

Submission to the South African Law Reform  
Commission

Adult Prostitution Discussion Paper

30 June 2009

## Background

Sisonke Johannesburg was formed in 2008, and currently has offices in the Hillbrow Health Precinct. It currently has 50 members. Sisonke is a movement that is run by sex workers for sex workers.

The organisation provides support to sex workers who are arrested and makes the necessary referrals to legal and social support service organisations for those who have experienced violence and abuse.

We provide skills-training to sex workers to Johannesburg and particularly Hillbrow. Our aim is to bring sex workers together to improve sex worker living and working conditions.

## Our Submission:

We as Sisonke Johannesburg, we are saying that the law should decriminalise sex work.

## What are the legal options?

The law, as it now stands, actually violated sex workers' rights and makes it very difficult for change. Sisonke believes that sex workers need to work together and support each other to demand fair and equal treatment. It is important to know what legal options are available.

## Criminalization:

Sex work is currently defined as a criminal activity in South Africa. This means that a sex worker can be arrested and charged while working. Criminalization of sex work creates a vicious circle of violence and exploitation, and worsens conditions under which sex workers operate. Under the system, sex workers have little access to Human Rights.

## Legalisation:

This would involve the development of new laws dealing with sex work. For example, sex would be legal, but restricted to certain areas, within certain times. Sex workers would possibly have to register themselves for health and tax reasons. There are some problems with legalisation. One is that it would mainly apply to sex workers. Legal employment would then only be possible for a small percentage of sex workers. Street sex workers would in all likelihood remain illegal in this system. Also, by restricting sex work to certain areas, this could create transport and other expenses for sex workers. Sex workers would not be able to choose where to work, but would be told where they can operate.

### Decriminalisation:

This would involve scrapping all laws specifically criminalise sex work. This would enable sex workers to operate under the same conditions as other workers, and access the same human rights. The sex industry would be subject to the same laws which apply to all other sectors in South Africa, including existing labour legislation.

### Which is the best option?

Sisonke supports the call for decriminalizing sex work in South Africa. This is a position that has been taken by numerous organisations. Reasons for this:

- Firstly, decriminalization would enable sex workers access to their fundamental rights of equality, dignity, privacy and free economic activity

Decriminalisation means that sex work would be defined as legal employment. Sex workers would be protected by the same laws as all other workers, including the Basic Conditions of Employment Act (BCEA), the Labour Relations Act (LRA) and would be able to call on the Commission for Conciliation, Mediation and Arbitration. For indoor sex workers who work for an agency, this would mean that that they have the right to sick leave, benefits, holiday leave and family responsibility leave. They would also be able to take their escort agency bosses to the CCMA in the event of unfair dismissal or unfair working conditions.

Other benefits would include:

- Reducing the danger involved in the profession of sex work
- Allowing commercial sex workers to practice their professional openly and without fear;
- Allowing sex workers the protection and benefit of the law
- Giving sex workers more independence
- Access to services such as the opening of bank accounts and getting loans
- Easier access to health care facilities
- More comprehensive health care services appropriate for sex workers, including those that address rape/sexual violence, mental health, substance abuse, care of sex workers who are HIV positive, adolescent health, nutrition and antenatal care/maternal mortality

Child Prostitution and Sex Trafficking

Sisonke is strongly opposed to any form of child prostitution. We do not support the legalisation or decriminalisation of this activity

**VIVA SEX WORKERS VIVA!**