



On 30 November 2022, the Minister of Justice and Correctional Services, Ronald Lamola, presented for public comments a bill that would repeal all criminal offences related to prostitution, which the Minister characterized as a bill to “decriminalise sex work” (the Bill). Among other provisions, the Bill would repeal “brothel owning and keeping, including any house or place kept or used for purposes of prostitution or for persons to visit,” as well as “engaging in sexual services of persons 18 years or older.” The Bill in effect, decriminalises the sex trade in its entirety, including patronising (sex buying), brothel keeping, and procuring prostitution (pimping).

We, the undersigned, women’s and human rights advocates, frontline service providers, and sex trade survivor leaders from around the world, are offering our comments on the Bill to the Government of South Africa.

We stand with the sex trade survivors and the people of South Africa who oppose this Bill.

Prostitution is Neither “Sex” Nor “Work”: It is a Profitable System of Sexual Exploitation

Prostitution is one of the most brutal forms of male violence and discrimination against women. Reports estimate that [131,000 and 182,000](#) people are in prostitution in South Africa, almost all economically and socially disenfranchised Black women who are at great risk of violence, sexual and psychological violence, rape, dehumanisation, and even death. Those numbers will increase multi-fold if South Africa decriminalises the sex trade.

If South Africa decriminalises the purchase of sexual acts (sex buyers) and legitimises the sex trade, it will without question fail in fulfilling its goals to ensure “Protection, Safety and Justice” and “Combat Gender-based Violence and Femicide.” Contrary to the Minister of Justice’s assumptions, the Bill will not offer women in prostitution more safety, more access to healthcare, and the elimination of stigma.

The Bill Fails to Understand How the System of Prostitution Operates: The Demand for Prostitution Fuels the Sex Trade

The sex trade is a market whose success depends on the economic equation of supply, demand and the incentive for profit. The actors in the sex trade (brothel owners, pimps, escort services, pornographers, online sexual exploitation website providers and other exploiters) meet that state-approved demand by procuring (pimping and sex trafficking) the most vulnerable people, especially women and children, to sex buyers. Without sex buyers’ money, the multi-billion-dollar global sex trade would not exist.

By Legitimising the Demand for Prostitution, the Bill Would Expand the Sex Trade, Sex Tourism and Sex Trafficking in South Africa

When a government decriminalises the sex trade, it no longer controls it. The Bill allows profit-making by exploiters in all forms of the sex trade, from street prostitution to brothels in private homes to all commercial sex establishment ownership. South Africa will also become the sex tourism capital of Africa and a global destination country for sex trafficking.

Furthermore, decriminalising the sex trade weakens a government's tools to combat sex trafficking. [New Zealand](#), for example, has not initiated any sex trafficking prosecutions, convicted any sex traffickers, or identified any sex trafficking victims since it decriminalised the purchase of sexual acts and the sex trade twenty years ago. Child sex trafficking is rampant, with impunity. Should this Bill pass, this too will happen in South Africa.

The Bill Does Not Protect Women from Violence, Negative Health Outcomes or Stigma: Prostitution is Inherently Violent and Stigmatising

The Bill cannot and will not curtail or change the violence and discrimination integral to prostitution. Reports indicate that women in the South African sex trade are exposed to [high levels of violence](#) and [traumatic stress](#) disorders. Sex buyers, brothel owners/managers and other exploiters are responsible for those beatings, rapes, stabbings, abuse, and sexual coercion — not the law. A law that decriminalises the sex trade will trigger irremediable suffering and a public health crisis among the poorest populations of South Africa.

This Bill Violates Fundamental Human Rights Principles and South Africa's Obligations under International Law.

This Bill significantly curtails South Africa's stated commitments to fundamental human rights principles and international law. South Africa adopted the [Universal Declaration of Human Rights](#) and has ratified the [1949 Convention, CEDAW](#), the [Convention on the Rights of the Child](#), the [Palermo Protocol](#), the [African Union Conventions](#), [Maputo Protocol](#), and other international and regional instruments that obligate South African to combat and, ultimately, eradicate abuse and violence against women and children; prevent sex trafficking; and suppress the exploitation of prostitution, especially of women and children.

The System of Prostitution is a Legacy of Colonialism and a Manifestation of Patriarchy; Decriminalising it is a Regressive Act.

The Government of South Africa must remember that prostitution is a legacy of 17th century colonialism, brought to the shores of the country by European settlers who raped, exploited and trafficked Black women for their pleasure and profit.

The Bill is an echo of that dark historical chapter that violates the promise of the South African Constitution, which guarantees "human dignity, the achievement of equality and the advancement of human rights and freedoms" for all of its people.

As Nelson Mandela said, “For every woman and girl violently attacked, we reduce our humanity. For every woman forced into unprotected sex because men demand this, we destroy dignity and pride. Every woman who has to sell her life for sex we condemn to a lifetime in prison. For every moment we remain silent, we conspire against our women.”

South Africa Must Enact a Progressive Law that Holds Sex Buyers Accountable and Decriminalises Only Persons in Prostitution, Offering them Comprehensive Services.

We agree with the Minister of Justice that the current law criminalising persons in prostitution must be amended. No one should be arrested or incarcerated for their own exploitation. Under criminalisation, the police are known to harass, arrest and brutalise women and others in prostitution while the men who purchase them are rarely apprehended. Decriminalisation of the sex trade, however, is **not** the answer.

We call on South Africa to consider instead a third option – a law, known as the **Abolitionist or Equality Model**, that solely decriminalises those bought and sold for sexual acts, while still holding sex buyers and exploiters accountable for the grievous harm they cause and the crimes they perpetrate.

The **Abolitionist/Equality Model** also mandates that the government provide prostituted persons comprehensive medical services, educational opportunities, and exit strategies.

We urge South Africa to become the first African country to adopt the **Abolitionist/Equality Model** law, which upholds gender equality and human rights. It also serves as an effective tool to change a cultural paradigm that views women as second-class citizens and commodities to be bought, sold, and violated at the will of exploiters and sex buyers. The time to enact this progressive legislation is now.

Stand with survivors, South Africa, not with the sex trade.

SIGNATORIES