

## 16 Days of Activism against GBV

# Policy Roundtable on Combatting Human Trafficking for Purposes of Sexual Exploitation in South Africa and the Region

25 November 2022

Residence of the Swedish Ambassador to South Africa, Pretoria

### KEY TAKE-AWAYS & RECOMMENDATIONS

To commemorate 16 Days of Activism against Gender-Based Violence, the Embassies of Ireland, Sweden and France and the Centre for the Study of Violence and Reconciliation (CSVR) hosted a policy dialogue on 25 November 2022 to interrogate the state of human trafficking for purposes of sexual exploitation in South Africa and the Southern Africa region.

The roundtable was attended by 60 participants from civil society organisations and sex trade survivors from South Africa, Malawi and Zimbabwe; the Parliament of Malawi; South African Police Services; United Nations programmes; and development partners.

It included two panel discussions and an open discussion with the participants. The first panel focused on the state of human trafficking and sexual exploitation in South Africa. The second panel brought to the fore the lived experiences of survivors and a regional perspective on regulating the sex trade as a way to counter human trafficking.

This document captures some of the main points raised during the presentations and discussions, as well as the participants' recommendations. The discussion centred around five key topics:

1. Understand and address the links between the sex trade and trafficking in persons (TiP) for sexual exploitation.
2. Recognise prostitution as an inherent form of sexual and gender-based violence.
3. Adopt a legal framework that effectively protects the integrity, safety and dignity of the persons involved in the sex trade.
4. Foster the agency of the persons in the sex trade, focusing on effective exit programmes.
5. Increase prevention, justice and accountability for victims of TiP and sexual exploitation.

*This document does not represent the views of the roundtable organisers, but rather is a reflection of the discussions that took place.*

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#### **1. Understand and address the links between the sex trade and trafficking in persons for sexual exploitation.**

Countering trafficking in persons (TiP) for purposes of sexual exploitation requires breaking the supply and demand chain of the business. This means tackling the demand for buying sex. The sex trade should be understood as a business model that is built on the exploitation and abuse of the most vulnerable in society. It is fuelled by patriarchy and the control of women and children.

Therefore how the sex trade is being regulated has a direct incidence on the "market" for TiP for purposes of sexual exploitation.

## Recommendations:

- 1.1. Legislation and interventions that aim at tackling the demand for buying sex must be prioritized.
- 1.2. An intersectional approach is needed, that addresses various phenomena that feed into and foster sexual exploitation:
  - pornography, as it condones the objectification and commodification of girls and women (pornography is dominantly about servicing men's pleasure at any expense, and it perpetuates the patriarchal norm of making others' bodies available for men's benefits);
  - The role of internet and the social media in luring, recruiting, and abusing children and adults into sexual exploitation;
  - the "blesser–blessee" phenomenon (transactional sex), often a precursor to further sexual exploitation.
  - socio-economic determinants that play a big part in luring vulnerable people to be sexually exploited.

## **2. Recognise prostitution as an inherent form of sexual and gender-based violence**

- Prostitution is inherently degrading, humiliating and dehumanizing the person – mostly girl or woman – who is selling sexual acts:
  - they are reduced to a commodity to be bought and sold – their bodies become a currency like any other;
  - the repetition of sexual acts without physical desire, but instead experienced as the consequence of financial need, inequality and as an exploitation of vulnerability, constitutes sexual violence in and of itself;
  - evidence abounds on the abuse and violence (verbal, psychological, physical, sexual or economic) perpetrated against persons selling sex, which essentially stem from the unequal power relations inherent to the sex trade (between seller and buyer, and between seller and "enablers" / "intermediaries"). Prostituted women are 18 times more likely to be subjected to violence than other women. The vast majority of prostituted persons have also suffered from violence (often sexual) before entering the sex trade;
  - research points to widespread levels of trauma in persons selling sex, both as a driver for selling sex, and as result of it.
- The United Nations Convention on the Suppression of the Trafficking in Persons and the Exploitation of the Prostitution of Others, adopted by the General Assembly on 2 December 1949, states in its preamble that "*Prostitution and its accompanying evil of the trafficking in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person.*"
- There needs to be honest discussions about whether selling sexual acts can be a decent employment outlet where individuals can attain dignity and economic empowerment. The mere fact that many persons in the sex trade resort to drugs to withstand their trauma, challenges that idea.
- Assumptions that drive the legalisation of the sex trade were dispelled, especially relating to economic empowerment. Evidence provided during the roundtable, demonstrated that women who sell sexual acts are not better off economically when the sector is decriminalized.

## Recommendations:

- 2.1 Prostitution should be treated as an inherent form of sexual and gender-based violence (SGBV) and recognised as such in the National Strategic Plan against GBV and Femicide (NSP-GBVF).

- 2.2. Reconsider the notion of 'sex work', as it glamorises sexual exploitation, violence and what is a highly traumatic experience. It may not be conducive to restoring the dignity and empowering the persons involved in the sex trade, regardless of the conditions they "work" in.

*"We must tackle the myth that there is economic freedom and empowerment, or bodily autonomy, in selling sex."*

[participant]

### **3. Adopt a legal framework that effectively protects the integrity, safety and dignity of the persons involved in the sex trade**

- Legislation has a *normative* effect – it sends signals of what is acceptable/tolerable or not. It may also have a *gender-transformative* effect if the structural drivers and vulnerabilities are adequately factored in.
- The domestic legislation must be coherent with international obligations and commitments.
- The local context must inform the legislative model. In particular:
  - The prevailing high level of violence in South Africa, especially violence against girls and women;
  - The high levels of inequality and socio-economic vulnerability in South Africa and the SADC region at large, which affect women more than men, often drive people to engage in selling sex as a last resort, i.e. they are forced into it by circumstances rather than out of free will, or forced by others (exploitation). Not all persons start in prostitution from an equal slate and a situation of choice. Gender economic inequality feeds exploitation, and compounds the vulnerability of women in prostitution who often end up being trapped in the sex trade.
- Evidence from the comparative review of the implementation of various regulatory frameworks (full decriminalisation; legalization; abolition / Equality law) shows that:
  - legalising prostitution reinforces patriarchal norms and the objectification of girls and women, thus driving up the demand for purchased sexual acts – which may drive up trafficking and sex tourism; it does not redress the power imbalances between sellers and buyers or "intermediaries", as the latter can operate under the guise of legality; it does not reduce the violence of the sexual act obtained through prostitution.
  - The abolitionist model has a deterrent effect on TiP for sexual exploitation. Through a combination of:
    - i. recognising that most persons selling sex are victims;
    - ii. giving them protection and agency over their destiny and body;
    - iii. tackling the demand for purchased sexual acts, through the criminalization of buyers and of profit made from the prostitution of others, and
    - iv. transforming mindsets and behaviours through wide-scale prevention, education and training, does have positive results in terms of capping (if not reducing) demand and reducing sexual exploitation.
- As per the experience in other countries, the legalisation of the sex trade is correlated to an increase in the demand for purchasing sexual acts. It allows trafficking and exploitation to happen under the guise of legality.
- Legalizing prostitution makes it difficult to identify victims of sexual exploitation and for them to seek help.
- There is a sense that the discussion on the reform of the South African legislative framework of the sex trade has been conducted in rather closed circles, and dominated by pro 'sex work'

stakeholders advocating policy-makers for full decriminalization of the sex trade. Alternative voices seem to have been denied the right to be equally heard.

*“In Malawi, legalizing prostitution was thought to be progressive. Instead, it unleashed more abuse and made it more difficult to identify victims.”*

[participant]

#### Recommendations:

- 3.1. The South African Government and Parliament should genuinely open up the key and strategic policy spaces for engagement on the reform of the legislative framework.

*NB: a representative of the Directorate for Priority Crime Investigation (SAPS) indicated their willingness to facilitate broader access and participation in future engagements with the Department of Justice.*

- 3.2. South Africa should carefully consider what legal model would best protect the integrity and dignity of those involved in the sex trade. The country should refrain from legalising abuse through full decriminalization of the sex trade, without considering the drivers and vulnerability factors at play in the sector.

Instead, the focus should be on empowering those vulnerable to the sex trade so that they can make real free choices to avoid or escape violence and exploitation, and have the opportunity to pursue alternative livelihoods.

- 3.3. The Parliament of Malawi seems open to reconsidering its legislation which legalises prostitution, in light of the increase in TiP (illegal) and sexual exploitation experienced in the country.

*“Survivors’ voices are often sidelined by people who promote ‘sex work’.”*

[survivor]

#### **4. Foster the agency of the persons in the sex trade: invest in effective exit programmes**

- Selling sex is not a career option that many young people aspire to. Few people would choose to remain in this trade if they had the choice.

*“It’s easier to enter prostitution than to exit it.”*

[survivor]

- Experience from other countries indicates that exit programmes cost approx. €60,000 per person, and can be fully funded by the penalties on buyers and pimps.

#### Recommendations:

- 4.1. Boost effective economic alternative and diversion programmes, both for the victims of trafficking in persons (TiP) and sexual exploitation and the “enablers” of exploitation (e.g. families, communities). This would allow the original career aspirations of the persons in the sex trade to be realised.

- 4.2. Invest in healing and rehabilitation for both victims and perpetrators.

*“Stop funding condoms, fund exit programmes instead.”*

[survivor]

## **5. Increase prevention, justice and accountability for victims of TiP and sexual exploitation**

- Data is missing to adequately tackle trafficking and exploitation.  
Some research indicates that for every victim of TiP identified, there are dozens of other unseen victims.
- Rural development, food security and access to basic services are key areas we need to invest in, to reduce vulnerability to TiP and sexual exploitation.
- Victims of TiP are often the result of decades/generations of systemic inequality and abusive norms and practices.
- In Malawi, TiP is illegal, but it is still a silent crime due to “conflicting” socio-economic development priorities of the government. There is a need to go past prosecution, and to centre on the survivors.

### Recommendations:

- 5.1. Collect data on the sex trade, to better understand the drivers and effects on persons involved in the sex trade.
- 5.2. Roll out TiP prevention interventions in schools.
- 5.3. Roll out interventions in schools and other relevant constituencies addressing patriarchal norms, attitudes and behaviours in which men view women as commodities.
- 5.4. Invest in education, skills development, and economic empowerment of disadvantaged and marginalised communities most at risk of being a source of trafficked and/or prostituted persons. Black women’s economic empowerment is to be prioritized.
- 5.5. Strengthen the capacity of law enforcement to uphold the laws against TiP. This includes:
  - 5.2.1. Adequate budgeting to ensure sufficient financial, human and technical resources to that effect. There is a need to engage the South African Treasury on this matter.
  - 5.2.2. Training service providers (police/justice / social services) in trauma-informed approaches.
- 5.6. Civil society organisations involved in fighting human trafficking, should report corrupt law enforcement officers, to prevent undermining the credibility of the whole force.
- 5.7. Trade agreements should be reviewed, especially for sectors involving human resources working in foreign countries, as these are conducive to exploitation of persons.
- 5.8. Create accountability platforms and mechanisms for victims of TiP and sexual exploitation.
- 5.9. Engage all government departments that have a role to play to prevent and respond to TiP for sexual exploitation. In South Africa, this means beyond the Department of Justice: the Department of Social Development; Department of Basic Education; Department of Higher Education and Training; Department of Police; Department of Women, Youth and Persons with Disabilities; National Treasury; Department of Small Business Development; Department of Trade, Industry and Competition.