# To the Standing Committee on Access to Information, Privacy and Ethics Re. Protection of Privacy and Reputation on Platforms such as Pornhub

# February 22, 2021

We applaud the Canadian Government for working to hold MindGeek accountable for facilitating and profiting from sexual abuse and exploitation.<sup>1</sup> MindGeek, which owns Pornhub and at least 160 other hardcore pornography websites, has received criticism for facilitating and profiting from criminal acts including sex trafficking, filmed sexual abuse of children, and non-consensually recorded and distributed pornography.<sup>2</sup> By investigating these criminal acts, the Standing Committee on Access to Information, Privacy and Ethics has set an example of a commitment to the protection of the rights of some of the most vulnerable members of society, particularly children who are victims of or at risk of sexual abuse.

As experts, survivors, and advocates combating sexual violence and exploitation, we found the February 5, 2021, testimonies of MindGeek executives Feras Antoon, David Tassillo and Corey Urman to the Committee notably egregious in their failure to take responsibility for the destruction of countless victims' lives over the past decade.<sup>3</sup>

Antoon, Tassillo and Urman appeared to be obfuscating their current and historical business practices<sup>4</sup> in the obtaining, distributing and advertising of child sexual abuse images,<sup>5</sup> rape, trafficking<sup>6</sup> and non-consensually recorded and/or distributed pornography.<sup>7</sup> MindGeek executives appeared to mislead the Committee and the public regarding MindGeek's role in enabling and profiting from a range of criminal content that was uploaded and distributed through their platform.<sup>8</sup>

Based on the evidence,<sup>9</sup> including testimony of victims and the potentially criminally implicating testimony of MindGeek executives on February 5, it appears that MindGeek has violated

<sup>&</sup>lt;sup>1</sup> House of Commons Canada, "Meeting No. 16 EHTI: Minutes of Proceedings," December 11, 2020, www.ourcommons.ca/DocumentViewer/ en/43-2/ETHI/meeting-16/minutes; Luca Carusa-Moro, "MindGeek Executives Testify before Ethics Committee over Allegations of Illegal Content on Pornhub," *CTVNews.ca*, February 5, 2021, montreal.ctvnews.ca/mindgeek-executives-testify-before-ethics-committee-overallegations-of-illegal-content-on-pornhub-1.5296887.

<sup>&</sup>lt;sup>2</sup> Nicholas Kristof, "The Children of Pornhub. Why Does Canada Allow this Company to Profit Off Videos of Exploitation and Assault?" *The New York Times*, December 4, 2020, www.nytimes.com/2020/12/04/opinion/sunday/pornhub-rape-trafficking.html.

<sup>&</sup>lt;sup>3</sup> House of Commons Canada, "Meeting No. 19 EHTI: Protection of Privacy and Reputation on Platforms such as Pornhub," February 5, 2021, https://parlvu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2/20210205/-1/34697?Language=English&Stream=Video#info\_.

<sup>&</sup>lt;sup>4</sup> House of Commons Canada, "Meeting No. 21 EHTI: Protection of Privacy and Reputation on Platforms such as Pornhub," Standing Committee on Access to Information, Privacy and Ethics," February 22, 2021, https://parlvu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2/ 20210222/-1/34824?Language=English&Stream=Video.

<sup>&</sup>lt;sup>5</sup> "Jane Doe #1 and Jane Doe #2 v. MG Freesites, LTD, d/b/a "Pornhub", MG Freesites II LTD, MindGeek S.A.R.L, MindGeek USA, Incorporated, MG CY Holdings LTD, MindGeek Content RT Limited d/b/a MindGeek, MG Billing LTD," *Class Action Complaint*, U.S. District Court N.D. of Alabama, Case 7:21-cv-00220-LSC, February 12, 2021, https://endsexualexploitation.org/wp-content/uploads/Doe-v.-MindGeek Complaint.pdf.

<sup>&</sup>lt;sup>6</sup> "Jane Doe Nos. 1 through 40, inclusive individuals v. MG Freesites, LTD., aba 'Pornhub,' MindGeek S.A.R.L., and MindGeek USA Incorporated," *Complaint for Damages Pursuant to 18 U.S.C. § 1595*, United States District Court Southern District of California Case No. '20CV2440W RBB, December 15, 2020, beta.documentcloud.org/documents/20425190-mindgeekjanedoes1-40.

<sup>&</sup>lt;sup>7</sup> Jacob Bogage, "Hidden Camera Footage of Female College Athletes Posted to Porn Site, Police Say," The Washington Post, October 26, 2019, https://www.washingtonpost.com/sports/2019/10/24/hidden-camera-footage-female-college-athletes-posted-porn-site-police-say/. <sup>8</sup> House of Commons Canada, "Meeting No. 20 EHTI: Protection of Privacy and Reputation on Platforms such as Pornhub," February 19, 2021,

https://parlvu.parl.gc.ca/Harmony/en/PowerBrowser/PowerBrowserV2/20210219/-1/34789?Language=English&Stream=Video. <sup>9</sup> House of Commons Canada, "Meeting No. 21 EHTI," ibid.

Canada's child protection laws, particularly child pornography<sup>10</sup> distribution and reporting laws<sup>11</sup> as written in the *Criminal Code of Canada*. For example, MindGeek executives stated in the hearing that their company reviews each video before it is publicly posted,<sup>12</sup> thus implying that they knowingly and willfully distributed child sexual abuse materials. It also appears that MindGeek has violated Canada's laws on publication of intimate images without consent.<sup>13</sup> MindGeek must be held accountable. The Canadian Government must urge law enforcement agencies to investigate MindGeek. Anything less than full legal accountability is an injustice to victims whose lives have been damaged as a result of MindGeek's knowing and willful actions.

Moreover, in actions that may be consumer fraud, MindGeek has admitted to enabling some Canadian citizens to violate the *Criminal Code of Canada* by encouraging the download and possession of images of child sexual abuse (i.e., child pornography).<sup>14</sup>

By its failure to implement age verification during pornography content upload and pornography consumption, MindGeek has facilitated harms against large numbers of children, both in front of the screen—through exposing children to pornography—and behind the screen—through facilitating images and films of child sexual abuse.

Based on MindGeek's testimony and its longstanding business practices, it is clear to us that MindGeek cannot be trusted to self-regulate.

A central role of government in a just society is to protect its most vulnerable. In this spirit, we call on the Canadian Government to encourage the Royal Canadian Mounted Police to conduct a full criminal investigation into MindGeek, and to hold its leadership accountable to the fullest extent of the law.

We call on governments, NGOs and concerned citizens across the world to encourage and support the Canadian government to take immediate legislative and regulatory action to protect children from this predatory and unethical corporation.

# Signed, 104 survivors, 525 NGO's from 65 countries

**CANADA** 

**Casandra Diamond** Executive Director, Survivor of Sexual Exploitation, BridgeNorth Women's Mentorship & Advocacy Services Kelly Tallon Franklin CED Survivor, Courage for Freedom

**Trisha Baptie** Engagement Coordinator, Survivor of Sexual Exploitation, EVE - formerly Exploited Voices now Educating Nikita Ferreira Founder, Survivor Leader, FREE -Finding Resources and Education for Everyone

<sup>&</sup>lt;sup>10</sup> Criminal Code of Canada (R.S.C., 1985, c. C-46, § 163.1, https://laws-lois.justice.gc.ca/eng/acts/c-46/section-163.1.html.

<sup>&</sup>lt;sup>11</sup> https://laws-lois.justice.gc.ca/eng/acts/I-20.7/page-1.html

<sup>&</sup>lt;sup>12</sup> Statement of Feras Antoon, "Because every single piece of content is viewed by our human moderators," before the House of Commons Canada, "Meeting No. 19 EHTI," (time marker 00:11:27), ibid.

<sup>&</sup>lt;sup>13</sup> https://laws-lois.justice.gc.ca/eng/acts/C-46/section-162.1.html; Statement of David Tassillo, "It- it i- it is possible that people committing crimes are able to circumvent our systems," before the House of Commons Canada, "Meeting No. 19 EHTI," (time marker 01:33:19), ibid.

<sup>&</sup>lt;sup>14</sup> Statement of Serena Fleites, ". . . it had already been basically downloaded by people all across the world. It would always be uploaded, over and over and over again. No matter how many times I got it taken down, it would be right back up again" before the House of Commons Canada, "Meeting No. 18 EHTI," (time marker 1:36:53), ibid.

Valerie Pelletier Survivor of Sexual Exploitation, Legal Tender

Sabrina Denison Survivor of Sexual Exploitation, Okaadenige

**Francesca Davila** Mother of Survivor of Sexual Exploitation, Parents Hope Group

Fiorella Kuczma Interim Director, Survivor of Sexual Exploitation, Restorations Second Stage Homes

Caroline Pugh-Roberts Survivor Leader, Salvation Army

Bridget Perrier Survivor Leader, Sextrade101

Shona Stewart Survivor Leader, StCF Services

**Cheyenne Jones** Survivor of Sexual Exploitation

Ilona Kohlmann Survivor of Sexual Exploitation

**Robin Zilberg** Survivor of Sexual Exploitation

Traci Johnston Survivor of Sexual Exploitation

Amy Wing Survivor of Sexual Exploitation

Honore Cyubabiro Survivor of Sexual Exploitation

Jasmine Robertson Survivor of Sexual Exploitation

Kristian Shortridge Survivor of Sexual Exploitation

**Lori Anne Thompson** Survivor of Sexual Exploitation

Maureen Kehler Survivor of Sexual Exploitation

Michelle Abel Survivor of Sexual Exploitation

Karen Barker Survivor of Sexual Exploitation

Rachel Breukelman Survivor of Sexual Exploitation

Sharon Lipkewich Survivor of Sexual Exploitation

Joy Jolie Survivor of Sexual Exploitation

Jessica Peacock Manager, 360 Kids Support Services

**Jennifer Potter** Founder, 4:one Oakville Fay Blaney Indigenous Woman, Aboriginal Women's Action Network

**Evelyn Vollet** Project Manager, Anti-Human Trafficking Committee, Roman Cathoic Archdiocese Vancouver

Adele Thorne Educator, Arcane Natural Therapies/Counselling Services

**Deb Stanbury** Executive Director, ARISE Ministry

**Rafaela Diaz** Founder, Arrêter Exploitationhub

Monique Sirois Kelly Directrice des Résolutions, Association des Femmes Diplomées des Universités – Montérégie

Devon MacDonald Indigenous Family Well Being Worker, Atira Womens Resource Society

Elyssa Rose Anti Human Trafficking Coordinator, Atlohsa Family Healing Services

Denise March Founder, Beacon Bags

Victor Joseph Malbarosa Student Ministries Director, Bramalea Christian Fellowship Church

Kelly Schuler Executive Director, BRAVE Education for Trafficking Prevention

Rose Sullivan Survivante et militante, CAFES - Collectif d'aide aux femmes exploitées sexuellement

Brandi Weston Project Manager, Calgary Pregnancy Care Centre

Farida Mohamed President, Canadian Council of Muslim Women Montreal

Janet Watson President, Canadian Federation of University Women, Sherbrooke & District

**Bev Wong** Member, Canadian Federation of University Women, Vancouver

Carole Anne Soong Member, Canadian University Women's Club Vancouver

**Catherine Richardson** Therapist, Catherine Richardson Counselling & Consulting

Chantal Messier Child Care Worker, Centre de Service Scolaire de Montréal Joan Boyd Psychotherapist, Centre For Abuse and Trauma Therapy

Allan Wade Researcher, Family Therapist, Centre for Response-Based Practice

Monica Piros Trauma Therapist, Collaborative Possibilities

Diane Matte Coordonnatrice, Concertation des luttes contre l'exploitation sexuelle

Louise Weber Film Maker, Confronting Porn Inc.

Chantal Morin Militante, Conseil Central du Montréal Métropolitain

Glendyne Gerrard Director, Defend Dignity

Rochelle Johnson Clinical Counsellor, Psychotherapist, Durham Rape Crisis Centre

Nicole Hodgson HT Survivor Home Program Director, Elora House

Kylee Nixon Founder, EWAASI: Edmonton Women and Allies Against the Sex Industry

Gladys Mok Ministry Director, Fight4Freedom

Hennes Doltze Development and Strategy Officer, Forward House

Bruce Ellergodt Chairperson, Freedom Catalyst Alliance

Jane Gattinger Team Member, Freedom Catalyst Regina

Beth McLean Wiest Executive Director, Harmony through Harmony

Pierre Beauregard Senior Facilitator, High Noon

**Philip Calvert** National Director of Development, International Justice Mission Canada

**Charlene Doak-Gebauer** Founder, Chair, Internet Sense First

M.J. Ferrari Director, J. M. J. Children's Fund of Canada, Inc.

Cathy Harness Owner, Director, JoySpring Midwifery

Emma Windsor-Liscombe Founder, JUST Project

Jennie-Laure Sully Community Organizer, La CLES Lyne Collette Coordonnatrice clinique, La Sortie

Ann Maje Manager, Liard Aboriginal Womens Society

Megan Walker Executive Director, London Abused Women Centre

Ursula Witkowska Advocate, Loretto Sisters

Rose Dufour Anthropologue, Maison de Marthe, Québec

John Cassells Project Director, Men Against Trafficking

Penny Rankin President, Montreal Council of Women

Patricia Leson President, National Council of Women of Canada

Becky Bradbury Director of Initiatives, Next Step Ministries

Paul Brandt Founder, Not In My City

Cheryl Perera Founder, President, OneChild

Marilyn Evans Director, Parents Aware

Jeanne Sarson Linda MacDonald Co-Founders, Persons Against Non-State Torture

**Rosa Evelyn Calugay** Finance Chair, PINAY Quebec

Kerri Isham Certified Sexual Health Educator, Power Up Education

Paul Clarke Executive Director, Programme Action Réfugiés Montréal

Kathy Le General Manager, Project SEVFIN

Lily Moric Managing Director, Questioning Pornography

Joanna Yee Director, Rahab Ministry (YU)

Michael Roy Volunteer Social Media Coordinator, RCAV Overcoming Porn Initiative, Vancouver Anti-Porn Society

Naomi Holland Advocate, Redeemed With Purpose

Liz Gibson Program Manager, Reset Society of Calgary

Elizabeth Gibson Program Manager, Reset Society of Calgary Mandy Thayil Interim Board Chair, Resist Exploitation Embrace Dignity

Katarina MacLeod Executive Director, Rising Angels Awareness and Restorative Care

Michele Hines Counsellor, Salvation Army Correctional and Justice Services

Eden Tek Crisis Counsellor, Sandgate Women's Shelter

Laura Ross Advocate, SEEDS - Supporting Every Eve Daughter Safely

**Cecilia Hudec** Sister, Sisters of Charity – Halifax

Edna Ouellette Member, South Shore University Womens' Club

Julia Beazley Director, Public Policy, The Centre for Faith and Public Life

Louise Froese Coordinator, The Journey

Floyd Tidd Territorial Commander, The Salvation Army Canada

**Bonnie Porter** Coordinator, The Violence Prevention Coordinating Council of Durham

Paul Lavergne Registered Psychotherapist, Turning Point Counselling

Debbie Pond Chair, U-R Home Awareness & Support Services

**Robert Duffy** Secretary-General, Universal Peace Federation Canada

**Cynthia Hoang** Founder, Managing Director, Vancouver Anti-Porn Society

Lynne Kent Chair, Vancouver Collective Against Sexual Exploitation

Krista MacNeil Clinical Director, Victim Services of Durham Region

Pascale Colucci Spokesperson, Walk For Freedom Windsor-Essex County

Kevin Dixon CEO, Wellspring Foundation for Education

Lilly Tadin President, Women's Federation for World Peace Canada Allison McDonald Women's Space Vancouver

Tamarack Verrall Ambassador, World Pulse

Gordon McCauley Physician

Greg Stewart Physician

Taramattie Setaram Survivor of Sexual Exploitation

Diane Redsky Executive Director, Ma Mawi Wi Chi Itata Centre Inc.

K. Brian McConaghy Founding Director, Ratanak International

Kim Zander Chair, Women's Space Vancouver

### ALBANIA

Imelda Poole Leader, Religious in Europe Networking Against Trafficking and Exploitation (RENATE)

#### ARGENTINA

Susana Chiarotti Director, Insgenar

Susana Chiarotti Director, Instituto de Género Derecho y Desarrollo

Marta Nunez Activist, Madres Víctimas de Trata (Mothers Victims of Sex Trafficking)

Maria Jose Binetti, PhD Women's Human Rights Campaign – Argentina

### AUSTRALIA

Genevieve Gilbert Survivor Leader, Pink Cross Foundation Australia

Leah Cheary Survivor of Sexual Exploitation

**Caroline Nuthall** Survivor of Sexual Exploitation

Peter Abetz Secretary, Adopt Nordic WA Inc

Wendy Francis Director, Australian Christian Lobby

**Ruth Larwill** CEO, Founder, Bloom Asia

Lara Kirk Mananger, Relationships Programs, Catholic Archdiocese of Canberrea Goulburn

Letitia Shelton CEO, City Women **Tegan Larin** Public Officer, Coalition Against Trafficking in Women Australia

Melinda Tankard Reist Movement Director, Collective Shout: For a World Free of Sexploitation

Tara Lees Operations Manager, Desert Blue Connect

Fiona Berkin CEO, Destiny Rescue

Kayelene Kerr Child Safety Advocate, eSafeKids

Caitlin Roper Co-Founder, Feminist Academy of Technology and Ethics

Anna Kerr Principal Solicitor, Feminist Legal Clinic Inc.

Sondy Ward CEO, God's Dreaming Org

**Bridget Brenton** Consultant, Heartspace

Margaret Buttriss Managing Director, HUSHeducation

Jasmine Rawlinson Global Mental Health Speaker, Jas Rawlinson

Jennifer Mason Relationships and Sexuality Educator, Lifework In Progress

Jenny Hoey Parent Awareness Advocate, NOT MY KID

Jodi Ferguson Director, PB West

Paul Ninnes Managing Director, Real Talk International Ltd

Holly-Ann Martin Managing Director, Safe4Kids

Caroline Ellen Founder, Safer Stronger Kids

**Cath Hakanson** Founder, Sex Ed Rescue

Susan Hawthorne Hawthorne Director, Publisher, Spinifex Press

Andrea Eadie School Chaplain, SU QLD, Patricks Road State School

Vanessa Hamilton Sexuality Educator, Talking The Talk Sex and Health Education

**Tim Mapperson** Counsellor, The Navigators

Claudette & Maarten Pansier Clinical Psychologists, Victorious Minds Liz Walker Managing Director, Youth Wellbeing Project

Peter Hoey Psychiatrist

### AUSTRIA

Sabine Kallauch Survivor of Sexual Exploitation, KAVOD

Rudolf Gehring Doctor, Christliche Partei Österreichs

Julia Obergfell CEO, Herzwerk

Andreas Kallauch ING., KAVOD

Jedida Sutter Founder, Lightup Austria

Kristina Malina-Altzinger President, Plattform Christdemokratie

Philip Poeschl CEO, Safersurfing

**Oliver Fichtberger** General Secretary, Seventh-Day Adventist Church

### **BELGIUM**

Anna Zobnina Coordinator, European Network of Migrant Women

Vincenzo Bassi President, Federation of Catholic Family Associations in Europe

### BRAZIL

Maria Mancebo Compromiso con la causa, Hermanas Oblatas del Santísimo Redentor

#### **BULGARIA**

Nina Naidenova Survivor Leader, Daughters of Bulgaria

Veneta Merk Secretary, Faith and Future

Grant Small Chairman, See Free Foundation

### **BRURUNDI**

Willy Nkurunziza Vice Président de l'association, Association Pour la promotion de la santé humaine (A.P.S.H-BURUNDI)

### **CAMEROON**

**Gladys Mbuya** President, FIDA Cameroon

### **COLOMBIA**

Stella Conto Abogada, Activista abogada docente independiente

Victoria Tenjo Leader, Adoratrices Colombia

Edelmira Bueno Ong, Centro Madre Antonia OSR

Alejandra Vera Abogada, Corporación - Mujer, denuncia y muévete

Maria Caicedo Fundacion Arroz con Leche

Susan Andrea Avella Rico Superviviente, Fundación Dignidad Abolicionista

Adriana Angarita Defensora Derechos Mujer, Fundación El Buen Pastor

Fabio Cuellar Abogado, Fundacion Renacer

Paul Overmoyer Executive Director, Inca link Colombia

Liliana Forero Montoya Coordination Team, Iniciativa ProEquidad

Josefina Gomez Instructora, Las Hermanas Oblatas del Santísimo Redentor

Maribel Fonseca Salazar Psicologa, Las Hermanas Oblatas del Santísimo Redentor

Maria stella Rodríguez Professor, Pontificia Universidad Javeriana

**Fernando Díaz del Castillo** Survivor Defender, Radio María

Ilse Villamar Cedeño Acompanante, Red Tamar Colombia

Mabel Martinez Coordinadora Mujeres Victimas, Religiosas Adoratrices

Melby Yohana Suárez Activista, TAMAR

Isabel Rodríguez Piñeres Enfermera

#### COSTA RICA

Michelle McQueary Missionary to sexually exploited, Face of Justice

Daniel Taube Executive Director, Inca link Costa Rica

#### **DENMARK**

**Dorthe Mørch Mikkelsen** Socialrådgiver, Adam og Eva **Dorthe Sandvad** Socialwoeker and coach, Dorthe Sandvad

**Grethe Nikolajsen** Field Worker, Familiebehandler Grethe Nikolajsen

Gitte Rasmussen Leader, Indre Missions Familiearbejde

Nanna Dideriksen Youth leader, Indre Missions Ungdom

Helle Jarlmose Secretary General, KFUKs Sociale Arbejde (YWCA Social Work)

Heidi Als Ringheim Co-Founder, Chair, Mediesundhed for Born & Unge (Mediahealth for children and youth)

Flemming Heininge Pedersen Head of Office, Tracks – The National Association for Adults with Chronic Affects from Sexual Assault

#### DOMINICAN REPUBLIC

Nieves de la Cruz Religiosa Directora, Red de Religiosas Contra la Trata de Personas

### **ECUADOR**

**Pedro Contag** Executive Director, Inca Link Ecuador

### **ETHIOPIA**

**Tesfaye Melaku Aberra** Executive Director, Light Ethiopia

### FRANCE

Marie Vilar Campaign Officer, CAP Intl

Alix Lejard EU Delegate, Femina Europa

Yves Scelles President, La Fondation Jean-et-Jeanne-Scelles

**Joseph Pesme** Militant, We Are Lovers

### **GERMANY**

**Erna Gfrerer** Survivor of Sexual Exploitation, Lara

Andreas Pock President, CARP e.V.

Amy Jo Mann, MSW Cherut

Amy Knöttner Founder, Executive Director, Echo International

Leanne Rhodes Executive Director, European Freedom Network **Olaf Dageförde** Family Federation for Wold Peace and Unification

Sigrid Werner Landessprecherin, Feministische Partei DIE FRAUEN

**Birgit Kelle** President, Frau 2000plus e.V.

Jeremy Hammond CEO, free!ndeed

**Clare Kalinka** Board Member, Kainos e. V.

Carina Angelina Chairwoman, Lightup Germany

**Ursula Horn** Überlebende, Netzwerk gegen Feminizide

Katherine Welch Founder, Director, Relentless

**Tabea und Eberhard Freitag** Dipl. Psychol, Dipl. Päd., Leader, return Fachstelle Mediensucht, Hannover

**Solveig Senft** Networking Manager, SISTERS e.V.

Maria Decker Chairwoman, SOLWODI

Annett Arnold Social Worker, TeenSTAR Germany

Elly Arrow Activist, The Invisible Men – Germany

**Christine Linz** Psychotherapist, Violetta e.V.

#### GHANA

Mike Owusu Gyimah Executive Director, Light for Children Ghana

Ndonwie Peter Director, Pan African Organisation for Research and Protection of Violence on Women and Children

Fati Seidu Tambro Executive Director, Sung Foundation

### GREECE

Allison Fowler Caregiver, Community House Damaris/ Threads of Hope Hellas

**Dimitrios Kontopoulos** General Director, Nea Zoi Association for the Support and Restoration of Individuals in Prostitution

**Carmen Bandeo** Member, Vivat International

### **GUATEMALA**

Ligia Briz Executive Director, Asociación La Familia Importa AFI

Acilegna Segovia Maestra, Hermanas Oblatas del Santísimo Redentor

### HONDURAS

Daniel Ascencio Executive Director, Inca Link Honduras

#### **HUNGARY**

E. Frivaldszky Director, Human Dignity Center Gabriella Légrádi NGO, SOLWODI Hungary Egyesület

#### **ICELAND**

Anna Hermannsen Therapist, Stígamót – Education and Counseling Center for Survivors of Sexual Abuse and Violence

#### **INDIA**

Tinku Khanna Director, Apne Aap Women Worldwide India Trust

**Upneet Lalli** Deputy Director, Institute of Correctional Administration

Sudha Upadhyayula Head of HR and Operations, My Choices Foundation

Rohit Bhalla Convenor, PUSH

#### **IRELAND**

Rachel Moran Executive Director, Survivor Leader, SPACE International

**Liam Ó hAlmhain** Chairman, Family Solidarity

Sarah Benson CEO, Women's Aid Ireland

### ITALY

Esohe Aghatise, PhD Executive Director, Associazione Iroko Onlus

Elen Pasquali EFN

Natasha Noreen Admin Director, Feminism Pakistan

Chiara Carpita President, Resistenza Femminista

Liliam Altuntas Survivor Leader, Resistenza Femminista

# JAMAICA

Shannon Haldane-Jones Vice President, Love March Movement

# <u>JAPAN</u>

Seiya Morita Lecturer, Anti Pornography and Prostitution Research Group

**Reika Yoshihara** APP

Kazuna Kanajiri Chief Director, PAPS (Organization for pornography and sexual exploitation survivors)

**Puja KIM** VAWW RAC

## <u>KENYA</u>

Eunice Maingi Child Online Protection Advocate, @iLabAfrica - Strathmore University

Ann Kioko Campaigns Director for Africa, CitizenGO

Aketch Aimba Director, Pearls and Treasures Trust

Jean Kagia Doctor, Protecting Life Movement Trust

### LATVIA

**Iluta LfÅce** Director, MARTA Centre

### **LEBANON**

**Ghada Jabbour** Co-Founder, Kafa

# **LIBERIA**

Alvin Winford Program Manager, African Network for the Prevention and Protection against Child Abuse and Neglect (ANPPCAN) Liberia

Foday M. Kawah Executive Director, Defence for Children International-Liberia

**Eleanor Womba** Lobby and Advocacy Officer, Forum for African Women Educationalists (FAWE)

Abdul Bangura Executive Director, United Funding and Development for Underage Mothers (UFDUM)

### **LITHUANIA**

Kristina Misiniene Expert on Child Abuse, Center Against Human Trafficking and Exploitation in Lithuania

Dalia Puidokiene Director, Klaipeda Social and Psychological Support Center

### **LUXEMBOURG**

**Tatiana Lopes** Survivante, Femmes en de tresse

Carol Gobey Author, Director, Is This Love

Anja Slabbekoorn President, Spring2Freedom

Marta Ventura Correia CEO, The Insight Project Asbl

### MALAWI

Taalumba Masambo Project Manager, Love Justice International (Malawi)

**Caleb Ng'ombo** Executive Director, People Serving Girls At Risk

#### **MALTA**

Mario Sciberras Survivor of Sexual Exploitation

**Charles Attard** Director, Cana Movement

### MEXICO

**Teresa Ulloa** Director, Coalition Against Trafficking in Women – Latin America and the Caribbean(CATW-LAC)

Benny Yu Founder, El Pozo de Vida

Luz García Organización Iniciativa

Elsa Simón Ortega Directora General, Por la Superación de la Mujer

Gloria Murúa Equipo de Coordinación, Red Rahamim

Geny Cáceres Lider de ONG, Semillitas de Mostaza

Jose Carrillo Superviviente

### **MORROCCO**

**Ibtissame Betty Lchgar** Spokeswoman, Alternative Movement of Individual Liberties (Morocco)

### **NETHERLANDS**

**Leontien Bakermans** One of Us Netherlands

#### NEW ZEALAND

Ally-Marie Diamond Survivor Leader, Wahine Toa Rising

Bob McCoskrie National Director, Family First New Zealand **Debbi Tohill** Executive Director, Rape Prevention Education Whakatu Mauri Trust

Sammi Huxley-Newton Social worker, Women's Refuge

Bronnie Lyell Counsellor

#### NICARAGUA

Lucrecia Rivas #niunamas, #niunamas

### **NIGERIA**

**Dr. Bolarinwa Michael Omotosho** President, Anchor International Care and Humanitarian Initiative

Roseline Osagie Chairperson, IROKO Charity

Chinelo Ujubuoñu MySchoolArena.com

Ifeyinwa Egesimba Stakeholder, Sascon International School

Bernice Ede Ede Leader, The Pukiche Girl Child Foundation

#### NORWAY

Ragnhild Lindahl Torstensen CEO, Lightup Norway

Josef Moberg Youth Pastor, Oppdal Kristne Senter

Ane Stoe Leader, The Feminist Group Ottar

Agnete Carlsen International Coordinating Group, Women's Front of Norway

#### PERU

Andres Castro Executive Director, Inca link Peru

#### **PHILIPPINES**

Myles Paredes Survivor Leader, Bagong Kamalayan Prostitution Survivors Collective

Kath Napoles Survivor Leader, Empowered Women Survivors Collective

Eleony Monding Survivor Leader, Tingog sa Kasanag (TISAKA)

**Celia Flor** Executive Director, Active Women Networking Foundation

#### Jean Enriquez

Executive Director, Coalition Against Trafficking in Women - Asia Pacific (CATW-AP) AnaR. Maria Nemenzo National Coordinator, WomanHealth Philippines

Janica Rosales Co-Convenor, World March of Women (WMW) – Pilipinas

### PORTUGAL

Alexandra Silva Projects Coordinator, Portuguese Platform for Women's Rights

#### PUERTO RICO

**Stefanny Cepeda** Research Assistant

# <u>ROMANIA</u>

Leanne Rhodes CEO, Abolishion

Monica Boseff Executive Director, Open Door Foundation

# <u>RWANDA</u>

Anselme Urayeneza Survivor of Sexual Exploitation, Labour party

#### SIERRA LEONE

Sheku Bangura Bangura CEO, Director, Advocacy Network Against Irregular Migration

Abdul Karim Habib Executive Director, Network Movement for Democracy and Human Rights (NMDHR -SL)

### **SLOVAKIA**

Anton Chromík President, Aliancia za Rodinu

Tomas Kovacik President, Association for Life and Family

### SOUTH AFRICA

Michelle Joseph Survivor of Sexual Exploitation, Culture of Life Johannesburg

Kirsty Marot Survivor of Sexual Exploitation, Project Exodus

Leandra Hillstrom Survivor of Sexual Exploitation, Project Exodus

Nomonde Mihlali Meji Survivor Leader, Survivor Empowerment & Support Programme (SESP)

Grizelda Grootboom Survivor Leader, Survivor Exit Foundation

Annette Fourie Content Director, Survivor of Sexual Exploitation, The Oaks Collective

Elaine Thornton Smith Survivor of Sexual Exploitation **Cheray Varikas** Survivor of Sexual Exploitation

Genevieve Rheeder Survivor of Sexual Exploitation

Maryna Heese Survivor of Sexual Exploitation

Hilary Leong Co-Founder/Chairperson, Awareness for Child Trafficking Africa (ACT Africa)

Brendan Botha Director, Break Free Pornography Addiction Consultants

Ryan Smit Programme Director, Centre Against Sexual Exploitation, South Africa

Michael Jelbert Dr. MBChB(Birm) FRCS(Edin), CMA Christian Medical Association

Nozizwe Madlala-Routledge Executive Director, Embrace Dignity

Maarten Meyer Director, Ezrah Community Training and Development

Errol Naidoo Executive Director, Family Policy Institute

Marcel Van der Watt Research Fellow, Free State Centre for Human Rights

Salome Geiger Activist, Hope Risen Foundation / Free To Fly

**Cobus Oosthuizen** Doctor, LifeXchange

Chantelle Blokdyk Activist, Original Design Education

Kerry Janse van Rensburg Management, Project Exodus

**Carin Nel** CEO, Stop Trafficking of People South Africa

MarieAnne te Brake T.A.P Talk About Porn

Clive Human Porn Addiction Counselor

Antoinette Basson Research Psychologist, Youth Research Unit, University of South Africa

#### <u>SPAIN</u>

**Belén Domínguez** Survivor of Sexual Exploitation

Tere Cardenes Trabajadoras Sociales, Casal Petit

Ignacio Arsuaga President, CitizenGO Foundation Lidia F. Montes President, Fórum de Política Feminista

Beatriz Sagrado Roberto Coordinación, Frente Abolición Prostitución

**Teresa Nevado** General Secretary, Lobby Europeo de Mujeres en España

Aurea Lopez Volunteer, Medicos del Mundo

Pilar Fernández Licenciadoa en Ciencias de la educac, Oblatas

Fayna Saavedra Domínguez PFE

**Beatriz García de laTorre** Coordinator, Serra-Schönthal Foundation

Sonia Vaccaro Psicóloga Clínica y Forense, SV & Asociates

#### **SWEDEN**

Monica Mazzitelli Survivor of Sexual Exploitation

**Ingvar Rönnbäck** Founder, Chair of the Board, Another Development Foundation

Maria Ahlin CEO, Changing Attitudes

Ida Östensson Director of Communication, Child10

Zandra Kanakaris Secretary General, Foundation 1000 Opportunities

Nina Rung CEO, Child Rights Expert, Huskurage

Micaëka Gripenberg Project Manager, Men For Gender Equality (MÄN)

Elena Timofeeva Founder, National Centre against Human Exploitation and Violence (NCEV)

Elsa Lantz CEO, Porn Free Childhood (Porrfri Barndom, Swedish)

Wiveca Holst Activist, Qjouren

Johanna Lindhult Pastor, Starta Om, Salvation Army Sweden

Clara Berglund Secretary General, Swedish Women's Lobby

Anna Sander Founder, Talita

Olga Persson President, Unizon Ulrica Stigberg Author, Priest, Visuell drog – om barn, unga och nätporr

### SWITZERLAND

Andrea Bernath anora Winterthur

Claudine Tanner Bloved Lucerne Switzerland, ASSOZIATION BLOVED LUZERN

Martin Michalicek General Secretary, Council of European Bishops' Conferences, CCEE

Regula Lehmann Leader, Elternnitiative Sexualerziehung

Barbara Laubscher Leader, Safersurfing

### <u>TANZANIA</u>

Justa Mwaituka Executive Director, Kiota Women Health and Development Organisation-KIWOHEDE

### THAILAND

**Darren Herbold** Founder, For Freedom International

### TRINIDAD AND TOBAGO

Pauline Phelps Coordinator, BOMA-TT

### UGANDA

Nicole Kiesha Lawyer, Family Life Network

Harris Namutebi Executive Director, Network for Community Development

Alex Wesigye Family Sphere Coordinator, WC MPM Family Sphere

Alex Wesigye Family Sphere Coordinator, WC MPM Family Sphere

### **UKRAINE**

Natalia Usachova Activist, Columnist, Publisher, Women's Human Rights Campaign – Ukraine

### UNITED KINGDOM

Rebecca Mott Survivor of Sexual Exploitation, Nordic Model Now

Julie McNamara Survivor of Sexual Exploitation

**Dr Elizabeth Dalgarno** Survivor of Sexual Exploitation

Helen Thompson Survivor of Sexual Exploitation Julie Swede Survivor of Sexual Exploitation

Erin Holdsworth Survivor of Sexual Exploitation

Kathleen Richardson Professor of Ethics and Culture of Robots & AI, Campaign Against Sex Robots

Vanessa Morse CEO, Centre to End All Sexual Exploitation (CEASE)

Vicky Lam Team Member, Dignify

Lisa-Marie Taylor CEO, FiLiA

Glenn Miles Principal, Freedom Resource International

Anna Fisher Chair, Nordic Model Now!

Sasha Rakoff CEO, Not Buying It

Ruth Greenberg Activist, RadFem Collective

Joy Andrew Development Manager, Restore Glasgow

**Darryl Mead** CEO, The Reward Foundation

**Neil Fairbrother** Journalist, The SafeToNet Foundation

**Rebecca Panting** Project Manager & Chair of Trustees, The Saffires Project

John Carr Secretary, UK Children's Charities' Coalition on Internet Safety

Chris Green President, White Ribbon UK

Lynda Dearlove CEO, Women at the Well

**Elly Hanson** Doctor, Clinical Psychologist

### UNITED STATES

Joyclyn Bell Survivor of Sexual Exploitation, Call to Safety

Darlene Pawlik Founder, Survivor of Sexual Exploitation, Darling Princess

Rachel Thomas Survivor Leader and Educator, Ending The Game

Nancy Yarbrough Executive Director, Survior Leader, Fresh Start Learning Inc Angela Graves Dual Advocate (DV/SA), Survivor of Sexual Exploitation, Illinois Valley Safe House Alliance

Suzanne Isaza Incest Prevention Advocate, Survivor of Sexual Exploitation, Incest AWARE

Jennisue Jessen Survivor Leader, Member, US Advisory Council on Human Trafficking

María Arboleda Survivor of Sexual Exploitation, Red Petra Mujeres Valientes

**Carissa Phelps** CEO, Survivor Leader, Runaway Girl, FPC

Sarai Mazariegos Executive Director, Survivor Leader, S.H.A.D.E Movement

**Teresa Tally** Survivor Leader, Servitium Project

Elesondra DeRomano Survivor of Sexual Exploitation, Consultant, STARS - Standing Together Against Real Slavery

Mickey Meji Survivor Leader, Survivor Empowerment & Support Peogramme (SESP)

Jessica Kim Survivor Leader, Survivor Leader Network San Diego

Jamie Rosseland Survivor of Sexual Exploitation, The Avery Center

Alice Hart Survivor of Sexual Exploitation, The Avery Center

**Stephanie Anderson** Survivor Leader, Traffick Refuge

Christina Rangel Survivor Leader, United Justice

Survivor Sisters Epstein/Maxwell Survivor Sisters Survivors of Sexual Exploitation, Victims Refuse Silence

Rosemary Logan Attorney, Survivor of Sexual Exploitation

**Tyesa Harvey** Case Manager, Survivor of Sexual Exploitation

**Caroline Molieri** Mother of a Survivor of Sexual Exploitation

Nacole Svendgard Parent of Survivor of Sexual Exploitation

Anna Ptak Policy Consultant, Survivor Consultant Elizabeth Ludvik Survivor of Sexual Exploitation Margaret Lehmann Survivor of Sexual Exploitation

April Hiltpold Survivor of Sexual Exploitation

Catherine Raphael Survivor of Sexual Exploitation

Claudia Gonzalez Survivor of Sexual Exploitation

Jamie Scott Survivor of Sexual Exploitation

Keelin Washington Survivor of Sexual Exploitation

Lauren Venn Survivor of Sexual Exploitation

Charlotte McIlnay Survivor of Sexual Exploitation

**Rebecca Amato** Survivor of Sexual Exploitation

Sariah Paullus Survivor of Sexual Exploitation

Jeanette Westbrook, MSSW Survivor of Sexual Exploitation

Wendi Westmoreland Survivor of Sexual Exploitation

Jewell Baraka Survivor of Sexual Exploitation

**Jocelyn Engelbert** Survivor of Sexual Exploitation

Briauna Lietzau Survivor of Sexual Exploitation

Wendy Childs Survivor of Sexual Exploitation, Child Advocate

Susan Dragone Survivor of Sexual Exploitation

Erica Raggett Founder, Executive Director, A 2nd Cup

Mercy Ward Communications and Program Assistant, A Way Out Ministries

Lisa Varga CEO, Agape International Missions

Pat McCay Chair, Alabama Human Trafficking Task Force

Terry Schilling President, American Principles Project

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**Christine Vollmer** President, Asociacion Provida de Venezuela **Jane Adolphe** Professor of Law, Ave Maria School Of Law Melissa Holland Founder, Executive Director, Awaken Reno

Laurie Hall Author An Affair of the Mind, Awakened Heart Betrayal Trauma Recovery

Felicia Womack Abolition Advocate, Awareness is Prevention

Elizabeth Takasaki Member, Big Ocean Women

Amaris Graham BLEXIT, BLEXIT

**Terry Forliti** Executive Director, Breaking Free

Tanner West Social Media Manager, BYU Anti-Human Trafficking Club

Austin Ruse President, C-Fam, Inc

Mary Dekker Campus Safety Officer/Coach, Calvin University

Lisa Shanklin Managing Director, Capstone Counseling and Coaching

Robert Baker Lead, Catalyst4Freedom

Julie Karcis Vice President, Central Phoenix Inez Casiano NOW

**Deanna Larsen** Owner, Instructor, Speaker, Chain Reaction Martial Arts

Warren Binford Professor of Law & Clinic Director, Child & Family Advocacy Clinic, Willamette University

Heidi Olson Sexual Assault Nurse Examiner, Children's Mercy Kansas City

Taina Bien-Aime Executive Director, Coalition Against Trafficking in Women

Christel Long Executive Director, Crystal Clear Ministries International

Gail Dines President, Culture Reframed

David Wolfenberger David Wolfenberger, D & M Live Crab

**Doug Smith** Owner, Author, Speaker, D&L Smith Solutions

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Bethanee Syversen Executive Director, ExPOSE

Judi Riccio Executive Director, Faithful Love, Inc

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Natale McAneney Executive Director, Fight the New Drug

Philippe Scelles Président d'honneur Fondation SCELLE, Fondation Scelles

Barbara Fowler Business Owner, Warrior Advocate, Fowler Davis LLC

Kathy Van Wie Member of Founding Team, Freedom Place

Barbara Freeman Oeer Recocery Supporter, Freeman Project

Susan Munsey Founder, Generatehope

**Tiffany Leeper, M.A.** Founder, President, Girls Against Porn & Human Trafficking (GAPHT)

Rima Nashashibi Founder, President, Global Hope 365

Wendy Holston Advocate, Hannah's Hope from Bel Air MD

Mary Bonnett Producing Artistic Director, Her Story Theater

Anja Khoma Anti-Trafficking Program Director, HRC Ministries

Richard Brown President, Founder, Inca Link International

Haley McNamara Director, International Centre on Sexual Exploitation Alona Bahshian Church Mobilizer, International Justice Mission (IJM)

Brian Scarnecchia President, International Solidarity and Human Rights Institute (ISHRI)

Yehuda Levin Rabbi, Jews For Morality

Abby Grace Worrell Anti-Human Trafficking Committee, Junior League of Birmingham

**Dianne Post** Attorney, Lavendar Patch

Raleigh Sadler Executive Director, Let My People Go

**Brooke Burris** Executive Director, Lincoln Tubman Foundation

Valerie Alviar LVN, Los Angeles Unified School District Lynn Shaw Founder, Executive Director, Lynn's Warriors

Margaret Cairns Vice President, Maryland Coalition Against Pornography

Maylissa Luby Survivante, May,Äôs Heart

Gilbert Lavoie Board of Directors, Medical Institute for Sexual Health

Savelia Curniski President, Nashi

Dawn Hawkins Executive Director, National Center on Sexual Exploitation

**Ricky Darr** Director, National Decency Coalition

Elisa Johnson Local Director, New Hampshire Traffick-Free Coalition

Ruchira Gupta Professor, New York University & Apne Aap

**Tiffany Marler** Vice Chair, Board of Directors (SL), Nomoretears21:4

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Jessica Bahr Mental Health Coach, RelationShifting

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Lindsey H Director of Outreach & Disruption, Reset180

Kay Duffield Executive Director, Reset180

Martha Braniff Child Advocate, Resilient New Mexico

Yasmin Vafa Executive Director, Rights4Girls

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Patrick K Riley Prison Outreach Coordinator, Sex Addicts Anonymous

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**Cynthia Collins** Founder, SpeakHope

Beth Morton Director, Standing Strong Ministry

Robin Reber Parent Advocate, Star Guides Wilderness Noah Gassler Private First Class (Ret.), Survivor's Network Africa

Autumn Burris Founding CEO, Survivors for Solutions

Annah Irungu Director, Teenagers Plus

Megan Lundstrom Director of Research, The Avery Center for Research and Services

Justin Euteneier Director of Programs, The EPIK Project

Sheiladawn Fitch The Heidi Project

Veronica Sommer Anti-Human Trafficking Advocate, The Kindness Solution

**Tania Montanez** CEO, The Mavuno Project

**Dean Kaneshiro** Speaker, Educator, The Parenthood Life

**Ryan Bomberger** Co-Founder, Chief Creative Officer, The Radiance Foundation

Charlene Polsley Program Director, The Salvation Army

Russ Tuttle Founder, President, The Stop Trafficking Project

Sherrie Jerke Board Member, Traffick911

Pamela Rasberry Victim Advocate, Trafficking Hope

Jerome Elam CEO, President, Survivor Leader, Trafficking in America Task Force

Kendis Paris Executive Director, Truckers Against Trafficking

**Cole Forester** Co-Founder, True Radical Love

Donna Hughes Professor & Carlson Endowed Chair, University of Rhode Island

Susan Ingram Founder, Walk Her Home

**Deanna Lambson** Founder, President, White Ribbon Week

Jason Frost President, Director, Wired Human

Cecilia Bravo Coordinator for US and Canada, Women of the World Global Platform Heidi Basch-Harod Executive Director, Women's Voices Now

Nikki Demers, PhD Counselor, Women's Care Center

Brian and Melissa Leak Global Anti-Trafficking Team, WorldVenture

Lutz-Ulrich Besser FA für Psychiatrie u. Psychotherapie, Zentrum f. Psychotraumatologie und Traumatherapie Niedersachsen

Mahri Irvine, PhD Independent Scholar

Brenda Sandquist Executive Director, Xquisite

**Christina Vasile** Advocate, RVA Hope Center

# **VENEZUELA**

Aixa Armas President, Mujer y Ciudadanía Asociación Civil

Angelica Gomez Director, OSR

# ZAMBIA

Joshua HK Overseer, Northmead Assembly of God

Kayula Leda Anti-Trafficking Advocate, Sisters of Charity

# ANNONYMOUS LOCATION

You My Sister Survivor-led NGO, You My Sister

Andrea Heinz Survivor of Sexual Exploitation

**Prisma Gorn** Survivor of Sexual Exploitation

Helen Hughes Survivor of Sexual Exploitation