

Legal blow for SA sex trade

Johannesburg - For some it would be the opportunity to move from the shadows, to open a bank account without lying about their place of residence, or seeking help from the police without getting arrested.

But for sex workers, the much-anticipated Report on Sexual Offences: Adult Prostitution, released by the Minister of Justice and Correctional Services Michael Masutha on Friday, means their profession remains on the wrong side of the law.

The South African Law Reform Commission's (SALRC) report offered two options, the first being its preferred one - to retain a totally criminalised legal framework, which made it an offence to buy or sell sex. This offered sex workers access to supportive resources and systems to exit prostitution should they choose to.

The second favoured the partial criminalisation of adult prostitution, which meant all those engaged in prostitution would be criminalised with the exception of the person providing the sexual service.

This meant anybody involved in the trade of sex, for example a pimp to the person buying, would face the law.

"They didn't look at the evidence," said Zodwa, a sex worker. "Partial criminalisation would just drive it underground."

The recommendations came as a blow to sex workers advocacy group Sweat (Sex Workers Education and Advocacy Taskforce).

"It was obvious to us the SALRC was both biased and disorganised. The project was being driven essentially by one person's opinion with none of the original commissioners and researchers which began compiling the report," said the body's director, Sally Shackleton.

"In fact, the institution was left without commissioners for almost two years and has failed in its mandate."

Professor Cathi Albertyn, who worked on the report until her term as SALRC commissioner ended in 2011, expressed surprise and disappointment.

"At the time I left, we were working towards a recommendation that decriminalised sex work and directed attention to how the law might contribute further to eliminating any harm that might accompany this work, whether forms of violence and abuse, rights violation or labour exploitation."

Zodwa said sex workers were already reluctant to report crimes that they observed in the industry, such as human trafficking and under-age prostitution, in fear of arrest.

"I live in a hotel, but I can't use this address of proof of residence. I want a life where I can say I am a sex worker."

"The decriminalisation of prostitution needed to happen a long time ago. It's a shame that until today nothing has been done," said Bella, another prostitute. "If I don't get paid, there's nothing I can do."

Pearl, a sex worker in Kempton Park, concurred.

“I’ve lost count of the number of times clients have had sex with me and then refused to pay. I’ve also been beaten up, and even raped by a policeman. I had no one to turn to,” she said.

Masutha said the report came at a time when the country had been witnessing terrible reports of sexual and gender-based violence and the subsequent loss of life.

Adult prostitution was an emotive topic, fraught with complexities and unwavering viewpoints in its various forms and, as such, warranted public opinion on the legal framework around prostitution in finding a lasting solution.

“The commission found that despite mounting public and official concern about prostitution, South Africa has no clear strategy for dealing with prostitution, either on a primary, preventative level or on a secondary and intervention level,” he said.

Sweat claimed that since the Department of Justice was handed the report in 2014, it had stood still and done nothing “while countless sex workers had been abused, arrested, fined, refused help and many others had lost their lives”.