

Women's Initiatives for Gender Justice



Dear Madam, Sir,

Thank you for the opportunity to respond to the consultation on the 'Wet seksuele misdrijven'. Please allow me to write to you in English.

The Women's Initiatives for Gender Justice is an international women's human rights organisation that advocates for gender justice through the International Criminal Court (ICC) and through domestic mechanisms, including peace negotiations and justice processes. We work with women most affected by the conflict situations under investigation by the ICC, and collaborate with more than 6,000 grassroots partners, associates and members across multiple armed conflicts. Victims/survivors of sexual and gender-based violence inform the voice of the Women's Initiatives for Gender Justice.

We are based in The Hague and are part of the Dutch National Action Plan 1325.

Women's Initiatives for Gender Justice welcomes the initiative of the Minister of Justice and Security to update the law governing sexually transgressive conduct.

We welcome in particular the following suggested amendments to current legislation:

- Sexual harassment will become a criminal offence
- Rape will be expanded to include forcing the victim to penetrate the body of the perpetrator or a third party
- Maximum penalties will go up
- Online sexual violence will be treated in the same manner as offline sexual violence

On the issue of non-consensual sex, we welcome the expansion of the scope of the criminal offence of rape to include equal legal protection to male and female victims of sexual violence.

However, we do share concerns with a number of colleague NGOs that the draft legislation on "non-consensual sex" further emphasises the focus on violence for the crime of rape rather than on sexual autonomy and the ability to give genuine, voluntary, specific and ongoing consent.

Our recommendation is to not include the crime of non-consensual sex in the new draft bill as separate from rape. This recommendation is based on consultations with hundreds of survivors of sexual violence

One of our current campaigns is the 'Call it what it is' campaign to promote an inclusive and survivor-centred understanding of all forms of sexual violence.

While tremendously important work has been done to address sexual violence to date, there is still a misunderstanding of what can constitute sexual violence beyond the more 'established' or better known forms such as rape, forced prostitution, forced pregnancy and so on.

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Indeed, understanding the breadth of views on what constitutes an act of sexual violence is essential for those engaged in documenting, preventing, investigating, prosecuting, or responding in any other way to crimes of sexual violence. This is imperative to ensure violence is not overlooked or trivialized, and it is essential in providing survivors with recognition of their experiences.

Over the course of 2019, we brought together 50 civil society organisations to bring the voices of survivors to the forefront of discussions about accountability for sexual violence. Over 500 survivors of sexual violence were consulted in 26 countries to understand what, to them, makes an act “sexual” and to indicate when an act of sexual nature may become an “act of sexual violence”. Their views were complemented by those of various practitioners and academic in [The Hague Principle on Sexual Violence](#).

One of the main principles that resulted from these consultations with survivors is that sexual violence is seen/experienced/lived as acts which are committed forcibly or committed against a person who is unable or unwilling to give genuine, voluntary, specific and ongoing consent.

In other words, it is the view of the survivors consulted by Women's Initiatives and its local partners that the unwillingness or inability to give genuine, voluntary, specific and ongoing consent is indeed an essential element of the crime of rape.

As such, we recommend the draft bill not to include a separate codification of sex without consent, separate from rape.

Thank you once again for your invitation to submit views on the draft bill.

Kind Regards,

Alix Vuillemin
Senior Advocacy Adviser
Women's Initiatives for Gender Justice