



**Embrace Dignity**  
**Submission to Multi-Party Parliamentary Women's Caucus**  
**in response to the South African Law Reform Commission Report (SALRC) Report,**  
**Project 107 - Adult Prostitution<sup>1</sup>**

“My biggest pain is thinking what she must have felt. The fear. My baby. My sweet girl. The mental anguish of absolute fear is the most painful to comprehend,” said Carmen Lee the mother of Siam Lee. Siam Lee’s body was found, burnt, in a sugar cane field on a farm near New Hanover in mid-January after she had last been seen at a house, believed to operate as a brothel, in upmarket Durban North. It is claimed that mother and daughter worked there.

## **1. Introduction and Purpose**

- a. The Minister of Justice and Correctional Services, Hon. Michael Masutha, released the SALRC Report on 26 May 2017 and called for public engagement.
- b. Embrace Dignity welcomes the Report as it puts the issue of the prostitution system on the public agenda, together with its findings and recommendations.
- c. As the law currently stands in South Africa, adult prostitution (i.e. selling of sexual services, buying of voluntary adult sexual services, and all prostitution related acts) are criminal offences.
- d. We appreciate the overdue effort to review the fragmented legislative framework that currently regulates adult prostitution and to bring it in line with the South African Constitution and international human rights law.
- e. We note that the secondary aim of the Law Reform process is to identify alternative policy and legislative responses that might regulate, prevent, deter or reduce prostitution.
- f. We note that the Report takes into account the South African context of the high levels of poverty, unemployment and inequality, exacerbated by high levels of gender based violence and HIV and AIDS. We note further that the Report acknowledges that these structural factors render girls and women vulnerable to exploitation and abuse. It therefore recommends two legal options for regulating prostitution.

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<sup>1</sup> <http://www.justice.gov.za/salrc/reports/r-pr107-SXO-AdultProstitution-2017.pdf>

- g. The purpose of this submission is to respond to the SALRC Final Report, consider the legal options and propose a policy on the system of adult prostitution that will fundamentally and holistically address the underlying causes of prostitution, prevent new entry by focusing on ending the demand and correcting the structural imbalances that drive it.

## **2. Embrace Dignity**

Embrace Dignity ([www.embracedignity.org.za](http://www.embracedignity.org.za)) is a Cape Town-based South African, feminist and human rights advocacy NGO that was established in 2010 and sets out to challenge gendered power inequalities that continue to oppress women and girls through prostitution, sexual exploitation and sexual abuse. This is done by strengthening support systems for women and girls who want to leave prostitution, examining men's demand for prostitution and by creating a social consciousness about the economic and social conditions of these women and girls through law reform and community advocacy programmes. The NGO is committed to addressing the root causes of prostitution and strongly believes that prostitution is inherently exploitative, invariably damaging and inextricably linked to the ubiquitous problem of violence against women and children and human trafficking in a society that is essentially patriarchal. It sees its role as standing with survivors (adult women) who have been rendered vulnerable to prostitution by their economic and social status and to support their exit from prostitution. The organisation does this by providing prompt, appropriate and comprehensive support to survivors, raising public awareness about the harms of prostitution, supporting survivor leadership, and advocating for legal and policy reforms that focuses on demand by criminalising the purchaser and providing greater protection for survivors to exit.

## **3. South African and Global Context**

- a. Prostitution is a highly gendered human rights violation. There are an estimated 40 million people in prostitution worldwide and estimates are that there are 153 000 prostituted people in South Africa<sup>2</sup>.
- b. The overwhelming majority are women and girls. For centuries we have been arresting the wrong people. Prostitution exists because of the demand for it. The time has come to focus on criminalising the demand.
- c. Countries that have worked towards eradicating the demand by enacting forms of the Equality Law (also known as the Swedish law, Nordic model, Sex buyer law, or partial decriminalisation) include Sweden (1999)<sup>3</sup>, Norway, Iceland, Northern Ireland, Canada, France, and Ireland (2017). This is the

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<sup>2</sup> Chandré Gould, 2014: Sex Trafficking and Prostitution in South Africa  
First Published March 28, 2014

<sup>3</sup> The Sex Purchase Act of Sweden, 1999

start of a global trend. The underlying assumption is that without demand, there is no need for supply.

- d. Since passing the Nordic or Equality Model Law in 1999, Sweden has seen a radical decrease in street prostitution, basically halving it, and has seen an 80% reduction in the number of buyers<sup>4</sup>.
- e. Since human and women trafficking is usually inextricably part of international organised crime, Sweden has seen a decrease in these crimes compared with other countries.
- f. Sweden can be contrasted with Germany, which has chosen legalisation, with an attendant rise in trafficking and other forms of criminality. This is reminiscent of South Africa during the 1990's with our porous borders resulting in an influx of global mafia, of corporatised exploitation and crime, which we are still combating at present.
- g. The SALRC Report has taken into account the South African context of the high levels of poverty, unemployment and inequality, exacerbated by high levels of gender based violence and HIV and AIDS. We note further that the Report acknowledges that these structural factors render girls and women vulnerable to exploitation and abuse. It therefore recommends two legal options for regulating prostitution. Having studied the report we consider Option One, which calls for partial decriminalisation, as a good starting point in developing policy to abolish the prostitution system.
- h. Equality and dignity are fundamental rights in the South African Constitution. The system of prostitution undermines both equality and dignity. It is founded on patriarchy and inequality, and it perpetuates male entitlement to women's bodies.
- i. South Africa is a signatory to a number of international treaties and conventions that are aimed at protecting human rights, including specifically the rights of women and girls - such as CEDAW and the Beijing Platform for Action.
- j. The provisions to eradicate the sex trade relate directly to the United Nations' Sustainable Development Goals (SDGs<sup>5</sup>), the African Union's Agenda 2063<sup>6</sup>, South Africa's National Development Plan (NDP<sup>7</sup>) and the South

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<sup>4</sup> Raymond Janice, 2003: Ten Reasons for Not Legalising Prostitution and a Legal Response to the Demand for Prostitution, *Journal of Trauma Practice*, 2, 2003: pp 315 - 332; and in *Prostitution, Trafficking and Traumatic Stress: Melissa Farley (Ed.) Binghamton: Haworth Press, 2003* and <https://repository.law.umich.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1041&context=mjil>

<sup>5</sup> Almost half of the 17 SDGs relate the eradication of the sex trade: Goal 1 - No Poverty, Goal 2 - Zero hunger, Goal 3 - Good health and wellbeing, Goal 4 - Quality Education, Goal 5 - Gender Equality, Goal 8 - Decent work and economic growth, Goal 10 Reduced inequalities, and Goal 16 - Peace, justice and Strong Institutions.

<sup>6</sup> The AU Agenda 2063 with its seven associated Aspirations, of which six are relevant to ending the sex trade: Aspirations 1, 2,3, 4, 5 and 6.

<sup>7</sup> Eleven of fourteen Outcomes in the NDP and government's implementation plan and the MTSF relate to eradicating the sex trade: Outcome 1 - Quality Basic Education; Outcome 2 - Long and healthy life; Outcome 3 - All people are and feel safe;

African government's Medium Term Strategic Framework (MTSF), with its 14 Outcomes.

- k. South Africa is compelled to report regularly against all these international, regional and national policies, which the Department of Planning, Monitoring and Evaluation (DPME) is working on simplifying and streamlining.
- l. Prostitution is sex discriminatory. The laws against it are sex discriminatory, as the analysis in the Sacks and O'Regan dissent in the State versus Jordan case<sup>8</sup> shows.
- m. Prostitution laws are enforced in sex discriminatory ways - as the stories of women in prostitution and police statistics will tell. Since the Sexual Offences law was amended in 2007 to criminalise buying of sexual services, a miniscule number of men have been arrested. Women continue to suffer the burden of criminality and stigma.
- n. In considering the aims of the Report the Commission has been mindful that the state is called to promote the values of human dignity, the achievement of equality and the advancement of human rights and freedom, and to recognise individual rights, freedoms and responsibilities and the collective rights and responsibilities for the well-being of all people.
- o. The ANC fought for women's rights and has in all its policies called for the protection on women and girls.
- p. In 2012, the ANC policy document called for the protection and dignity of women in prostitution.
- q. in 2017, the ANC again called for the protection of women and asked for public engagement on the best legal framework. We await the full text of the ANC's 54th Elective Congress resolution on prostitution, which we understand called for the decriminalisation of those selling sex, and not the sex trade.
- r. With its ground-breaking Constitution, South Africa is recognised globally as a country that supports fundamental human rights. South Africa would want to protect women and girls from a system of prostitution that dehumanises them and renders them objects, ready to be bought and sold.

#### **4. Embrace Dignity Response**

- a. Having studied the report and taking into account our Constitution and international best practice, Embrace Dignity considers Option One, which calls for partial decriminalisation where the prostituted persons are not

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Outcome 4 - Decent employment through inclusive growth; Outcome 5 - A skilled and capable workforce; Outcome 7 - Vibrant, equitable, sustainable rural communities; Outcome 8 - Sustainable human settlements and improved quality of household life; Outcome 9 - Responsive, accountable, effective and development-oriented public service; Outcome 13 - Comprehensive, responsive and sustainable social protection system; and Outcome 14 - Social cohesion and nation building.

<sup>8</sup> <http://www.saflii.org/za/cases/ZACC/2002/22.html>

criminalised, a good starting point in developing policy to abolish the prostitution system.

- b. We note that the Commission has sought to move beyond popular rhetoric to give a clearly reasoned investigation that is based on an analysis of local and international legal principle, precedent and experience (Section 7.0)
- c. We note also that the Commission has identified three central themes to the debate aimed at legislative reform on adult prostitution, namely whether prostitution is work or exploitation; access to health and prevention of the transmission of HIV; and addressing arbitrary arrest and exploitation.
- d. We strongly agree with the Commission that the prostitution system is exploitative, discriminatory and harmful and that it therefore cannot be regarded as work.
- e. The prostitution system is inconsistent with the values of our constitution and with international human rights law. We believe the prostitution system and its exploitation is a violation of human rights and a fundamental obstacle to gender equality.
- f. Further, we submit that the prostitution system is a form of structural violence and it perpetuates gender inequality and patriarchy by the objectification and commodification of women's bodies and particularly affects the most vulnerable people.
- g. Prostitution is inherently harmful. The majority of prostituted people suffer physical, verbal, sexual and psychological violence while in prostitution.
- h. Many prostituted persons have suffered forms of violence, often sexual, before entering prostitution.
- i. Prostitution violates the rights to dignity, freedom, equality and bodily integrity of those bought and sold. It cannot be considered decent work, and the demand for Prostitution is linked to organised crime and fuels the demand for is perpetuated by organized crime networks.
- j. Patriarchy supports and perpetuates prostitution and prostitution supports and perpetuates patriarchy, a vicious cycle. The Equality Law can be an important part of a strategy to break this cycle.
- k. Sex trafficking feeds prostitution and prostitution provides the demand for sex trafficking, another vicious cycle. The Equality Law can be an important part of a strategy to break this cycle
- l. We agree with the Commission in its view that exploitation, particularly of women in prostitution, seems inherent in prostitution and depends on the external factors of gender violence, inequality and poverty and is not caused by the legislative framework in which it finds itself.
- m. We agree that the decriminalisation of the purchase, pimping and brothel keeping would create an extremely dangerous cultural shift juxtaposed against the high numbers of sexual crimes already committed against women. Women would be considered even more expendable than at present.

#### **4. On Language**

- a. We note that the Commission has decided to retain the term —prostitution when referring to the selling and buying of sexual acts and related activities. We use the term “prostitution” to refer to the exploitative system and not to the act of selling sexual acts. Our approach is not to judge those victimised by the prostitution system, but rather those with power and money who exploit the position of vulnerability caused by poverty, unemployment and inequality.
- b. The Commission has chosen to retain the term “prostitute” when referring to an adult person (older than 18 years) who voluntarily offers or provides sexual services for financial or other reward, favour or compensation. We reject this term “prostitute” as it apports blame and stigma to people rendered victims by the system of prostitution. Embrace Dignity prefers to use “prostituted person/s” to indicate the harms of prostitution. The survivors of the sex trade we work with prefer to be called “Sisters” and they could be our sisters.
- c. We agree with the Commission that describing a person who pays for sexual services as a —client or —customer lends credibility to such actions, essentially legitimising the act of paying for sex. Such terminology might even condone the commodification of the prostitute’s body as an object that can be bought.
- d. We ask parliament and government to desist from using the term “sex work”, which we believe is an attempt by the pro-prostitution lobby to establish the legitimacy of an exploitative system.

#### **5. Lack of Policy**

- a. The Report notes the lack of policy on prostitution and takes into account policy position in the ANC Conference documents on Gender, as well as government policy as articulated in the National Development Plan. We agree with the Report’s call for the government to develop policy to guide legislation. It is essentially a matter of policy to decide which legislative model accords with government’s goals and strategies.
- b. Neither the ILO nor the above South African policy documents have promoted legalising prostitution as a solution to poverty; nor have they identified prostitution as an employment option for poor or marginalised people. Prostitution does not fit comfortably into the international definition of —decent work.
- c. To the contrary, although prostitution may seem to provide superficially attractive short-term financial benefits, it has not been shown to lift women out of a lifetime of poverty and economic inequality. The reason for this may lie in the very personal and private nature of the service provided, which heightens a prostitute’s vulnerability to exploitation.

- d. The piecemeal approach to the law on prostitution is regrettable and a direct result of a lack of policy. The delinking, intended to give the issue of adult prostitution focused attention was a mistake since entry into prostitution is as young as 12 years of age and it makes no sense to criminalise them once they turn 18.
- e. We agree with the Commission that child and adult prostitution cannot be strictly compartmentalised; many adult “prostituted persons” started out selling sexual services when they were children and most vulnerable (para 2.458).
- f. We agree with the Commission’s concern that full decriminalisation would expand the industry and would increase child prostitution, organised crime and human trafficking.
- g. We do not agree that partial- decriminalisation would encourage an increase in both legal and illegal migration, and possibly trafficking, for the purpose of prostitution.
- h. As stated in our Petition to Parliament in 2012, parliament must undertake thorough research to determine the impact of the Nordic Law as compared to full decriminalisation (New Zealand model), Legalisation (Germany and The Netherlands) or full criminalisation.
- i. We believe the law should focus on eliminating the demand and protecting the vulnerable.
- j.
- k.

## 6. Legal options

The three legal approaches are to abolish, prohibit or permit adult prostitution

### a. Abolition

- i. The **abolitionist** approach sees prostitution as perpetuating patriarchy, undermining gender equality and as inherently harmful to those bought and sold in prostitution. The Equality Law is applicable which criminalises demand -boyer, pimp and brothel, while not criminalising those that are bought. The abolitionist approach addresses the demand for prostitution, essentially by men, as the most effective strategy to end end the exploitation of the prostitution system. NOTE - The majority of people being bought and sold in prostitution are women, but all people bought and sold in prostitution, women, men and transgender are exploited and objectified.
- ii. This approach was pioneered in Sweden in 1999, followed by Norway, and Iceland and then Canada, Northern Ireland and then France in 2016 and Ireland in 2017.

## **b. Prohibition**

- i. The prohibitionist approach sees prostitution as a social illness and sees all activities in the prostitution system as wrong, so prohibits it in law. It does not recognise the vulnerability of those bought and sold and in fact perpetuates the stigma and marginalisation suffered and further criminalises them, making it even more difficult for them to exit, and find legal means of making a living. This is and has not proved to be an effective strategy in ending the exploitation of the prostitution system
- ii. This approach applies in South Africa, most countries, the United States and most other countries in the world.

## **c. Permission or Legalisation**

- i. The sex work approach sees prostitution as a legitimate means of making a living and either decriminalises all activities in the prostitution system, or regulates it - areas, age, nationals only, requiring registration, etcetera.
- ii. The approach of total decriminalisation has been implemented in New Zealand, and certain states in Australia. Regulation has been applied in the Netherlands, Germany and parts of Australia and the United States of America.

## **7. The Equality Model Abolitionist law**

- a. Embrace Dignity advocates for the decriminalisation of prostituted persons, criminalisation of those who buy or sell sexual access to them, and provide real, viable exit strategies.
- b. Embrace Dignity supports the Equality Law, also known as the Swedish Law, the Nordic Law or the Sex Buyer Law. We prefer the Equality Law as that was how it was first conceptualised in Sweden where they were introducing a comprehensive set of laws to address gender equality, violence against women and create a more equal society.
- c. The Equality Model Law is an effective tool to break these two vicious cycles of patriarchy and sex trafficking and bring about transformation towards promoting gender equality and reducing violence against women and sex trafficking, and changing societies attitudes towards the objectification of women.
- d. **The Equality Model Law:**
  - Decriminalises prostituted persons
  - Criminalises those who exploit them, and
  - Provides viable exit strategies including support with housing, childcare, healthcare, addiction services, counselling and holistic therapies, financial supports, education and training.
  - Equality Model reduces the privilege of the privileged (mainly, not exclusively, men, disproportionately upper class or caste men, worldwide white) by penalizing their conduct, and raises the status of



the disadvantaged (mainly, not exclusively, women, disproportionately lower class or caste women, certainly impoverished women, worldwide women of color disproportionately) by decriminalizing them. Its motivating policy of reducing violence against women — its basis and impetus — is an equality principle in action.

- We believe the French version<sup>9</sup> of the Equality law is the most comprehensive version and is worth considering as a model or template.

South Africa has passed the anti-Trafficking in Persons Act 7 of 2013, which provides that any person who uses the services of a victim of trafficking, and knows (or ought reasonably to have known) that the person is a victim of trafficking, is guilty of an offence.

A fine or imprisonment for a period not exceeding 15 years may be imposed. The buyer would not be held strictly liable and would not therefore be committing an offence in terms of trafficking legislation by virtue of having bought sexual services from a prostitute who had been trafficked. The Commission believes that trafficking people for prostitution will be adequately dealt with in this legislation (para 3.123).

As much as possible, our laws should work together and not against one another. We strongly believe and evidence has shown that full decriminalisation would work against the overall objectives of the Anti-trafficking legislation.

### **Other Key Embrace Dignity Initiatives**

#### **8. The High Level Panel (HLP) on the Assessment of the Legislative Framework.**

The HLP was mandated by the 5th Parliament to assess legislation for its impact on the lives of South Africans. The HLP took into consideration the persisting inequality and gender based violence. It observed that:

- a. Despite the existence of several laws aimed at eliminating racism and other forms of discrimination, South Africa continues to experience high levels of incidents of racism, racial discrimination and xenophobic attacks.
- b. South Africa is in the process of developing a National Action Plan (NAP) to Combat Racism, Racial Discrimination, Xenophobia and Related intolerance, to deal with various lines of fracture related to rights and discrimination.
- c. Gender based violence is a major obstacle to the achievement of equality, development and peace, as violence impairs women's ability to enjoy basic human rights and freedoms, as enshrined in various policies and conventions, such as the Beijing Declaration
  - i. High levels of gender based violence persist despite legislative and programme interventions.

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<sup>9</sup> <http://www.cap-international.org/wp-content/uploads/2017/04/CAP-brochure-MARS2017-EN-WEB3-1.pdf>

- d. The HLP recommended that Parliament should guide the development of a National Strategic Plan on Gender Based Violence.
- e. **With regards to prostitution**
  - a. The HLP noted that currently, South Africa's legislative framework concerning prostitution is one that declares it illegal. However, the law does not protect those who sell sex, often out of necessity, making them vulnerable to abuse.
  - b. **The HLP urged** Parliament should use its powers to introduce the following legislative changes to the Criminal Law (Sexual Offences and Related Matters) Act 32 of 2007 with regard to protecting those who sell sex:
    - i. The Act should be amended to decriminalise prostitution in order to remove the unintended consequences arising from the criminalisation of prostitution for those who sell sex; and
    - ii. Other legislative provisions contained in national, provincial and municipal legislation criminalising prostitution for those who sell sex or making it an offence should also be amended.

## 9. Petition to Parliament - NCOP Petitions Committee. Embrace Dignity submission (Appendix B)

Embrace Dignity, supported by the Western Cape Network on Violence Against Women and the Wellness Foundation, formally petitioned parliament on 10 December 2014, to setup a multi-party committee of both houses to investigate:

- The situation of women (and men) in prostitution.
- Factors that determine the demand for prostitution
- Factors that provide and support the demand, and
- Factors that perpetuate and facilitate the trafficking in women and girls

We also request that the committee investigates the legal options identified by the South African Law Reform Commission (SALRC) and make recommendations for a law that will: -

- Reduce and ultimately eliminate the oppression of prostitution,
- Address the demand for prostitution,
- Implement and resource programmes to support the exit and full social, economic integration of the victims of prostitution and sex trafficking.

As a result of the Embrace Dignity Petition to Parliament in 2014<sup>10</sup>, the Petitions Committee of the National Council of Provinces (NCOP) has taken this forward and done preliminary investigations, including a visit by the committee to hear first hand

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<sup>10</sup> See Appendix B for the Full Text of the Petition.

on the success of the law in Sweden. They are finalising their report, that we hope will make the recommendation to parliament to set up a ad hoc joint committee.

We believe that this would be a specialist ad hoc multi-party committee of both house that would be best suited to conduct hearings on the issue of adult prostitution, as the MPWC does not include men, says that it has already taken a position on the issue of what they call sex work, and has very poor participation by the opposition parties.

## Appendix A

### Embrace Dignity submission the the High Level Panel on Legislation

31 March 2017

High level Panel Submission

Submission to the Committee on Tripartite Challenges of Inequality, Poverty and Unemployment.

This submission seeks to address the following:

1. To underline the impact of the challenges on women and girls.
2. To address the lack of cohesive response to the dignity of women and girls.
3. To provide ways the challenges can be addressed.
4. To raise the particular issue of people in prostitution who continue to be oppressed and suffer from the issues of inequality and patriarchy, lack of employment and violence against women.

#### Introduction

The face of poverty and unemployment in South Africa remains black and woman despite various attempts by the South African government to undo systematic exclusions and the legacy of the apartheid regime. 1994 was a major turning point in South Africa's history and numerous plans were put in place to ensure that the lives of the previously disadvantaged are bettered using key legislation. However, the law still does not adequately serve the needs of many people who were and still are disadvantaged because of their racial and gender identities. Among this group of South Africans whose lives still needs legislative mediation to be empowered is women and people in prostitution.

#### What is Embrace Dignity?

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NPO number: 088-880-NPO

Board Members: Akuol De Mabior, Dr Despina Learmonth, Marthe Muller, Micheline Muzaneza, Nandi Vanqa-Mgijima, Nozipho Dube, Nozizwe Madlala-Routledge (Executive Director), Sanele Nyoka

Embrace Dignity is a feminist human rights organization advocating for legal reform to end prostitution (sexual and violent exploitation of poor and vulnerable women), sexual exploitation and sex trafficking. Embrace Dignity offers services and support to women seeking to exit prostitution in order to develop exit models which can be implemented on a larger scale. We advocate for a law pioneered in Sweden which is called the Nordic law. The law is also applied Norway, Sweden, France, Canada, Northern Island and the Republic of Island.

The work that Embrace Dignity does is mandated by the fundamental right to human dignity enshrined under section 10 of Bill of Rights in the Constitution which reads as follows –

“Everyone has *inherent dignity* and the right to have their *dignity respected and protected*”

Embrace Dignity believes that intersections of race, class, gender and structural issues play an important role in the livelihood of people. Thus, in a country like South Africa where there are various racial, classed, gendered and structural inequalities; informed by the legacy of apartheid and colonialism- prostitution is an injustice felt mostly by the poor and marginalized.

We see prostitution as a result of the tripartite challenges of inequality, poverty and unemployment which is a direct consequence of systematic apartheid which continues to be prevalent in the lives of many black women and prostituted people.

Current legislative framework on prostitution in South Africa.

Currently, South Africa’s legislative framework surrounding prostitution is one that declares prostitution illegal. Before 2007, the law stated that the *selling* of sexual acts was illegal. However, the enactment of the Criminal Law (Sexual Offences and Related Offences) Amendment Act (hereafter the Amendment Act) in 2007 saw the introduction of a new provision which criminalizes the buyer sexual acts as a perpetrator.

We see the amendment made in 2007 as a step in the right direction because the criminalizing of the buyer as a perpetrator rightfully places the spotlight on the buyer. However, the law does not adequately protect prostituted individuals.

What does Embrace Dignity want to achieve?

Embrace Dignity is advocating for legislative change. The legislative change that we are advocating for is a law that favors partial decriminalization – or the Equality Model – wherein the sellers are decriminalized and offered a way out of the system through comprehensive exit programs, and the buyers and third parties are criminalized. Adopting the structural feminist view, we believe that prostitution as a system is *inherently exploitative* for those persons who enter or are within the system. We do not accept that there is any choice or safety in prostitution for women and marginalized people, and therefore we do not accept that prostitution is or can be safe or decent work. We do this with the current structures of oppression – namely capitalist patriarchy – in mind.

Embrace Dignity also helps prostituted women exit prostitution through offering support for prostituted women to develop skills that would enable them to gain financial income outside of prostitution.

Embrace Dignity partitioned Parliament in 2014 to set up a multiparty ad hoc committee of both houses to investigate the harms of prostitution and legal models that would reduce the extent of prostitution and provide support for exit. The partition's committee has accepted the partition and it is currently under consideration by parliament.

The South African Law Reform Commission looked at legal options to address the issue of prostitution. Its report was handed to the Minister of Justice in 2015 and we are still waiting for the Ministers' response.

We invited Members of Parliament to a workshop to look at all the legal options and to discuss the possibilities of the Equality law enacted in South Africa.

## Prostitution as a violation of human rights

Prostitution is a breach of an individual's human rights. When the body and sexuality of a person are consumed as a commodity and exploited it is not only a health issue, it raises ethical and human rights issues. Prostitution is a gross human rights issue because central to prostitution are numerous violations such as:

1. sexual harassment.
2. Being subjected to body invasion that is equivalent to torture.
3. Vulnerability to frequent physical and frequent sexual assault.
4. Partner and family violence.
5. Economic servitude, educational deprivation, job discrimination and classism.

In conclusion, Embrace Dignity's submission is to advocate for a law that will:

1. Decriminalize those who sell sex.
2. Arrest the buyer as a means of reducing demand for prostitution.
3. Criminalizing those who profit from prostituting people such as pimps and brothel owners.
4. Increase the options for women and girls, especially those who have no options but to be in prostitution.
5. Provide public education to prevent entry into prostitution for vulnerable people who are at risk of being prostituted.

Embrace Dignity therefore proposes a Nordic type of law that can be adapted to the South African context. The Nordic carries inter-link initiatives with the Sustainable Development Goals, in particular – No poverty, zero hunger, good health and wellbeing (HIV/AIDS, quality education, gender equality, decent work and economic growth, reduced inequalities, peace, justice and strong institutions and partnerships for these goals.

## Appendix B

### Embrace Dignity Petition to Parliament

10 December 2014

To:

-Ms. Baleka Mbete, MP The Speaker  
National Assembly Republic of South Africa

-Ms. Thandi Modise MP  
The Chairperson  
National Council of Provinces Republic of South Africa

#### PETITION

#### HELP US END THE OPPRESSION OF PROSTITUTION AND SEX TRAFFICKING

Embrace Dignity has organized this Dignity Walk to Parliament, supported by Western Cape Network on Violence Against Women and the Wellness Foundation, to bring to your attention an oppression that has not been addressed by the Democratic South Africa.

South Africa is infamous for high levels of sexual violence and other forms of abuse perpetrated against women and girls. We acknowledge that men, boys, and other gender identities are exposed to and fall victim to these abuses. Notwithstanding progressive legislation, policies and International Agreements on race, gender equality and violence against women, the conditions of women and girls remain bleak. Evidently the 'Good Story' of South Africa does not include the position of women. Women's Right to Dignity is violated by poor implementation of legislation and policies, poor resourcing of services as it relates to sexual violence, abuse and economic empowerment. Women continue to bear the effects of triple oppression.

Our concern is the ongoing patriarchal nature of our society and the oppression of women and the LGBTi community. In particular, our concern is the lack of understanding of the harms of the prostitution and its links to sex trafficking. Without addressing prostitution and all forms of commercial sexual exploitation, our effort to end gender oppression and sexual violence will continue to be undermined.

Our experience of working with women in prostitution is that: -



- Poverty, exploitation, distress, gender discrimination and violence are drivers of prostitution
- Prostitution is inherently harmful - physically, emotionally, mentally and spiritually,
- A study on prostitution and trafficking conducted in nine countries, including South Africa found that 71% of respondents had been physically assaulted; 63% had been raped; 75% had been homeless at some point in their lives and 68% met the criteria for Post Traumatic Stress Disorder (PTSD),
- The majority of women entered through the lack of choice rather than any choice of their own,
- Many have been sexually abused and have experienced childhood neglect,
- 89% of the respondents wanted to escape prostitution but did not have the means to do so.

Our request is that Parliament set up a multi-party committee of both houses to investigate:

- The situation of women (and men) in prostitution.
- Factors that determine the demand for prostitution
- Factors that provide and support the demand, and
- Factors that perpetuate and facilitate the trafficking in women and girls

We also request that the committee investigates the legal options identified by the South African Law Reform Commission (SALRC) and make recommendations for a law that will: -

- Reduce and ultimately eliminate the oppression of prostitution,
- Address the demand for prostitution,
- Implement and resource programmes to support the exit and full social, and economic integration of the victims of prostitution and sex trafficking.

We believe that Parliament and South Africa, with, the experience of having overcome apartheid and a Constitution recognizing gender equality and dignity as human rights, can play a leading role in overcoming the oppression of prostitution and sex trafficking. Until now these forms of oppression of over half the population of the world have been overlooked.

The oppression of women in prostitution is the oppression of all women.

Yours in the struggle

Nozizwe Madlala-Routledge Executive Director