such as in India during the British Empire.<sup>5</sup> For women, escaping gender violence and discrimination might also play a role.



It is important to draw attention to migrant sex workers for several reasons. According to a 2009 Tampep study, migrant sex workers and especially migrants from non-European countries are more likely to experience violence (72% of the respondents based in the Netherlands, from Central and South America have reported physical violence).<sup>2</sup> Anti-trafficking, anti-migration and anti-sex work policies are causing heightened vulnerability of migrant sex workers to violence. The criminalization of migration and the obstacles on the labor market might push migrants to sell sex in order to survive. Due to the intersection of repressive measures against both migration and sex work, migrant sex workers are less likely to access to the following rights: right to housing, right to employment, right to health, right to be free of violence - including negative representation in mainstream media, deportations, police raids and racial profiling.<sup>6</sup>



Sex workers in general already face structural violence, a multi-faceted form of power built into repressive regulations that create oppressive social environments in which sex workers are systematically denied voice and power to decide about their own fate, are policed and controlled, discriminated against, and mistreated.<sup>7</sup> Migrant sex workers face structural violence not only as sex workers but also as migrants and can face structural violence as people of color, people living with HIV, people from the LGBT+ community and in particular trans people, and women.

## Methodology

This report focused on the situation of migrant sex workers in the Netherlands. To carry out this report we implemented a two-step qualitative methodology. First, we conducted 32 structured interviews of migrant sex workers to explore the topics of health, housing, workplace safety, trafficking, policing, and stigma. Second, informed by the findings of the structured interviews,

we conducted three focus groups to further investigate the experiences of migrant sex workers in the aforementioned areas.

The participants of the structured interviews were 23 cis women and 8 trans women, 35,7 years of age on average, ranging from 23 to 61, out of which 12 were EU citizens, 12 were migrants with a Dutch passport, and five were refugees.

The participants of the three focus groups were divided by gender and gender identity, namely, trans women, cis and trans men, and cis women, to capture the variation in gendered experiences. The focus groups were attended by 16 participants with an average age of 31,6 years old, ranging from 24 to 48 years old. Three of the participants held a European passport, two were migrants with a Dutch passport, four were non-EU migrants with a visa or a residence permit and, finally, seven were refugees.

The participants had the liberty to answer any question they felt comfortable with and received financial compensation for their participation. The interviewers and the facilitators of the focus groups were current or ex-sex workers themselves and had extensive experience with the local sex workers' rights movement.

In addition, we used various studies on the situation of (migrant) sex workers in the Netherlands.

## HEALTH

Overarchingly, stigma appears to be the biggest health threat to sex workers.<sup>8</sup> Like in any other job, sex workers should have equal access to health services and be able to live and work in a healthy environment.<sup>9</sup> Yet stigma can oftentimes be distilled as an underlying factor or even the root cause of social exclusion, poverty, gender-based violence, and lack of access to health services, thus impeaching sex workers' right to health and leading to health threats such as STI's, unwanted pregnancies, unsafe abortions, and mental health problems.<sup>8</sup> Sex workers with a migration background face a double stigma, and migrant LGBT+ sex workers - who already struggle with inadequate health services[5] - even have to contend with a triple stigma, facing judgments about their job, their background and ethnicity, and their gender and/or sexual orientation.

In the Netherlands, Vanwesenbeeck<sup>8</sup> found that when psychosomatic complaints were prevalent among sex workers, they were mostly a function of social insecurity and that differences in wellbeing could often be explained by poverty or a history of violence, thus factors that were already present before starting sex work. This is relevant especially in the case of migrant sex workers, who often came to the Netherlands for economic reasons or to escape unsafe conditions in their home country. Vanwesenbeeck also researched burnout among sex workers in The Netherlands and found that having an environment that responds negatively to doing sex work, role conflict (for instance juggling demands of both work and family life), violence, and

not having a supportive sex worker rights organization (all factors that are, once again, related to stigma) correlated with burnout related symptoms such as depersonalization and cynicism. Other factors contributing to burn out related to starting sex work at a young age and having a negative motivation towards doing sex work.

**“Many clients wish not to use condoms and offer you more money for that. Sometimes you . . . say yes, but in reality you are lying to him because you know your tricks.”**

In terms of general health, in case of emergency doctors and hospitals are required to provide basic health care. Language constraints, social isolation, and limited mobility make it difficult for migrant sex workers to navigate and access the Dutch health care system.<sup>2</sup> People without insurance have to pay for healthcare services out of pocket and even though hospitals are officially not allowed to deny healthcare in case of emergencies, many are reluctant to

provide it. Many sex workers wait until returning to their home country to be treated in case of illness which can lead to serious health risks.

At the same time, there is a general appreciation for health services that are specifically geared towards sex workers and where the medical staff is specialized in the health needs of sex workers.<sup>10</sup> Uninsured sex workers too have access to free screenings and treatment and some social support is offered in these clinics as well.<sup>2</sup>

## **Quality and Access to Health Care**

The main health clinic for sex workers in the Netherlands is the Amsterdam based P&G292, a branch from the municipal health services which specializes in sex work related care and which serves only sex workers. Sex workers can get free access to STI screenings and treatments at non-specialized branches of municipal health clinics as well. In accordance with the findings of Verhoeven,<sup>[10]</sup> focus group participants were generally grateful for and happy with the services of P&G292. Despite long travel times participants not based in Amsterdam often also made use of P&G292, because they experienced the specialized services as a great benefit due to increased knowledge about sex work, better accessibility, and quick service as opposed to the non-specialized branches which are often overloaded and where disclosing doing sex work is perceived as more precarious. Sex workers hear about P&G292 through their work, for instance through information provided by the club/brothel owner, but those without status cannot work in legal workplaces, and therefore they don't have access to the same information. P&G292 attempts to bridge this gap in information and accessibility by targeting sex workers directly by sending emails to sex workers advertising on sex work websites.

As highlighted in other sex workers' reports such as the ICRSE briefing

paper on the intersectionality of LGBTQ+ and sex workers' rights,<sup>5</sup> the focus group revealed that healthcare for trans participants was generally deemed inadequate. One participant mentioned sitting in a waiting room for hours only to find out she was not getting called in because her record still had her birth name on it. There were also mentions of pharmacists distrusting and refusing to give out prescriptions related to trans health care, pharmacists neglecting to inform patients that they could get reimbursed for their medication, and discrimination from health insurance companies. A trans woman from the focus group mentioned that she felt like doctors were just trying to get rid of her, they would prescribe her the hormones she wanted but wouldn't take time to discuss the general effects on her health: "But sometimes what we would like is that they give a little bit more attention or more interest. They take care of us. You know, they are our doctors. Every time I'm sick or have a problem, I go to him. So if I place my trust in you, I would like you to be involved, to show your interest in me, understand what is happening with me."



## Mental Health

In terms of mental health, many sex workers in the focus groups considered sex work as having a positive effect on their mental health. They found it healing, increasing their self-esteem, and the ability to make their own money increased their sense of competence. A few trans sex workers too mentioned a positive effect on their self-esteem, having a history of not liking their own body but now being admired for it. Negative effects of sex work on mental health included experiencing stress from clients that are not clean, drunk, on drugs, are in a bad mood, or not respecting sex workers' boundaries.

In line with Vanwesenbeeck,<sup>8</sup> the extent of agency sex workers felt they had both in terms of choosing to do sex work and in how they worked affected their mental health. A trans woman currently living in a refugee center said: "I'm going through addiction problems and mental distress because I'm doing sex work to pay a debt because I'm a refugee. I have a lot of debts and a lot of unsolved problems in my country. So it has helped me to pay my debts, but it's not sustainable. I think it's killing me really fast. I mean, I'm getting the money I need, but to a really, really high cost mentally speaking."

Despite these obvious stressors the sex workers in our sample displayed a lot of resilience and ways of maintaining agency in challenging circumstances: "Many clients wish not to use condoms and offer you more money for that. Sometimes you have to say yes, but in reality you are lying to him because you know your tricks. You do your tricks and try to make him believe

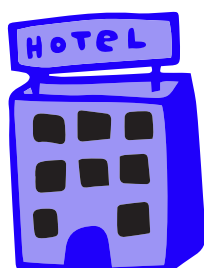
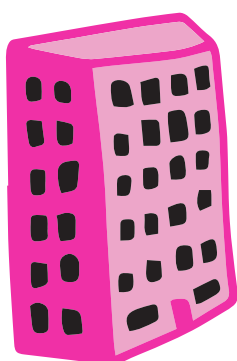
that they are without a condom and you put it on without him knowing.” Similarly, participants mentioned feeling pressure from clients to use drugs with them but had become adept at pretending.

Some participants felt they did not need therapy to support their mental health or had already received treatment in the past. Some perceived barriers towards receiving treatment, such as being placed on long waiting lists, and some participants in refugee centers worried they couldn’t disclose their work to therapists because doing sex work while living in refugee centers is illegal. Participants had also experienced stigma, with for instance therapists pressuring them to stop doing sex work. Given our findings we would recommend a more holistic approach towards health care for migrant sex workers, in line also with the ICRSE Right to Health report,<sup>9</sup> so that migrant sex workers both trans and cis can receive specialized care not only when relating to STI’s, but also in regards to mental health and trans health care.

## WORKPLACE AND WORK SAFETY

In the Netherlands sex work is legal but highly regulated through local licensing systems. In practice, almost the only way to work legally is to work for a licensed sex business, such as windows, brothels, private clubs or escort agencies. Regulation around sex work differs per municipality which can decide how many licenses are issued and where sex work is allowed. Municipalities also decide about the regulations around workplaces and some set up requirements that are impossible to meet, thereby effectively banning sex work businesses from their municipality. Contrary to other

labor sectors, it is next to impossible for sex workers to work independently as self-employed workers, as most municipalities prohibit independent (home-based) sex work on a professional basis (“bedrijfsmatig”). Some municipalities allow independent sex work only when sex workers are willing to out themselves, for instance by applying for a license or by being on a publicly accessible municipal record, which is risky for sex workers whose name and address are attached to their profession. Working on the streets is prohibited in almost all cities in the Netherlands and is only allowed in a few regulated areas.



Indoor based sex workers in brothels and private clubs mostly work according to the government-imposed so-called opting-in system. Licensed third parties such as escort agencies withhold income tax and VAT on the income of sex workers, in addition to any percentage



they charge as commission (usually 50%). However, sex workers can neither derive any of the rights and benefits of an employee from this arrangement, nor can they derive any of the (tax) benefits of a self-employed worker. With no employee benefits and no benefits of being self-employed, the opting-in system is the worst of both worlds. Sex workers not being employees also means that third parties cannot behave like employers and need to adhere to certain conditions. For example, sex workers cannot be prescribed what to wear, they cannot be obliged to use alcohol and drugs, and third parties are not allowed to fine sex workers. Furthermore, deciding which and how many working hours, which clients to take on, and what services to provide should all be up to the sex worker and not the third party. Third parties also cannot demand that sex workers work for them exclusively.

Besides these conditions, the lack of red tape sex workers have to deal with is also an advantage of the opting-in system. However, in reality third parties do not always adhere to these conditions and do behave like employers. Most sex workers, being dependent on third parties, feel they are not in a position to claim their rights.<sup>11</sup>

The lack of clear national regulation and the fact that sex work is not treated as any other work affect the situation of sex workers in general and especially migrant sex workers.

In our study, participants with a Dutch passport, a European passport or a (non sex work related) visa worked behind the windows, in clubs, brothels, or massage salons while undocumented migrants worked from home, at friends' or clients' houses, in hotels, or outside in parks, and some even mentioned working from metro stations.

Migrant sex workers are overrepresented in the unlicensed sector.[8] Some of the undocumented sex workers in our study working unlicensed stated that they would like to work in the windows, in more central areas. Some would rather have a place to work that is different than their home while others enjoy the comfort and safety of their home. It is also more convenient for some sex workers to work from home to be able to get clients "on the fly".<sup>1</sup>

## Labor Rights

In the study about sex work, stigma and violence in the Netherlands 43% of the respondents indicated that they understand only part of the licensing system or nothing at all. Some reported that it is hard to know what is legal and what is not.<sup>1</sup>

The sex workers in our study reported that it is difficult to find information

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about their rights especially because there are a lot of “grey zones” in the law. Participants mentioned that it is especially difficult to find information about sex work in municipalities outside of Amsterdam. This is because sex work is mostly regulated at a local level where municipalities can decide how many licenses they want to hand out and which zones are suitable for sex work. Some respondents noted that the civil servants in the municipalities did not really seem to know the information either. Sex workers involved in sex workers’ rights activism report being more aware of the regulations, but they had to “really go find the information”.

In general insecure labor arrangements are what makes sex work challenging since by and large sex workers do not have reliable work contracts or working arrangements and instead have to contend with unfavorable, precarious, and unclear working contracts where sex workers are the ones bearing the most risk such as flexibility, poor pay, and high responsibilities.<sup>12</sup> Work safety also translates into social security and workers’ rights protection. Sex workers usually do not benefit from parenting, holiday, or sick leave, pension benefits, or disability allowance, which are tied to employer-employee relations, which contributes to their precarious position.<sup>12, 7</sup> In the Netherlands this is reflected by, for instance, the impossibility for sex workers working under the opting-in system (a fictional work contract imposed by the government which leaves sex workers neither the benefits of being self-employed, nor the benefits of being an employee: see above) to access emergency financial help from the government during the covid-crisis. Moreover, due to stigma sex workers are usually excluded from unions and therefore lack access to collective bargaining power.<sup>12</sup>

## **The Role of Third Parties**

The absence of the treatment of sex work as any other work makes it easier for third parties to take shares in the earnings of sex workers in the form of rental costs for a workplace or high fees for intermediaries such as drivers or security guards. Even though the sex work industry is usually portrayed as a lucrative industry in the media, this narrative does not take into account how high financial rewards are usually in favor of third parties, not individual sex workers. Sex workers often have to pay commissions to third parties, whether as a percentage of their income (between 15 to 80%) or as flat fees at the end of a shift or the week. On top of that, additional expenses such as rent of a room, drinks, safe sex supplies or even fines for not being dressed properly, taking a day off, or talking back to a rude client can be added, even if illegal under the opting-in system.<sup>12</sup>

The reliance on third parties, especially when working informally, increases the risk of hazardous working conditions such as working while ill or too tired, feeling pressure to cross boundaries in terms of services offered, and excessive or constantly changing working hours. Third parties are also driven by profit and have no incentive to implement better working conditions.<sup>12</sup>

All this is made possible due to restrictive laws that push sex workers to

work for third parties/licensed brothel keepers (exploitant) and make it impossible to work independently or organize their own work with one or more colleagues. Moreover legal uncertainty pushes third parties to take the most profit out of the sex industry because of the risk of high fines or imprisonment.<sup>12</sup> The reality is worse for migrants since migrant sex workers suffer from a lack of network and insufficient language skills that make them rely on intermediaries also for other non sex work related aspects such as housing or food.<sup>12</sup>

In our focus group having managers at work seemed controversial: while some felt safe working with their manager around, others, especially the ones working in the windows, felt that there are a lot of unwritten rules and that they could get fired at any time. Many sex workers spoke about the importance of “being one’s own boss” and participants without managers felt content with being independent. Some preferred that option because it offers more flexibility in terms of working hours, deciding one’s own rules and whether they want to accept a client or not. It also lowers expenses since there is no intermediary to pay.<sup>1, 10</sup>

However, options to work both independently and legally are restricted in the Netherlands.[1] One participant mentioned having a company and paying taxes without being able to get a license since the municipality of Amsterdam will not give licenses to individuals: “That makes me feel insecure, because despite the fact that I have had no problems so far and that the municipality is tolerant to such cases, I know that if investigated by any authority for any reason at any time I depend on their tolerance not to get a fine or other penalty. I know that the municipality of Rotterdam does give licenses to individuals, but it costs 700 euro for the procedure. I do not have that money for that purpose and that is a huge barrier for me as a sex worker to work fully formally. Overall, the state says that it is legal for me to do sex work, but it makes it almost impossible for me to be fully formal, unless I work for an exploitant.” (cis man, migrant sex worker).

**“Overall, the state says that it is legal for me to do sex work, but it makes it almost impossible for me to be fully formal, unless I work for an exploitant”**

## **Safety at Work**

A recent study carried out in the Netherlands showed that sex workers felt safer working in the windows, in private houses or in streetwalking areas because of the presence of other people around, the possibility to press an alarm button, and the opportunity to screen clients and reject them. On the contrary they felt less safe working in massage salons (because of the expectations of clients to receive certain sexual services), in hotel rooms or at clients’, friends’, or the sex worker’s house because of the risk of working alone and not always knowing the client beforehand.<sup>1</sup>

In a similar vein sex workers interviewed in our study confirmed that they felt safer working in licensed places such as windows, clubs or private houses due to the presence of alarm buttons and cameras, but also because having colleagues around increased their sense of safety. However, accessing licensed places to work is impossible for undocumented migrants and is difficult for LGBT+ sex workers.

The fact that there are almost no licensed places to work for cis men and trans sex workers increases their risk to face violence while working (on top of the risk of violence due to homophobia or transphobia) and decreases their willingness to report violence.[1] The male participants in our study indeed reported feeling safer when working with or around colleagues. There is only one sex club in the Netherlands where men are allowed to work, which is where some of the cis men in our study worked and very limited

opportunities for trans sex workers to work in windows, brothels, or private houses.[1] Among the participants in our study, trans sex workers were the ones with the least choice in terms of workplace and some have felt discriminated against when applying to work in clubs.

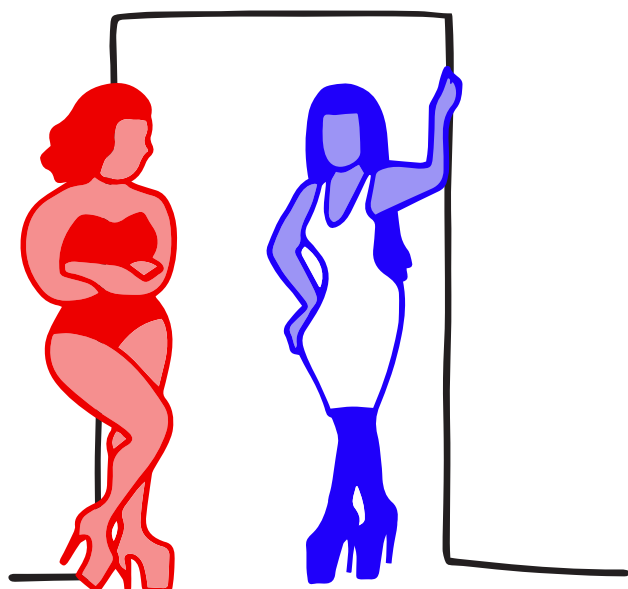
Moreover the decrease in licensed places to do sex work in the Netherlands causes sex workers to work more outside the licensed sector, thus making them more dependent on intermediaries and negatively impacting their access to labor rights.<sup>1</sup>

In conclusion, the Dutch regulations around sex work make it difficult for sex workers to work independently and

pushes them to rely on intermediaries, which mostly negatively impacts their financial situation and their access to labor rights. The regulation creates a two-tier system based on the possibility to work licensed or not, which negatively affects the working conditions of all sex workers.

## HOUSING

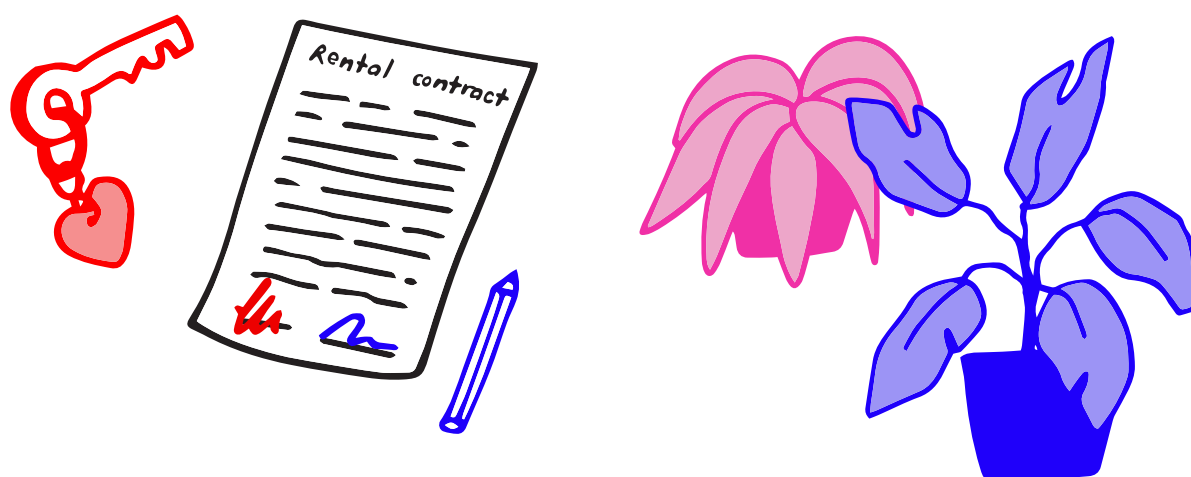
In our sample participants lived in refugee centers, with roommates, with a partner, with family members, or by themselves. One person lived in a hotel and one person, a trans refugee, in a homeless shelter. Most participants had found housing through their own network and not through official channels. Finding housing in the Netherlands can be challenging, especially in Amsterdam where, as in most other capital cities, affordable housing opportunities are few and far between. Social housing comes with long waiting lists and is not accessible for undocumented migrants. Unofficial subletting



arrangements are common but often it is not possible to register at these addresses. Without registration it is harder or impossible to apply for social benefits or anything else that requires government involvement, such as applying for a business license or renting a window to work. The participants in our sample mentioned they much preferred the safety and stability of housing where registration was possible, as well as renting from a corporation so that they would not have to deal with an individual landlord. Indeed one trans woman from our study mentioned getting threatened by her landlord and feeling scared.

## Home-Based Sex Work

Just like most regulations regarding sex work in the Netherlands, the regulations around doing sex work from one's home are complicated because they differ by municipality and most municipalities do not allow home-based sex work. Home-based sex work that does not resemble the operation of a business ("bedrijfsmatig") is allowed in a few municipalities. What it means however to operate a business is very unclear and again differs per municipality. Working alone, being registered with the municipality as living



at the address where one works, and not advertising or only rarely advertising, are examples of the more 'lenient' requirements. Having a partner or colleague around while doing home-based work (for instance for safety reasons), would be deemed to be operating a business and requiring a license, which is impossible to obtain. Other municipalities do not distinguish between operating a business or not and require all home-based workers to apply for a license, which means sex workers have to compromise their safety and privacy by having their names and addresses published in local newspapers and on municipal websites. Even when sex workers are willing to risk their privacy by applying for a license, the likelihood of getting a license is low to negligible. Home-work rules of municipalities are established in their local regulations (APV). Another way municipalities may prohibit home-based sex work (or other forms of sex work) is with zoning regulations. Through advertising sites such as Kinky and Hookers the police try to track down home-workers. The Dutch government focuses its attention on home-based work because - although there is no research or other data to confirm this

- human trafficking is supposed to be more likely to happen behind closed doors instead of in regulated work places such as licensed brothels.<sup>13</sup> Yet these policies make it difficult to differentiate between human trafficking and what is simply unlicensed home-based sex work. Thus, officially the police are supposed to track down trafficked persons but in practice their efforts mainly impact independent home-workers who run the risk of receiving hefty fines or even eviction.<sup>1</sup>

Our research showed that while most participants would rather keep their work and living place separate, others strongly desired the ability to work legally from home. Licensed work places such as brothels or escort agencies take a large percentage of any revenues and working behind the windows means paying rent for both a place to live and a place to work. All workplaces that are already inaccessible for undocumented migrants. Working from home can therefore be more accessible, cheaper, and more convenient. Receiving clients on the fly is easier when working from home and working in a familiar environment can feel safer as well.<sup>1</sup> But sex workers experience drawbacks too, such as having difficulty separating work and private life and creating a sense of home. It can also be challenging for other inhabitants such as partners or housemates and put these relationships under pressure. Additionally, sex workers working from home can be more vulnerable for certain forms of violence, such as stalking.<sup>1</sup> Given the risk of fines, eviction, and losing their source of income, home-workers are not very inclined to call the police if anything happens.<sup>1</sup>

## Sharing Spaces

Participants mentioned that living together could also provide a lot of social support, particularly if they lived with other sex workers: "We are sharing a flat. I live with two Venezuelan girls, one trans from Columbia, another one from Germany. And so we are all here, like a big sisterhood." A male sex worker from our study said that sharing spaces with other sex workers to both live and work would be significantly cheaper. Sex workers might also feel an increased sense of safety when they would not need to do home-based work on their own. Living together with other sex workers can be interpreted as forming a brothel however, which increases the risk for sex workers to get evicted. Moreover, if the landlord is connected to the inhabitants the police can interpret this as a form of trafficking.<sup>6</sup>

In order to improve the housing situation for sex workers, stigma around sex work would need to decrease and there should be regulations to prevent discrimination against sex workers on the housing market. There should also be an increase in the number of spaces available in shelters to sex workers, especially undocumented and/or trans sex workers who, due to regulations and double or triple stigma, have the least access to housing. Lastly, making it possible for sex workers to legally work from home, whether alone or with roommates or colleagues, would go a long way towards increasing sex workers' safety, self-reliance, and autonomy.

# TRAFFICKING

The definition of trafficking according to the report “Sex work, stigma and violence in the Netherlands” is as follows: “Human trafficking is the recruiting, transporting, transferring, boarding or housing of a person, using force (in the broad sense), for the purpose of exploiting that person.” Intended exploitation of a human being is the essence of human trafficking. In the sex industry, exploitation happens for instance when someone works in prostitution involuntarily for the benefit of someone else. We also speak of exploitation when someone working voluntarily in prostitution must hand over earned money to an intermediary that brokers for this sex worker.<sup>1</sup>

Sex workers outside of the European Union without a (non sex work related) visa cannot get a Dutch sex work permit since prostitution is the only labor sector in the Netherlands for which the law prohibits the issuing of working permits. The Dutch Criminal Code states that recruiting or bringing people into the country for the purpose of sex work is a crime even when there is no form of coercion or exploitation involved (art. 273f (1) sub 3). This goes against the principle behind the lifting of the brothel ban which states that prostitution is punishable only in case of any form of force, coercion, deceit or exploitation.<sup>1</sup> In 2015, the Supreme Court of the Netherlands stated that ‘recruiting or bringing’ foreign sex workers into the country is only a crime if it involves exploitation.<sup>14</sup> However, in reality migrant sex workers working without a license are tracked by the police and often suspected of being victims of sex trafficking.

**The Dutch [law] states that recruiting or bringing’ sex workers into the country is a crime even when there is no form of coercion**

## The Reality of Migrant Sex Workers

Migrant sex workers usually do not recognize themselves in the definition of victim of sex trafficking. Rather, they see themselves as migrants who fled their country of origin for lack of perspective and are now working in the sex industry in the Netherlands.[10] Most participants in our study acknowledged not knowing the official definition of sex trafficking and were unsure about what was legal or illegal to do but none considered themselves being a victim of sex trafficking.



Participants in our study were neither coerced to come to the Netherlands nor to do sex work, although they did acknowledge that the need for money is what pushed them to start sex work: “I need to be able to live and buy my own things, it is an economic reason” (cis woman) “I came here with the help of friends, I didn’t have to pay anyone” (migrant sex worker). Another participant mentioned not knowing Dutch made it difficult to find another job and drug addiction was also the reason for one of our participants to start sex work. Some sex workers mentioned that exchanging sex work for food and shelter was a practice they had heard of or had been proposed to do.

The thin line between forced and voluntary sex work is usually not acknowledged in anti-trafficking policies. The definition of trafficking is at its core failing to acknowledge that in a capitalist system, it is very difficult to make a difference between someone working because they want to and someone working because they need to. Some choose to do sex work even though

they have other options, others do sex work in order to survive, provide for their families or because they have no other options, and it can be a combination of both. However, to be able to legally speak of trafficking there must always be a third person or persons who exercise coercion, deceit or force, either in relation to the conditions of recruitment or the conditions of work. Purely the fact that somebody has to

work for a living does not qualify as trafficking, as is sometimes suggested by the media or politicians in order to (falsely) inflate the figures about the number of persons trafficked.



## The Role of Third Parties

Not only is the intersection of migration and sex work often confused with sex trafficking, but receiving the help of other people within the context of sex work is usually associated with trafficking. In general the more sex workers depend on third parties the greater the risk of exploitation, since those third parties have a strong influence in labor arrangements and working conditions of sex workers.<sup>12</sup> Migrant sex workers, especially if undocumented, are even more prone to give away their earnings through the bind of an arrangement to migrate and be placed in a venue. Moreover, non-EU migrant sex workers have limited access to labor protection and justice due to their migration status.<sup>12</sup> The more restrictive immigration laws are, the more likely it is for migrant sex workers to rely on third parties to arrange transportation, accommodation, and work. Increased dependency goes hand in hand with higher debts and remunerations and therefore with more unsafe and unfair working conditions.<sup>12</sup>

However, trusted third parties can also improve the position of migrant sex workers as they provide information and knowledge about how to work in



the Netherlands. Most participants in our study reported asking for help from friends, acquaintances or agencies when starting sex work in the Netherlands. “When I first started, someone was helping to show me the way, yes, I gave her some money. Is that wrong?” (migrant trans woman) and “A friend from my home country who came to Holland before me gave me tips: what to expect, where to advertise, best hours to work, rates, what to do, I had to pay her to use her apartment.” (migrant trans woman)

Overall, our research showed that the lack of knowledge about the complex and unclear system around sex work in the Netherlands as well as the language barrier and the lack of network is what pushes migrant sex workers to seek out help from third parties, motivated simply by wanting to work in the best and safest conditions possible.

## **The Consequence of Inadequate Anti-Trafficking Policies**

The lack of knowledge about the complex reality of migrant sex workers and stereotypes about women as vulnerable and victims leads to the implementation of inadequate anti-trafficking policies.

One consequence of the simplistic and gender-biased interpretation of the definition of trafficking in the sex industry can be seen in the fact that while cis women are more likely to be seen as victims of trafficking, cis men and trans sex workers are more likely to be seen as people who travel for sex work.<sup>5</sup>

The incomplete vision of governmental institutions on trafficking in the sex industry can also be seen in the policies that are implemented. While some shelters are available for (Dutch) underaged girls that are considered victims of loverboys, there is no mention whether undocumented underaged victims of trafficking can access those shelters and it seems that there is no option for cis boys and trans teenagers to have access to such shelters.<sup>13</sup> Also, in many cases, sex worker victims of trafficking are supposed to stop doing sex work to have their case taken seriously, contrary to trafficking victims in other labor sectors who are not supposed to stop working in the sector in which they were exploited.

The dissonance between how migrant sex workers are perceived by the Dutch authorities and their realities makes it difficult to establish an overview on the situation of migrant sex workers. Sex workers tend to withhold information in order not to be seen as a victim and “rescued” and some would lie about having a partner, for example, because the partner could be seen as a pimp.<sup>10</sup> Moreover, the difficulty or even impossibility to continue doing sex work after having been “rescued” makes it less likely for sex workers to report an exploitative work situation. They disappear out of sight of the government.

Anonymity is a very important point that makes sex workers refrain from working together with the government on policies,<sup>10</sup> as most undocumented sex workers fear deportation and therefore would not reach out in case of trafficking.[10] Most participants in our study reported not knowing that they could contact the police in case of a problem: “I didn’t know the police had to help you even if you are a refugee without sending you home” (trans woman).

There is clearly an imbalance between the help the government offers and what sex workers need.<sup>10</sup> Anti sex trafficking measures combined with anti-migration policies and restrictive sex work laws make the position of migrant sex workers more vulnerable and leads them to work underground.<sup>7</sup>

Proposals coming from participants in our study to fight against trafficking went from ending poverty and borders to fighting against job discrimination, sexism, racism, homophobia and transphobia. Participants also mentioned the need for safe spaces for sex workers, and especially more vulnerable sex workers, where they could get together and talk and help each other. Such places run by sex workers themselves already exist in the Netherlands but lack governmental and financial support.

## **Unlicensed Sex Work Vs. Sex Trafficking**

It is important not to associate unlicensed sex work with sex trafficking for two reasons: trafficking can happen also in legal workplaces such as licensed brothels and sex workers working illegally are not necessarily trafficked, they simply do not work with a license. One of the proposals of the new sex work bill, the WRS (Wet Regulering Sekswerk, Sex work regulation bill in English) is to make it mandatory for all sex workers, no matter where they work, to have a license. Even though the purpose of this requirement is to be able to have more visibility through control and to trace trafficking networks more easily,<sup>13</sup> it fails to recognize that sex workers who are not able to get a license because they don’t fit the requirements (such as undocumented migrants or sex workers under 21 years old) will still keep doing sex work illegally, especially if there is no other option available to them even though they may not be coerced to work.

## POLICE

In our study participants' contact with the police mostly came from police checking workplaces such as clubs or windows. Police patrolling the Red Light District makes the threshold for reaching out to the police lower.<sup>1</sup> Even though respondents mentioned having easy access to the police, the majority of the participants in our study would rather avoid contacting the police or would call them only if there is something "big". 79% of sex workers in the report "Sex work, stigma and violence in the Netherlands" never reported violence to the police.<sup>1</sup> Because the police is there to enforce legal regulations around sex work, they are usually seen as an adversary rather than a protection.<sup>1</sup>

One of the reasons why sex workers prefer not contacting the police is because they are afraid that the police will not take them seriously. One respondent in our study reported having had a very bad experience when she contacted the police after being beaten up: "they were really mean and judgmental" telling her that she "can do better" (Migrant cis woman). Another sex worker in our study explained having been kept at the airport because the police did not believe her and accused her of being involved in drug trafficking. Those experiences of humiliation, intimidation or violence encountered by sex workers make them less likely to call the police if anything happens. This in turn makes them more vulnerable to violent clients and coercive third parties, who take advantage of the fact that sex workers are not inclined to call the police in case of violence.<sup>7</sup>

However, some respondents did report having positive experiences when contacting the police, especially when contacting police departments who had received specialized training around LGBT+ or sex work: "The team related to prostitution was friendly, not stigmatizing and they took me seriously"

**"The team related to prostitution was friendly, not stigmatizing and they took me seriously"**

reported a migrant sex worker working in the windows in the Red Light district in Amsterdam. Even though some male respondents were aware of the team "Roze in blauw" ('Pink in blue' in English) specialized in dealing with LGBT+ related issues, they would still rather solve their issues without involving the police.

Another reason mentioned for not contacting the police is the idea that reporting crimes is useless. Sex workers are less likely to get equal treatment during justice procedures: their complaints are usually not investigated or followed up.<sup>7</sup> One respondent in our study reported that the police does more harm than good in their opinion: "there is a lot of paperwork while sometimes the solution is very easy, I contacted the police but they didn't help me, I don't really trust them" (migrant cis man).

In general sex workers working without a license distrust the police due to the fear of receiving a fine and having to stop working. The lack of trust is

especially present among migrant sex workers who fear deportation if they go to the police for sex work related issues. While one refugee in our study heard in an asylum center that the police could help him even if he does not have papers, most respondents in our study report not knowing that the police can help them without interfering in their asylum procedure: “I don’t want to get in trouble when applying for a visa” (male sex worker). Sex workers born outside of the Netherlands are less likely to report violence to the police while their risk is higher. Another factor on top of the fear of deportation is the lack of Dutch language proficiency.<sup>1</sup>

The distrust of sex workers towards the police comes from the complex regulations around sex work that the police has to enforce, making it difficult for sex workers to see the police as protection. Decriminalization and destigmatization of sex work would make it easier for sex workers to reach out in case of violence and unfair labor conditions.

## **STIGMA**

Stigma, the prejudice and discrimination people experience based on some distinguishing characteristic, is a form of social-emotional violence that can culminate in physical violence.<sup>1</sup> Stigma against sex workers can affect social relationships, such as being ostracized by friends and family upon disclosing their jobs or when being outed. Simply the expectation of negative reactions from one’s environment can lead to social isolation and psychological distress by causing sex workers to be secretive about their profession, lead a “double life”, and fear being outed, thus missing out on the social support people in less stigmatized occupations receive as a matter of course.<sup>7</sup> But stigma affects governmental policies and access to commercial services as well, such as the ability to open a bank account or get a mortgage. The stigma that influences governmental policies also led to the exclusion of a large group of sex workers who lost their income due to Covid-19 from any financial support measures.

The risk of stigma related violence against sex workers can increase based on different factors. Not speaking Dutch and/or not having been born in the Netherlands, being out as a sex worker, and sex workers who are LGBT+ are all associated with a greater chance of experiencing violence.<sup>1</sup> Furthermore, LGBT+ people already face stigma based on their gender and sexual orientation, which decreases educational and employment opportunities and in turn increases the chance that LGBT+ people come to sex work as a means of survival. This is especially true for trans women, LGBT+ people of color, or LGBT+ people who are undocumented.<sup>5</sup>

### **Work, Family, and Social Life**

Our research showed that participants experienced stigma in several areas affecting work, family, and social life. One male sex worker had a book-keeper who refused him service, a trans woman expressed how she wished

sex work could be put on a resume like any other job and that she worried doing sex work would affect future job prospects. Trans sex workers who had applied to escort agencies or clubs said they experienced systematic rejection. A female participant said she felt stigmatized by the government through its patronizing policies that limit sex workers' agency and autonomy. Indeed the ICRSE report on structural violence<sup>7</sup> describes that the stigma inherent in many a government's vantage point of regarding sex work as immoral and sex workers as lacking autonomy leads to measures that only worsen stigma and exacerbate bad working conditions.

In terms of family and social life many participants had lost friends for doing sex work, had family members stop speaking to them, or felt paranoid that this would happen if they found out. One participant summed it up as: "I didn't talk to anyone about my job apart from the people closest to me, I led a double life and had to keep up with all the lies. Also having people talk about sex workers and not being able to say anything is very hard and tiring. But then I came out and now I'm very open all the time to everyone. But I feel like I always have to be cautious because I don't know how people are going to react, if it's going to be with rage or judgment. Especially with men they automatically think they can treat me however they want or that I'll spread my legs real quick. So now I feel like I have to be guarded in another way and that's also draining and exhausting. And I have to explain why it's not okay to treat me poorly just because I'm a sex worker. And just having to explain that is also just really devastating." Similarly, a trans participant said: "I feel like I have to be defending myself every day with the clients, with my boyfriend, with my friends, with all the people that know that I do sex work." Another trans sex worker said she felt the constant burden of having to educate the people that objectified and fetishized her, be it for being trans or doing sex work or both.

Participants used different coping strategies to deal with the stigma they encountered. Some said they just tried to ignore it, or tried to avoid places where stigma is prevalent. Many said it helped to have friends who were also sex workers with whom they could speak freely. One participant said she would tell herself to stay strong and that it helped her to think that only God could judge her, not the people around her. Some participants felt less emotionally affected than others but stigma in its many forms seemed prevalent throughout our entire sample.

Despite the stigma and all its repercussions, many participants said they felt there were positive sides to doing sex work, especially within the Dutch system: "What I like about sex work in the Netherlands is, okay, we're not at all where we could and should be, but compared to most countries in the world, we're really good, organized. I can be open about it. I can get my STD tests. I can get information and help from companies" (migrant cis man). A migrant cis woman said: "Well, what I like here is why I came here, namely

**"I didn't talk to anyone about my job apart from the people closest to me, I led a double life and had to keep up with all the lies"**

that there's a lot of trans people, community, and organizations, and that sex work is kind of visible here. It's more relaxed than back in my home country, stuck in your apartment for years and never see anybody else besides clients”.

Governmental policies often serve to legitimize prejudice. If legislation is shaped by the point of view that sex work is immoral or that sex workers are victims without agency who need to be rescued<sup>1</sup> this only serves to affirm the public's opinion. Decriminalization, that is treating sex work on an equal footing with other kinds of work, would be the best way to lessen stigma and thereby the financial, social, emotional, and physical violence that are caused by stigma.<sup>1</sup> Marginalization and social exclusion are not helped by discriminatory policies,<sup>7</sup> such as closing windows in the Red Light District to 'clean up' the city center of Amsterdam, or by creating a restrictive licensing system specific to sex workers.



Government policies aimed at giving sex workers the same rights as other laborers is the only way to show the public that sex work is, in fact, a legitimate job.

## CONCLUSION

The Netherlands is one of the few European countries where doing and organizing sex work is legal. When the brothel ban was lifted in 2000, the intention was to increase the autonomy and social position of sex workers. Whilst the current system can provide some protection to sex workers, in particular those more privileged (cis, white, native Dutch, enough higher education to navigate the Dutch regulations around sex work), many more marginalized sex workers are banished to the illegal circuit and continue to face discrimination. Due to the intersection of restrictive sex work regulations, anti-migration law and anti-trafficking measures, the position of migrant sex workers, especially if undocumented, is precarious in the Netherlands.

Restrictive sex work regulations have led to a two-tier system with some sex workers working in the licensed sector and some sex workers working in the unlicensed sector. Not only is there a lack of licensed working places and is it impossible for sex workers who do not want to work for a third party to work both independently and legally, but it is also impossible for undocumented sex workers to work in the licensed sector. This two-tier system has negative consequences for all sex workers. Both policies that force sex workers to work for a third party and that exclude non-EU migrant sex workers from access to the licensed sector increase sex workers' reliance on third-parties (be they good or bad) and adds to the power

third-parties have over sex workers. This reliance is highlighted in the case of migrant sex workers, who often have no access to a licensed place to work, but also lack the necessary language skills and support networks to navigate the Dutch system, and thus rely on third-parties for access to information and protection. The reliance on third-parties of these most marginalized sex workers often negatively impacts their financial situation and has consequences on their working conditions. It should be noted that third parties are not bad by definition, but if sex workers are forced to depend on third parties this gives them less agency and autonomy and increases their chance of being exploited.

Restrictive sex work regulations and anti-migration laws lead to confusion between unlicensed sex work and trafficking, especially in the context of migration. This confusion causes anti-trafficking policies that push migrant sex workers to work even more underground due to the fear of deportation and the lack of other resources to survive. The lack of access to legal ways of doing sex work makes sex workers more vulnerable to violence and exploitation. Furthermore, the police enforcing the restrictive Dutch sex work policies makes sex workers distrust the police. Sex workers are therefore less inclined to report violence against them to the police.

In terms of resources available to migrant sex workers, health centers specially dedicated to sex workers, including undocumented migrant sex workers, make regular sexual health check-ups more accessible. However, access to the right care when it comes to general health and mental health is difficult due to the stigma surrounding not only sex work but also migration. Triple stigma - the intersection of stigma against sex workers, LGBT+, and migrants - makes access to quality health care even more challenging.

Finding affordable housing is difficult in the Netherlands, especially in larger cities like Amsterdam, the Hague, and Rotterdam. For financial reasons sex workers are sometimes forced to live with roommates or relatives who disapprove of their work or from whom they fear judgment if they would disclose what they do. Working in a stigmatized profession, especially when working unlicensed, also makes the formal housing market largely inaccessible and most sex workers are able to find (often disproportionate expensive) housing only through their network. Additionally, sex workers who want to work from home run the risk of hefty fines, losing their source of income, and even eviction.

To one extent or another most sex workers encounter stigma that affects their work, family, and social life. Nearly all forms of financial, social, emotional, and physical violence tied to sex work by lawmakers, the media, and the population in general, are in fact exacerbated or even caused by stigma.



Migration status and gender/sexual orientation add additional layers of stigma. Sex workers face the difficult choice of being out and facing judgment and other repercussions, or keeping silent and missing out on social support. Regulations influenced by stigma around sex work are the cause of restrictive labor laws that worsen the position of sex workers, leading to a vicious cycle of restrictive laws, a more precarious social position for sex workers, more stigma, and further restrictive laws.

## RECOMMENDATIONS

The Netherlands is famous for its liberal standpoint on sex work. However, the reality shows that taking the ban on brothels out of the criminal code without full decriminalization of sex work goes in the way of the position of sex workers in the Netherlands. Fully decriminalizing sex work would considerably improve the situation of sex workers and especially migrant sex workers. First, it would enable sex workers to reach the same degree of protection as in other forms of labor, because independent sex workers would work as any other freelancer and would fall under labor law only. Second, it would also make it easier for sex workers to access safe places to work and it would improve the financial situation of sex workers as the reliance on third parties decreases. Third, making sex work regulations part of labor law treating sex work equally to other work would decrease the stigma around sex work, thereby significantly improving the position of sex workers, including those who wish to leave the industry and face discrimination on the job market.<sup>12</sup> Decriminalization would however fail to benefit undocumented migrants, for this group doing sex work would still be illegal

under immigration law. We therefore recommend all migrants from outside the European Union should be granted the same rights as European citizens.

In general, a first recommendation to improve the situation of migrant sex workers is to place them and their interests at the center of the debate on sex work and trafficking, because the voices of migrant sex workers, especially the most marginalized ones such

as undocumented and LGBT+ migrants, are often forgotten. Because of inadequate trafficking policies and the fear of deportation it is often difficult for governmental institutions and non-governmental organizations to gain trust of migrant sex workers. Increasing privacy and anonymity as well as centering the voices of migrant sex workers would be a good start in improving the cooperation between the government and migrant sex workers.

Concrete recommendations are as follows. Providing affordable housing, safe workspaces, and making it easier for sex workers to work from home are all measures that would increase the independence and safety of migrant sex workers. Investing in peer-to-peer support due to similarity in language,

**Fully decriminalizing sex work would considerably improve the situation of sex workers and especially migrant sex workers.**



proximity and experience and reinforcing sex worker-led collectives is the best way to provide information and services to other sex workers. Moreover, community is key to fight against isolation.

Other recommendations include the ones stated by ICRSE, the International Committee on the Rights of Sex workers in Europe.<sup>7</sup> Bringing a positive and nuanced representation of sex workers in the media and raising awareness about the discrimination faced by sex workers would help fight stigma by changing the image of sex workers. Media by and for sex workers already exist in the Netherlands, but still lack support in terms of financial resources and coverage (see [www.redinsight.org](http://www.redinsight.org) for example). Increasing and improving the training of police officers, lawyers, and justice representatives would support sex workers' access to justice while including sex work in the agenda of trade unions and labor organizations would increase their access to labor rights. Training and increasing awareness of representatives of institutions would help in fighting stigma and improving the position of sex workers. Organizations such as Sekswerkexpertise are already engaging with politicians while the foundation Humanitas created a training for health professionals. The support of key representatives in those institutions is essential for those training and awareness programs to become standard. Last but not least the position of marginalized sex workers could also be improved by reinforcing collaborations between the organizations representing marginalized communities. As an example Trans United Europe, an organization led by trans sex workers of color, already works on improving the position of those sex workers affected by a triple stigma.

## The Netherlands vs. The Swedish model

This report focuses on the situation of migrant sex workers within the Dutch context where sex work is regulated by local licensing systems. Advocates of what is called the “Swedish model” have pointed out that the Dutch model fails on increasing the safety and well-being of sex workers in general. The Swedish model is a system in which sex workers are not criminalized for selling sexual services but clients are, as are all other third parties, including landlords. Clients of sex workers can get fined or even imprisoned if the police catch them buying sexual services. This model pushes all sex workers to work more underground in more dangerous conditions, because screening methods and working in safe locations is difficult when clients want to remain anonymous and are afraid of disclosing too much information. Less clients also means less bargaining power for sex workers who are more willing to accept clients, rates, or conditions they otherwise would not have considered. Working together in a brothel or club with a good security system or in a red light district with a lot of police surveillance is not possible either. For migrant sex workers - especially if undocumented - working conditions are even worse, because they have access to even fewer resources than local sex workers do. In addition, a suspicion of prostitution is sufficient for deportation of migrants.

We can clearly see the negative consequences of the Swedish model in France where the number of murders of sex workers have increased since the law criminalizing clients has been approved.<sup>15, 16</sup> STRASS, the French Union for sex workers, sheds light on the parallel idea of migrant sex workers being systematically associated with victims of trafficking and the law criminalizing clients that considers sex workers victims of clients and therefore unable to have agency about the work they do. Those ideas are patronizing, go against women’s rights, and take away women’s autonomy over their own bodies and lives.

In the Netherlands, the system is far from perfect and we hope this report provides some recommendations to improve the situation of migrant sex workers. However, it is important to point out what resources migrant sex workers have access to compared to countries who have adopted the Swedish model. Health centers specific for sex workers are available to all sex workers including migrant and undocumented sex workers, police trained to work with sex workers in the Red Light district lowers the threshold for sex workers to contact the police in case of violence and exploitation, and in general the political and media attention given to sex workers - compared to other countries - is a step towards lowering stigma against sex work and improving the position of sex workers in society.

The problems highlighted in this report would not be solved by implementing the Swedish model and thereby criminalizing the clients of sex workers. Even the sex workers in our study who did not enjoy doing sex work and wanted to do something else, used the money they made from sex work to make a better life for themselves, for instance by saving up for education or by paying off debts, or it just helped them survive. Criminalizing their clients would take this opportunity away from them. A better approach to help this group would be to provide them with good labor conditions and equal rights, something that would be made possible by a model of full decriminalization.

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