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PROSTITUTION: TOTAL CRIMINALISATION HARMS

DID YOU KNOW?

68% of South Africans within the sex industry have reported being threatened within a weapon, 66% reported being assaulted, and 56% reported being raped. Of the 56% who reported being raped, 58% reported being raped more than 5 times.

**<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3651545/>

There are a number of harms faced by prostituted people given South Africa's current legislative Framework

The stigma of prostitution and the fact that sellers are regarded as criminals by the law create a series of barriers to prostitutes claiming their rights, such as the right of access to health and social services.

In South Africa criminalisation means that prostituted persons are hesitant to make use of existing health services because they fear revealing their identity and facing prejudiced behaviour by the service providers. Moreover, they are afraid that if they seek these services and disclose themselves as part of the system of prostitution, they will be arrested or subject to discrimination. In general, they try to remain hidden in order to avoid those who enforce the law.

This also means that persons who are prostituted work in dangerous places where they are at risk and inaccessible to the health service providers attempting to assist them. This is particularly problematic as the result of the stigma and barriers to accessing healthcare services compound and interlock to render prostituted persons particularly vulnerable to HIV/AIDS.

The criminal nature of prostitution means that sellers of sex in the system have no access to protection from the police. Because their behaviour is illegal, prostituted persons find themselves forced to operate outside of the protection of the law, and are therefore unable to ensure safe conditions. Their vulnerability as a group is thereby exacerbated and ultimately enhances their position as susceptible to exploitation and abuse.

The climate of criminalisation means that prostituted persons are abused financially, sexually and physically by gangsters, clients, brothel owners and pimps, often with impunity. Research shows that irrespective of the legal option followed, women and girls in prostitution have a mortality rate 40 times higher than the national average. However, as a result of their criminalised status in society and the fact that they are by and large women, they are particularly vulnerable to all crimes related to gender based violence. There is an abundance of evidence that the criminalised status of prostitution is exploited by authorities to harass and brutalise prostituted persons. Allegations of abuse by policemen range from assault to extortion and rape.¹

In light of both the enormous harms inherent in prostitution under South Africa's current laws around prostitution, as well as our belief that prostitution cannot be considered work but should rather be seen as an institutionalised form of sexual oppression, abuse and exploitation, we strongly advocate for law reform.

¹South African Legal Reform Commission Discussion Paper 0001/2009, Project 107: Sexual Offences/Adult Prostitution (2009)