

### MANIFESTO

#### Stand Against Legal Exploitation South Africa ("SALE!SA")

December 2022

#### A COLLECTIVE AGAINST FULL DECRIMINALISATION OF PROSTITUTION IN SOUTH AFRICA

We are a collective dedicated to eradicating Sexual Exploitation in South Africa, which includes Prostitution.

Together we oppose the Full Decriminalisation (and potential Legalisation) of Prostitution, based on the lived experiences of Prostituted Persons, Survivors of the System of Prostitution, and so-called 'workers' in the System of Prostitution, as confirmed by independent research evidence.

We declare that Prostitution is violence against Prostituted Persons. We have united with various stakeholders, individuals, organisations, cultures, as well as poor and disadvantaged individuals who live in South Africa. We recognise that the faces of those bought, sold and exploited, in the System of Prostitution, are predominantly those of marginalised communities.

#### WE CONSIST OF:

- Survivors of the System of Prostitution
- Civil Society Organisations working in diverse fields, ranging from law and policy work, to working on the ground to assist exploited individuals, and families, escape the exploitation of Prostitution
- Researchers and Academics
- Anti-Trafficking in Persons Programmes and Organisations
- Key Role Players in our society
- And others

*"Prostituted Persons dream of a life free from oppression, patriarchy and economic inequalities – a life where we have access to a wider array of dignified and decent employment options – where they can participate as citizens – and where they can exercise their rights as human beings, not as a key population of so called "sex workers" for HIV intervention..."*

*"As survivors of the system of prostitution, we will not rest until the basic and fundamental freedoms promised by our Constitution are made real in our lives and the lives of our daughters. We will continue to strengthen and broaden our unity, engage with all stakeholders, including parliament, the government, and the general public until all our demands are met. We will organise, mobilise and stand in solidarity with others who are exploited through the system of prostitution and the sex trade, and will work with our allies*

*to promote equitable legal frameworks to promote and protect the human rights of the victims of prostitution.”*  
– Kwanele Movement

#### WE TAKE A STAND AGAINST:

- Decriminalising (or Legalising) the buying of a sexual act, or attempting to buy it. Decriminalising the Demand for Prostitution is contrary to all international and domestic obligations of South Africa. It means normalising the treatment of human beings as products for consumption. This is not just.
- Decriminalising (or Legalising) pimps, brothels, brothel-keepers, buyers and others who profit financially from the sexual abuse and exploitation of Prostituted Persons.  
Decriminalising (or Legalising) pimping, brothel-owning, and anyone who profits or benefits financially, or in nature from the Prostitution of someone else, even with the consent of the latter.
- Violating international and domestic human rights law – Prostitution is, in itself, recognised as incompatible with the dignity and worth of the human person (UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, ratified by South Africa) and is inherently degrading to women (Constitutional Court of South Africa, O'REGAN J and SACHS J, 2002). The decriminalisation of sex-buyers and pimps will also prevent South Africa to fill its obligations towards the CEDAW Convention, in particular its article 6, and the Palermo Protocol.
- The normalisation of a sexist culture that promotes commodification and de-valuation of people, mostly marginalised women and girls, who are desperate to survive and provide for their family, by turning them into products of servitude to a system built on Gender Inequality.
- The manipulation of the debate on prostitution, including by the imposition of a terminology of combat in the media and public spheres, such as the term “Sex work”. Prostitution is neither “sex” nor “work” and nor should it be labelled as such. Furthermore, no International Convention uses the term “Sex work”, and prostitution is totally contrary to the ILO definition of “decent work”. Victims are not “Prostitutes” nor “Sex workers”. They are Prostituted Persons. We find these terms problematic and deeply offensive. Sex Trafficking is also not “migration for sex work.” Sex Trafficking includes the abuse of vulnerability, forcing, or coercing a person, for the use and exploitation of their bodies.
- Dissociating Free Prostitution and Forced Prostitution, as they both serve the interests of pimps and Traffickers.
- The abuse from Law Enforcement Officials and the South African Police Service employees who harass, exploit, arrest and deport migrant Prostituted Persons, instead of offering support and protection.
- The SA Government moving towards FULLY legalising Prostitution – as the next step for the Government will then be to regulate the system.

#### WE STAND FOR:

- Informing the public of the faulty and inadequate process that is being followed; the research that is being ignored; and how the public is being



deceived with inaccurate information; especially by not clarifying to the public that there is also an option of “Partial” Decriminalisation of Prostitution.

- **Partial Decriminalisation**, where all role-players and activities are criminalised, EXCEPT for the Prostituted Persons (who are sold or are forced to sell themselves, or who believe there is no other option but to sell themselves, for sex, as a means of survival or third-party exploitation, which is often difficult to differentiate).
- Proactive prosecution of those who benefit financially by selling women, children and men for sex – such as pimps and brothel-keepers.
- Proactive prosecution of sex buyers, in order to help eradicate sexual abuse and exploitation of persons trapped in Prostitution.
- Effectively eradicating the harms of Prostitution by addressing the socio-economic circumstances that give rise to it, and keep accountable those who benefit from the exploitation of others’ vulnerabilities.
- Providing Prostituted Persons (who are sold or are forced to sell themselves) with viable opportunities to exit the System of Prostitution for good.
- Advocating for the prioritisation of creating viable alternatives/opportunities for vulnerable and marginalised individuals, to either exit the System of Prostitution or to not enter Prostitution in the first place.
- Empowering those who are vulnerable to falling into the System of Prostitution, with dignified skills, education and job opportunities.
- The SA government supporting current NGOs and individuals who focus on effective EXIT programmes, as well as helping set up and mobilise more EXIT programmes for those seeking to exit the Prostitution System.
- The SA government supporting NGOs and individuals who already provide physical, emotional and psychological support to those seeking to find other employment options, as well as assist in establishing more institutions for this purpose, including support and economic empowerment programmes.
- Enlightenment, where the public will see prostituted persons as individuals with the right to dignity, a fair chance to make a living; to count and matter; and to have the right to be protected; that they are forced into an exploitive system by their circumstances and not necessarily by free choice – most do not “choose” to be prostituted.
- The eradication of Prostitution, as it is the only solution in stopping the abuse and exploitation experienced by Prostituted Persons. If we care about women, children and men who are exploited in the System of Prostitution, then Full Decriminalisation is simply NOT an option.
- The effective identification, support and protection of Victims of Trafficking (VoT), as well as exploited migrants.



*“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”.* – Nelson Mandela

**WE CALL ON THE SOUTH AFRICAN GOVERNMENT TO HONOUR THE FOLLOWING:**

**To uphold South Africa’s International Obligations with regards to Prostitution, including**

- **The UN Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others**, signed and ratified by South Africa, states in its preamble that “Prostitution and the accompanying evil of the Trafficking In Persons for the purpose of Prostitution, are incompatible with the dignity and worth of the human person”.  
**Article 1:** The Parties to the present Convention agree to punish any person who, to gratify the passions of another: (1) Procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person; (2) Exploits the prostitution of another person, even with the consent of that person.  
**Article 2:** The Parties to the present Convention further agree to punish any person who:  
(1) Keeps or manages, or knowingly finances or takes part in the financing of a brothel;  
(2) Knowingly lets or rents a building or other place or any part thereof for the purpose of the prostitution of others.  
**Article 6** prohibits the implementation of a registration / regulation system on Prostituted Persons: *“Each Party to the present Convention agrees to take all the necessary measures to repeal or abolish any existing law, regulation or administrative provision by virtue of which persons who engage in or are suspected of engaging in Prostitution, are subject either to special registration or to the possession of a special document or to any exceptional requirements for supervision or notification.”*
- **The Article 9(5) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children** to *“adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking”*
- **Article 6 of the CEDAW Convention:** States Parties shall take all appropriate measures, including legislation, to suppress all forms of Traffic in women and exploitation of Prostitution of women.

**To uphold South Africa’s Domestic Obligations with regards to Prostitution, including**

- **The South African Constitution**, granting citizens the fundamental human rights to dignity, equality, life, integrity, freedom from oppression and exploitation and security of the person.  
Section 12. (1) of the Bill of Rights states that:  
- “Everyone has the right to freedom and security of the person, which includes the right:  
(c) To be free from all forms of violence from either public or private sources.”  
(e) Not to be treated or punished in a cruel, inhumane or degrading way.”
- **The Constitutional Court decision O'REGAN J and SACHS J, 2002**, which states:



(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; (d) it leads to Child Prostitution; (e) it involves an increased risk of spreading sexually transmitted diseases; (f) it goes hand in hand with a high rate of drug abuse; (g) it is closely linked to other crimes such as assault, rape and even murder; and (h) it is a frequent and persistent cause of public nuisance.

(Page 72): "The issue of Prostitution must therefore be examined not through the prism of certain popular conceptions of morality, but through the prism of constitutionally articulated values, especially those that concern the right of all citizens to live in a state where Gender Equality is increasingly becoming a reality."

- **The Preamble of the Prevention and Combating of Trafficking in Persons Act 7 of 2013**, which states "that the search for improved socio-economic circumstances and the demand for the services of Victims of Trafficking contribute to making persons vulnerable to becoming Victims of Trafficking."

Both the Standard Operating Procedures (SOP) and the South African Police Services' (SAPS) National Instruction for the Prevention and Combatting of Trafficking in Persons Act (PACOTIP Act), acknowledge that "premises where victims are likely to be exploited, for example massage parlours, escort agencies, gentlemen's clubs, strip clubs..."

- **The 2017 Report from The South African Law Reform Commission (SALRC)**, in which, after thorough and wide-ranging research and public consultation, spanning over thirteen years, concluded that Adult Prostitution in South Africa should not be Fully Decriminalised.

Full Decriminalisation of Prostitution will be a violation of the above obligations.

Our movement calls on the South African government to work towards the achievement of a society of equality between women and men, racial equality, social justice. A society based on human dignity, under International and National law. A society in which the most marginalised among us have better options than selling their bodies to survive.

*"To be prostituted is humiliating enough; to legalise Prostitution is to condone that humiliation and to absolve those who inflict it. It is an agonising insult".* – Rachel Moran (Prostitution Survivor, Activist and Author)

#### **REASONS WHY FULL DECRIMINALISATION OF PROSTITUTION WILL BE DISASTROUS TO SOUTH AFRICA:**

1. Systems of Prostitution exploit vulnerabilities.
2. Pimps, brothel-keepers, abusers, exploiters and the entire System of Prostitution will have the legal right to exploit vulnerable people.
3. Full Decriminalisation does not make Prostitution safe. Prostituted Persons will still be degraded, humiliated, traumatised and used.
4. There will be an **increase** in demand for paid sex, instead of a **decrease**.
5. It will hamper and diminish law enforcement's ability to detect and investigate Trafficking in Persons (TIP).
6. It will increase Sex Trafficking, which is already difficult to prosecute.
7. It will have an impact on the communities and the safety of residents and children in the areas where "legal" brothels and/or 'lolly lounges' will be established and/or become more embedded. The drug trade and a wide range of criminal activities will logically follow suit.
8. Traffickers will use the legal system to circumvent arrest and prosecution.



9. South Africa will see an increase in the tourism industry, but the tourists will consist of sex pests, sex addicts, paedophiles and more, coming into SA to look for a “free for all”. No one will feel/be safe.
10. There will be an increase in the number of parents seeing opportunity to rent/sell their children for fast money from international tourists, brothel-keepers, pimps and local sex buyers.
11. There will be an increase in cybercrime (the selling of people online using Crypto Currency which cannot be traced; and an increase of Live feeds from South Africa). There will be an increase in the production of pornography.
12. All other areas of crime will increase in a country where crime stats are already at a high and where law enforcement and the legal system is failing or unable to cope:
  - a. Drug Trade
  - b. Kidnapping
  - c. Abductions
  - d. Trade in firearms and ammunition
  - e. Home Invasions
  - f. Smuggling of Migrants
  - g. GBV
  - h. Femicide
  - i. Murder
  - j. Rape
  - k. Housebreaking
  - l. Loitering
  - m. Vandalism and more.

**PERSONS AND AREAS THAT WILL SUFFER NEGATIVE CONSEQUENCES under Full Decriminalisation of Prostitution:**

- The Victims of the System of Prostitution
- Trafficking in Persons (TIP) field
- Child Safety
- GBV Cases
- Femicide
- Drug Trade
- Mentally Disabled
- Private and Residential areas
- Tourism Industry
- Labour System
- Education System
- International Investments
- Property Values & Investments
- Home Affairs

***“Prostitution is nothing but the microcosm of a society where exploitation is a general rule. It is a symbol of the contempt men have for women”.***

– Thomas Sankara

