

EMBARGO: FOR RELEASE ON 6 MAY 2009

MEDIA STATEMENT BY THE SOUTH AFRICAN LAW REFORM COMMISSION

PROJECT 107: SEXUAL OFFENCES: ADULT PROSTITUTION

The Commission has approved the publication of a discussion paper on adult prostitution for public comment. The primary aim of the Discussion Paper is to consider the need for law reform in relation to adult prostitution and to identify alternative policy and legislative responses that might regulate, prevent, deter or reduce prostitution. A secondary aim is to review the fragmented legislative framework which currently regulates adult prostitution and enhance alignment with international human rights obligations for the country. Under South African legislation voluntary selling and buying of adult sex as well as all related acts are currently all criminal offences.

The Discussion Paper has three parts. Firstly, the Commission discusses the social and legal context of prostitution. Here it discusses a range of legal, social and economic factors that are relevant to the question of whether to reform the law relating to adult prostitution. Secondly, the Commission engages in an extensive comparative analysis to look at how other countries have addressed prostitution in their laws. Thirdly, the Commission makes general proposals in preparation for reforming the law on prostitution and proposes **four alternative legal models** that might be employed in South Africa.

To give effect to the **general proposals** the Commission proposes that the legislature:

- Repeals the Sexual Offences Act.
- Repeals sections 11 of the Sexual Offences Amendment Act.
- Enacts a new Adult Prostitution Reform Act¹ which may include or exclude provisions of the Sexual Offences and Sexual Offences Amendment Acts.
- If required in the new legislation, develops new terms and definitions for archaic terms.

The proposed **four law reform options** are:

- Total criminalisation of adult prostitution (status quo);
- Partial criminalisation of some forms of adult prostitution and prostitution related

¹ This is just a working title for ease of reference and the Commission does not propose a name for the new Act in this Discussion Paper.

- acts;
- Non-criminalisation of adult prostitution;
 - Regulation of adult prostitution and prostitution related acts.

All of the proposed options presuppose the criminalisation of under-aged and coerced prostitution and trafficking of people for the purpose of prostitution.² The criminalisation of coerced adult prostitution must be included in the option which is ultimately recommended in the report.

The release of the discussion paper on adult prostitution will be followed by a report on adult prostitution. The report on adult prostitution will contain the final recommendations of the Commission and will be accompanied by legislative proposals pertaining to adult prostitution. The report and the Bill will, once approved by the Commission, be handed to the Minister for Justice and Constitutional Development for consideration.

The aim of the discussion paper is to elicit comments which will be used to assist the Commission in preparing a report and draft legislation. All options presented in the Discussion Paper include a set of questions that seek to elicit public inputs that will shape legislative proposals to be included in the report on prostitution.

Attached to this media statement is a copy of the summary of the discussion paper.

Further copies of the summary on adult prostitution are available free of charge from the office of the Law Reform Commission. The telephone number of the Law Reform Commission is (012) 3929540 or fax (012) 320 0936.

The closing date for comment on this discussion paper is **30 June 2009**. Comments and submissions are invited and can be addressed to:

² The legislature has recently revised and severely sanctioned commercial sexual exploitation of children and trafficking of children and adults for sexual purposes in sections 141(1)(b) and 305(5) of the Children's Act. Nothing proposed in this Act affects the provisions in the Children's Act.

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ISSUED BY THE SECRETARY, S A LAW REFORM COMMISSION, PRETORIA

DATE: 8 APRIL 2009

**THE CONTACT PERSON FOR ENQUIRIES IN RESPECT OF MEDIA STATEMENT:
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