

31 January 2023

The Director-General: Justice and Constitutional Development

Private Bag X 81

Pretoria 0001

Email: Bills1@justice.gov.za

RE: Comments supporting the Criminal Law (Sexual Offences and Related Matters) Amendment Bill, 2022

Dear Adv. Tsietsi Sebelemetja,

I am Liyema Somnono, a legal scholar and the South African AVAC Advocacy Fellow for 2022/2023. I have been a human rights advocate for 3 years, working closely with marginalised populations and advocating for the removal of structural barriers to accessing HIV Prevention services by sex workers.

This submission serves as an act of solidarity with sex workers in South Africa and to confirm my unequivocal support for the repeal of the Sexual Offences Act of 1957 (Act No. 23 of 1957) together with section 11 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007) to the extent in which it decriminalises the offering and procuring of adult sexual services.

Criminalisation of sex work has had adverse effects on HIV prevention outcomes amongst sex workers. Decriminalisation can help prevent HIV. Currently sex workers are subjected to human rights violations in their treatment by police officers, health practitioner, clients, and other members of society. Law plays a significant role in influencing societal attitudes. Criminalisation stigmatises sex workers as criminals, which negatively affects the way society views them. Consequently, the stigma and discrimination persons who sell sex face is what prevents them from accessing quality HIV prevention and HIV care services.

When this Bill passes into law and sex work is decriminalised people in the sex work industry would be empowered to enforce their rights against perpetrators.

Sex workers are a key population which is central to achieving positive HIV prevention outcomes. Considering this, I;

1. Confirm my support for the full decriminalisation of sex work, in that both the seller and the buyer are decriminalised.
2. Reject any input that says any of the two parties mentioned in no.1 be excluded from the Bill.
3. Support the position that all criminal records persons who sell sex, that arose in the application of the provisions of Act 23 of 2007 and section 11 of Act 32 of 2007, be expunged.

4. Support the notion that beyond the coming onto law of this Bill, there must be further deliberations on bring decriminalisation into the reality of sex workers by addressing issues such as bylaws which will continue to have the effect of criminalisation.
5. Register my availability to partake in the oral submissions, as and when the opportunity arises.

Yours faithfully,

Liyema Somnono (2022 AVAC Fellow)