To:

The Joint Multi-Party Women’s Caucus  
Chair: Hon RMS Morutoa

Attention:

Bryan Mantyi   
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Per Email: bmantyi@parliament.gov.za

RE: Response to the South African Law Reform Commission’s Report on ‘Sexual Offences: Adult Prostitution’

* I, Amy Green, am writing on behalf of Health-e News, a health news organisation that has been in existence since 1999. In my work as a health journalist over the past five years I have interviewed a number of sex workers who have attested to the high levels of violence they have experienced in a system that criminalises them. Health-e News is a small organisation with a big presence: we employ citizen journalists in every province to raise awareness about health issues in areas where the mainstream media traditionally has less access to and as a result these stories are often left untold. Our overarching goal is to improve the health and well-being of all South Africans. We have both a print and television department and publish on platforms including Independent Newspapers, the Daily Maverick, News24.com and in various broadcast media. In 2017 Health-e News launched Izwi Lami, an anti-rape campaign to address the epidemic of gender-based violence (GBV) in South Africa. As part of Izwi Lami we produced a number of stories telling the stories of survivors and victims to raise awareness about the extent of the problem in mainstream media. We also launched a SMS-driven service for survivors of GBV to report their experiences as well as to be linked to information and counselling services in their provinces to link them to available care. There is also a link to a petition supported by Amandla.mobi calling for a package of care (counselling, ARVs, antibiotics and emergency contraception) to be provided to every rape survivor. Through this campaign we reported on the violence experienced by sex workers who, research shows, are up to 18 times more likely to be murdered than other women. We have reported on sex workers’ increased risk of HIV infection and vulnerability to sexually transmitted infections as well as the mental health implications of experiencing such high levels of violence. Criminalisation adds to their vulnerability as we have heard testimonies of how both clients and law enforcement officials have taken advantage of their lack of rights in the eyes of the law and perpetuate violence towards this key population. We believe decriminalisation is a powerful strategy to reduce sex workers vulnerability to GBV, HIV and other sexually transmitted infections: all serious issues the government has repeatedly committed to tackle.
* 1. <https://www.dailymaverick.co.za/article/2017-10-02-health-e-news-sex-workers-who-are-raped-are-at-mercy-of-system-that-criminalises-them/#.Woz7pGaB0dU>
* 2. <https://www.dailymaverick.co.za/article/2017-05-28-health-e-news-sex-workers-to-remain-criminals-vulnerable-to-hiv/#.Woz7mGaB0dU>
* 3. <https://www.health-e.org.za/2015/01/13/study-estimates-153000-sex-workers-active-south-africa/>
* 4. <https://www.health-e.org.za/2017/06/26/health-e-launches-izwi-lami-anti-rape-campaign/>

The SALRC report, which took approximately 15 years to produce, did not effectively address the systemic issues related to violence, illness and sex work. It recommended to continue the criminalisation of sex work which, research has shown, will not be effective in tackling the issues associated with the violation of human rights of sex workers. Sex workers are up to 10 times more likely to contract HIV than the general population (<http://www.unaids.org/sites/default/files/media_asset/2016-prevention-gap-report_en.pdf> ) and this is of serious concern in a country like South Africa with one of the highest HIV burdens in the world. In 2014 the Lancet medical journal published a study that found that the decriminalisation of sex work could avert 33-46% of new HIV infections in sex workers and their clients over a 10 year period (<http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(14)60933-8/fulltext> ). The recommendation for partial criminalisation will also not effectively address the needs of this vulnerable community. A multiple and gang-rape survivor argued that it will not decrease the demand but will result in an increase in vulnerability, she said: “Partial criminalisation will push us further underground, and into more dangerous places, where we will be able to protect ourselves even less” (see link 1 above). We argue that a public health approach be taken to address the vulnerabilities faced by sex workers which can only be fully realised in a system where sex work is not illegal. We would like to point out that the government, through SANAC, has also committed to pursuing a public health approach: <http://sanac.org.za/2016/03/29/south-african-national-sex-worker-hiv-plan-2016-2019/> . This contradiction in the government of South Africa’s policies should be immediately addressed through pursuing a change in the legal status of sex work. Furthermore, the 531 page report failed to adequately include the voices of sex workers. Very few sex workers were cited in the report apart from those who were participants in the “Rocking Chair” documentary (produced and directed by the Christian Broadcasting Network). We would like to point out that the decisions made regarding the legal status of sex work will have the biggest impact on sex workers themselves and it is important to acknowledge and actively include sex workers in any decision making and recommendations. We believe that the report indicates a fundamental failure to do this.

We would recommend that;

* The government fully commit to pursuing a public health approach to addressing the violence and vulnerability to HIV experienced by sex workers by making their working environment safer. This can only be done by making their work legal in the eyes of the law.
* The SALRC report be retracted by the Department of Justice due to its lack of acknowledgement of the context in which sex workers are made vulnerable in society and its refusal to incorporate internationally recognised evidence in the field of public health and sex work.
* The government takes the views and experiences of sex workers themselves seriously in any further recommendations and policies it pursues in relation to the legal status of sex workers.

We are not requesting to make any oral submissions and believe our views are clearly stated above.