



## Withdrawal of the bill to decriminalise the prostitution system in South Africa: A first victory, but our mobilisation must continue!

*Cape-Town, Paris, 6 June 2023*

Last week, Deputy Minister for Justice John Jeffery announced the withdrawal of the bill to repeal *the Sexual Offences Act, 1957*. This reform would have resulted not only in the decriminalisation of prostituted persons, which we support, but also in the decriminalisation of the purchase of sexual acts and pimping. As CAP International and its allied organisations in South Africa [have been advocating since the bill was announced](#), it would not only have had **disastrous consequences for women and girls in South Africa**, but also **have plunged the country into a situation of legal insecurity**: by removing the above-mentioned legislation, without any replacement, the bill would have created a **legal grey zone, which would be unconstitutional**.

The government's legal advisors seem to have understood that, as well as what the expression "decriminalising sex work" really implies: the establishment of a **State-sanctioned prostitution market**. This is what the Deputy Minister admitted in his [statement](#): *concerns have been raised by the State Law Advisors that the Bill may not pass constitutional muster if it does not also provide for the regulation of "sex work". This means that we will not be able to, at this point, proceed with the Bill in its current form.*

Although the government has continuously presented its reform as an attempt to "advance Human Rights", to "protect" prostituted women (rebranded under the misleading, propaganda term of "sex workers"), it is now being forced to recognise what the reform really implies: **the full legalisation of the sex-trade, including the definition of sex as a "service" like any other, the legalisation of the purchase of sexual acts, as well as the activities of the pimps who control the sex-trade.**

In other words, **under the excuse of providing protection to women in prostitution**, the bill would have **legalised the activities of their exploiters: pimps and sex-buyers**. Mickey Meji, survivor of prostitution in South Africa and founder of SESP (Survivor Empowerment and Support Programme), was very right to call it a ["Pimp Protection Bill"](#).

Following the "considerable debate" generated by the reform, the concerns expressed on the Bill during the public comments session, and now those expressed by the government's legal advisors, **the reform has finally been "postponed" until after the next general elections (2024)**. However, the Deputy Minister said that it remained *high on government's human rights agenda*, and that the government would *be engaging with role-players and drafting provisions on the regulation of "sex work" (sic)*.

**If the next administration wants to pursue in that direction, it can expect to be stopped by another obstacle: Human Rights Law, through South Africa's international obligations & constitutional jurisprudence.**

South Africa has ratified [The UN Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others](#) which states that prostitution is *incompatible with the dignity and worth of the human person*. Articles 1 and 2 of the convention prohibit all forms of pimping, and Article 6 prohibits the implementation of a regulation system on prostituted persons. The country has also ratified [The \(Palermo\) Protocol](#) which in Article 9.5 requests Member States to *discourage the demand that fosters all forms of exploitation of persons*, and the [CEDAW Convention](#), which requests Member States to *take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women*.

In addition, the [Constitutional Court decision O'REGAN J and SACHS J, 2002](#), stated that (a) *prostitution itself is degrading to women*; (b) *it is conducive to the violent abuse of prostitutes by both clients and pimps*; (c) *it is associated with and encourages international trafficking in women*. The government cannot emancipate itself from its domestic and international legal obligations.

**The withdrawal of this bill is a first positive step**. However, instead of persisting on adopting a regulatory policy that is contrary to South Africa's constitutional principles and Human Rights Law, that is a [repetition of outdated neo-colonial policies](#), and that had a [disastrous impact everywhere it has been implemented](#), we invite the South African government to really provide new rights to women in prostitution. Not the "right" to be sold and exploited, but the right to be protected from pimps and sex buyers and to have access to an alternative to prostitution.

**The next government of South Africa needs to listen to frontline and survivors-led organisations. It needs to realise that prostitution is neither sex nor work, but rather a form of violence against women and girls.**

There is a way to make that happen: it is called **the Abolitionist Model**, or **the Equality-Sankara model**, which allows for the decriminalisation and protection of prostituted persons, while repressing their exploiters, pimps and sex-buyers. This model has been adopted by countries such as France, Sweden, Norway, Israel, Ireland, Northern Ireland, and Canada.

**Why not South Africa?**