



South Africa

- Population: 53.1 million
- GDP per capita (in US dollars): 6,482
- Parliamentary regime
- Human development index (HDI): 0.666 (116th rank among 187 countries)
- Gender inequality index (GII): 0.407 (83rd rank among 147 countries)
- Corruption Perceptions Index (CPI): Score of 44 on a scale from 0 (highly corrupt) to 100 (very clean)
- Member of the African Union since 1994.

- No official national statistics on prostitution.
- The NGO SWEAT estimates that there are 153,000 prostituted persons in South Africa, including 8,000 men. According to association leaders, there are about 20,000 child prostitutes (*Molo Sangololo*) (Fondation Scelles, 2013).
- Prostitution has taken illegal since the Sexual Offences Act 1957, and the purchase of sexual services since 2007. Procuring is repressed and the ownership of brothels is banned.
- Trafficking for sexual exploitation is punishable by imprisonment up to 20 years (Sexual Offence Act) and 5 years to life imprisonment when the victims are minors (Children's Amendment Act).
- In 2014, only 3 sex traffickers were convicted and 19 prosecutions were investigated (12 compared to 3 convictions and prosecutions in 2013). 4 people who purchased sexual services to victims of trafficking were prosecuted by the government in 2014.
- The foreign mafias (Russian, Bulgarian, Thai and Chinese) involved in trafficking are worrisome.
- The most severe condemnation in the judicial history of South Africa for sex trafficking was passed in November 2014 against a businessman who exploited five minors from Mozambique, and was sentenced to 8 times life imprisonment.
- Prevalence of HIV/AIDS is at 60% amongst female prostitutes in South Africa. 350 girls and young women are infected daily.
- Serious problem of corruption.

- Persistence of "ukuthwala" tradition in remote villages, which involves the forced marriage of young girls sometimes as young as 12 years old to adult men, making them vulnerable to forced labor and sexual slavery (*U.S. Department of State, 2015*).
- Destination country for victims of trafficking in Southern Africa.
- Majority of victims comes from South African or from neighboring African countries (Nigeria, Zimbabwe and Mozambique mainly), South-East Asia (China, Thailand) and Eastern Europe (Ukraine, Bulgaria, Russian Federation).

Despite the fact that it has been illegal since the Sexual Offences Act of 1957 and that the 2007 amendment added the criminalization of the purchase of sexual services in 2007, prostitution remains strong and relatively visible problem in South Africa. At the same time, the political class does not seem to consider it a major problem, even if, the debate has increased in intensity between the supporters who want a total decriminalization of prostitution along with those who advocate a Swedish model (decriminalization of prostituted persons, criminalization of the purchase of sexual services) and then those who want to keep criminalizing all stakeholders. Despite the fact that poor, young, black women remain the first victims of prostitution, it is the voices of those advocating for a regulationist approach who are most commonly heard. In an economic context that remains difficult (unemployment is at 25%), prostitution is a means of survival or, at least, is the only source of immediate income for many women.

The debate about a possible decriminalization: a debate in full swing?

The stakes are high. But authorities procrastinate. Since 2009, the South African Law Reform Commission (SALRC) is working on the desirability of a requalification of prostitution and sexual crimes via the project 107 (*South African Law Reform Commission Act, 2009*). This stage of debate continues to be prolonged, despite some diffused declarations from political figures that are sometimes contradictory even when they come from the same political party. There does seem to yet be a clear stance from the authorities.

And if the four options considered by the SALRC are still on the table 1) decriminalization, 2) regulation 3) Only partial decriminalization for clients; only the purchase would be criminalized, and 4) full criminalization, there are countless studies, articles, and statements in favor of decriminalization. Two visions clash in South Africa perhaps more than anywhere else. Should prostitution be considered an occupation where both parties would agree on a temporary financial contract or does it represent a form of domination and oppression that we must continue to prohibit? The fracture is such an important one that today, the coalitions of the various lobbies have become impervious to any different opinion from theirs (*Emser, 2013*).

At the end of 2013, President Jacob Zuma stated that decriminalization remained an option (*News24, October 23th, 2013*) in the eyes of the Commission. Therefore, we could believe in rapid decision-making in this direction. But this strong choice continues to ensue the debate between the supporters and the lobbyists who are opposed to this notion. Recently, the Commission for Equality of Genders has been clear in this regard. For them, the current legal regime is generally ineffective. Based on feedback from Australia and New Zealand

which it considers positive, the Commission recommends the "decriminalization of sex work" (*Commission for Gender Equality*, 2013). To make prostitution a crime amounts to "violate the right to free choice of work", which is contrary to the Constitution. By decriminalizing, the Commission states that the persons in a prostitution situation could regroup and defend as unions, stigma could be reduced, increase access to health care and the fight against the spread of HIV/AIDS would be facilitated. They further argue that prostituted persons could more easily seek justice when they are victims of violence, which would mean the end of arbitrary arrests and detentions, as they would no longer be targeted by the police specifically.

The argument behind the unconstitutionality of the Sexual Offences Act is currently being advanced by some researchers (*International Journal of Humanities and Social Science*, January 2013). If the South African Constitution guarantees everyone the right to exercise the job of their choice "in fair circumstances", this text that punishes the practice of prostitution activity, is evidently inconsistent with the Constitution. This still leaves room for other interpretations as long as we agree on the meaning of "fair". For supporters of decriminalization such as *Sex Workers Education and Advocacy Taskforce* (SWEAT) and *National Sisonke Sex Workers Movement* (Sisonke), the current legislative system makes prostituted persons more vulnerable and more susceptible to stigma and violence. Between July and October 2014, eight of them have paid with their lives (*The Messenger News*, October 22nd, 2014). According to Maria Stacey from SWEAT, just as many customers as police officials are being violent towards prostituted persons. A recent study by the *Women's Legal Center* showed that nearly 70% of surveyed sex workers had at least one experience of violence or sexual abuse by police (*Manoek*, August 2012). Cases of abuse from the customers themselves are rarely reported to the police since the activity is unlawful. The argument put forward by structures "pro-sex work" is the impossibility to defend their rights in a legal system that makes them outlaws.

Another favorable response to decriminalization came from the *South African National Aids Council* (SANAC) entity against the spread of HIV/AIDS and has set up a national plan for prevention, care and treatment for prostituted persons. According to the SANAC, stigmatization and criminalization set a barrier for people from certain populations to access health care systems. Latest estimates indicate that 60% of female prostitution in South Africa are infected by HIV/AIDS (*The Lancet*, July 2012). Based on a series of recommendations from internationally oriented organizations (with UNAIDS, WHO) and research work, the SANAC calls for decriminalization of prostitution, as they believe this is the only legal form most likely to slow the spread of the epidemic (*The Lancet*, October 8th, 2005). In June 2015, the Deputy Chairman Cyril Ramaphosa acknowledged that the strong stigmatization of persons engaged in prostitution contributed to the spread of HIV/AIDS. The US ambassador to South Africa stated that about 350 girls and young women were infected each day (*Sowetan Live*, June 11th, 2015).

Politicians do not have the same vision of decriminalization. Most of them avoid making definitive statement on their stance. When the Sowetan newspaper had the headline in January 2014 "*The deputy minister John Jeffery speaks of a possible decriminalization of sex work*", the South African government immediately issued a denial recalling that no formal statement had been made in favor of a possible decriminalization (*South African Government, Media Statements*, January 13th, 2015). The authorities do not mean to interfere in the Law Reform

Commission process but have the responsibility of reminding the public that the sale or purchase of “sexual services” are still an offense. For Nosipho Vidima, Sisonke, “sometimes when we go to Parliament to assert our views on decriminalization, we recognize some members who are customers” (*News24*, January 17th, 2014).

In general, groups advocating¹ for the decriminalization of “sex work” are widely mobilized and organized in South Africa. The Decriminalizing Working Group (DWG) wants a change in legislation towards the decriminalization of prostituted persons, soliciting and owner-managers of sex establishments. This organization systematically refuses to use the word “prostitution”, as they find it has a negative connotation. That being said, not all organizations share this view. While abolitionists groups also advocate for the decriminalization of prostituted persons, they do not advocate that in any circumstances, the procurers and customers should be decriminalized. *Embrace Dignity*, an activist association in favor of the equivalent of the Swedish model, requested from the parliament in December 2014, the establishment of a trans partisan committee in charge of a current evaluation of prostitution. Movements of Catholic origins, such as the *Christian Lawyers Association*, go even further and argue instead for a total penalization of the sex industry: criminalization of the purchase, sale and all acts related to prostitution. This approach mirrors the current legislation in South Africa.

Legislative Modification

While the possible amendment of legislation on prostitution is still pending, President Jacob Zuma signed in July 2013, the Prevention and Combating of Trafficking in Persons Act. The text complies with international commitments to fight against human trafficking. It also provides law enforcement a comprehensive and specific tool with sentences of up to life imprisonment and a fine of 100 million ZAR (6.3 million US\$/5.8 million €). However, this law will enter into force once all the necessary regulations for its implementation are in place. Its application remains uncertain consequently.

Confirmation

The landscape of prostitution according to the different nationalities has been confirmed since the previous edition of the Global report by Scelles Foundation (*Fondation Scelles*, 2013). Criminal groups share the cities (and neighborhoods) and the victims of the same national or regional geographic origin. Nigerians (very present in Hillbrow) appear as the most powerful group of traffickers operating in gangs and mainly controlling the prostitution of young African women and children. The Russians and Bulgarians are in control part of Cape Town and several towns in the south. Chinese and Thai organize Asian prostitution,

¹ Composed by a dozen of structures: *AIDS Legal Network, Sex Worker Education and Advocacy Taskforce (SWEAT)*, *Women’s Legal Centre, African Sex Worker Alliance, Sisonke Sex Workers Movement, World AIDS Campaign, SANAC Women’s Sector, Thohoyandou Victim Empowerment Programme, Tshwaranang Legal Advocacy Centre and AIDS and Rights Alliance of Southern Africa, Gender Dynamix, ARASA, Triangle Project, Legal Resources Centre.*

black women, Africans remain the biggest groups but there is a wide range of nationalities implied in the phenomenon.

One finds many prostituted persons with varied African nationalities (Lesotho, Swaziland, Zimbabwe, Democratic Republic of Congo, Mozambique), Asian (mainly China, Thailand, Taiwan, Cambodia, India) and East European (Russian Federation, Moldova, Ukraine, Bulgaria, Romania, Hungary). The organized crime networks are present to control prostitution and their sizes are varied. If international gangs are operating in certain cities, communities as well as families and relatives of the victims are also very present in the exploitation of prostitution. They are largely males, although many cases show the involvement of women, particularly in the recruitment of victims. A police operation in December 2014 in a northern Durban property revealed a Thai prostitution ring disguised as a "bed and breakfast". The owner, a 62 year old man and his wife, a Thai in charge of the recruitment, had set up the network two years prior to the arrest and brought a hundred women from Thailand under cover of tourist visas (*IOL.co.za*, November 9th, 2014). The couple kept young women through a debt that they had to pay and the confiscation of their passports upon arrival. Given that the neighbors had long known of the existence of this institution, it took a surprisingly long time for the police to intervene. Due to lack of evidence, the couple was "invited" to leave the country (*IOL.co.za*, December 23rd, 2014).

Drugs can also be used to keep young women, sometimes very young ones, in a dependent status (*IOL.co.za*, August 7th, 2014). Also, in the "brothels", it is not uncommon for owners to have a diversity in the nationalities of prostituted persons (*News24*, September 16th, 2014). Hundreds of Asians, mainly of Chinese and Thai origin, are brought in annually, mainly operating in the suburbs of Durban, through escorting sites. In 2014, 180 Thai women were identified as victims of trafficking for sexual exploitation and returned to their embassy before being repatriated. For police in Durban, there is no doubt that trafficking is organized and controlled by Chinese or Thai crime organizations. Most victims are deceived about the real object of their destination by false promises of jobs in restaurants (*IOL.co.za*, August 29th, 2014). The testimony of two East-European reminds us that several strip clubs in Cape Town were identified as having links with the Mafia: the managers confiscated passports and coerced them by making them repay their "debt" (travel, rent). Is there any difference between these "venues" and prostitution? Still, the young women surveyed say they prefer their situation now that they have left. "We go where there is money. But to do that successfully, you need to break something inside you" (*The Moscow Times*, August 28th, 2014).

It is difficult to know the exact magnitude of trafficking. The press puts forth the figure at 100,000 victims trafficked annually (*Eyewitness News*, November 11th, 2014), 30,000 of which are minors (*Times Live*, July 16th, 2015). These estimates, however, are regularly questioned. Moreover, prostitution, though illegal, is still generally considered a "minor" crime and even the police do not seem to provide accurate data. Recall that in 2013, 10,096 victims of trafficking had been identified across the African continent (*U.S. Department of State*, 2015). In South Africa, only 3 sex traffickers were convicted and 19 others continued to operate in 2013 according to the 2015 U.S. Department of State Report on Trafficking in Persons.

While public, private and state figures put forward different numbers, all agree on the fact that the phenomenon is significant. The facts and the testimonies from prostitutes themselves leave no room to doubt the severity of this phenomenon. This is especially apparent when we consider the story of the woman of the district of Atlantis (Cape Town) who was forced into prostitution after responding to a false announcement of two Congolese brothers. Drugged and raped by five men, regularly beaten, threatened, exploited on the sidewalk and in brothels before being resold several times, she was eventually rescued by her family. When they found her, "she could not even walk" (*IOL.co.za*, March 20th, 2014). This makes one wonder, is prostitution *really* a choice?

Viewing prostitution as a job or an exploitation?

The life course of Asanda, prostituted at age 17 after being excluded from the family and deceived by a false job offer shed light on the question of whether prostitution is a job or an exploitation (*Good*, October 6th, 2014). Analyzed through the prism of two associations in diametrically opposite view (*SWEAT*-pro "sex work", *Embrace Dignity*-abolitionist), prostitution is seen as a profession for one and oppression for the other. Yet when we look a little closer and consider that Asanda was raped by her uncle when she was a child, and forced to have sex with up to 20 clients a day. Asanda says he wanted to stop the first time. "I was drinking constantly. It was the only way to get through this". You can choose when you have other choices. Asanda, obviously did not have other choices. The organization *SWEAT* first helped Asanda, who was then helped by *Embrace Dignity* who helped her rebuild her life in three years. For Madlala-Routledge from *Embrace Dignity*, "Inequality reduces the choices of women and prostitution perpetuates this inequality" (*Good*, October 6th, 2014).

A "Zim-prostitution" that is expanding and becoming increasingly mobile

While women from Zimbabwe seem more numerous on street corners or in brothels in urban areas (*iHarare*, June 1st, 2014), the phenomenon of a travelling prostitute has increased even more over recent years. Border towns, highways, and parking lots have become places frequently visited by the community. This is a prostitution that has become very mobile.

Truck drivers sometimes pay young women to accompany them on their journey. South African police also mentioned the existence of trafficking networks for sexual exploitation involving truck drivers (*iHarare*, July 14th, 2015). The risk of exposure to HIV/AIDS are still very important and several cases of drivers with the virus have been reported. If some tricks are trading at 1 US\$ (0.92€), young Zimbabwean nightclubs Hillbrow may raise 250 US\$ (230 €) per month (*My Zimbabwe News*, July 9th, 2014). But how? Zimbabwean diaspora in South Africa is estimated at 3 million people, three-quarters are in an irregular situation. According to Save The Children Zimbabwe on the 2,000 illegal migrants repatriated every week, 20% are supposed to be unaccompanied minors (*The Guardian*, 13 July 2014).

A male prostitution on the rise

SWEAT estimated that there are 8,000 male prostitutes in South Africa, the majority of whom come from other African countries. Operating in an anaemic labor market and mostly in extremely precarious economic situations, they are increasingly likely to turn to prostitution. More affluent, urban clients approach them, among them some women, and they use the Internet or escorting dating sites to conduct their business.

Abuse and violence

In general, all organizations agree on the countless number of violence against prostituted persons, on the part of the clients but also on the part of security forces taking advantage of the fact that prostitution is illegal. Physical violence includes assaults, beatings, rape, murder and attempted murder and there is also indirect psychological abuse by their entourage and sometimes, their families. Moreover, pressure from clients to have intercourse without condoms is still very strong. Maria Stacey SWEAT confirms that this violence comes from both the police (insults, stigma, pepper spray, rubber bullets) and customers (very common that customers throw the prostituted person out of their car after a trick without paying). In 2013, at the International Sex Workers' Day, 80 prostituted persons demonstrated against police violence in Johannesburg: "Your police use bylaws to stop us, and then they refuse us access to medicines. "They demand money in exchange for not arresting us" (*IOL.co.za*, March 8th, 2013).

The difficult cohabitation with the residents

Tension is increasing between some residents of Glenwood (Durban neighborhood) and prostituted persons who mutually blame each other for the unrest. Volunteer Bulwer Community Forum organized a march to protest against prostitution that is too visible in their neighborhood and reported being threatened by prostituted persons. Several prostituted persons have complained, in turn, having been insulted and harassed by residents. These tensions, far from being anecdotal, clearly show the problems existent for visible prostituted persons in residential area. For some members of the community who were interviewed, they complained that the illegal networks, and in particular, the leaders of these networks were trying to control the neighborhood. They denounce the arrogance of "*criminals who behave as if they owned the place*" (*IOL.co.za*, March 24th, 2014). Some residents say they are concerned about the rights of prostituted persons, but nobody wants a "red light district" next to home.

Assistive Devices

The Department of Social Development mentions 41 victims of trafficking (all forms of trafficking combined) that have been aided and given housing (*U.S. Department of State*, 2015). In general, however, it is primarily the public sector that seems to do the most work. SWEAT widely participates in the national program of prevention against HIV/AIDS and has

set up the program in 74 sites throughout South Africa. The organization has also opened a hotline to advise prostituted persons and receives over 300 calls each month. *Embrace Dignity* has set up an exit program for survivors of sex trafficking and prostitution. It provides psychological support, comprehensive support, training and trade skills to people wishing to leave prostitution through two programs: "*Let us rise*" and "*Sisters*". Last June, the association has implemented the "*Dignity Marketplace*", an initiative that allows the sale of products manufactured by the survivors and whose profits help exclusively to support these initiatives by returning to those survivors.

Sources

- « ANC should stand up for prostitutes – Sisonke », *News24*, January 17th, 2014.
- « Decriminalisation of prostitution remains on agenda », *News24*, October 23rd, 2013.
- « Deputy Minister John Jeffery on possible decriminalization of sex work », *South African Government, Media Statements*, January 13th, 2015.
- « Prostitution has kept the City of Gold on its knee since 1800 », *News24*, September 16th, 2014.
- « Sex industry new target », *Sowetan Live*, June 11th, 2015.
- « Zim women now prostitutes and stippers in South Africa », *My Zimbabwe News*, July 9th, 2014.
- Baral S. (Dr) MD, Beyrer C., Muessig K. (Prof.) MD et al., « Burden of HIV among female sex workers in low-income and middle-income countries: a systematic review and meta-analysis », *The Lancet Infectious Diseases*, Vol. 12, no.7, July 2012.
- Blyth K., « Russian Women Seek Riches Stripping in South Africa », *The Moscow Times*, August 28th, 2014.
- Campbell-Gillies V., « Human trafficking in the spotlight », *Eyewitness News*, November 11th, 2014.
- Comins L., « Glenwood prostitutes abus volunteers », *IOL.co.za*, March 24th, 2014.
- Commission for Gender Equality, *Decriminalising sex work in South Africa: Official position of the Commission for Gender Equality*, 2013.
- CRIDES/Fondation Scelles, *Revue de l'actualité internationale de la prostitution*, 2013.
- CRIDES/Fondation Scelles, *Revue de l'actualité internationale de la prostitution*, 2014.
- Dzimwasha Taku, « Zimbabweans migrating to South Africa at risk of abuse and exploitation », *The Guardian*, July 13th, 2014.
- Emser M., *The politics of human trafficking in South Africa : A case study of the KwaZulu-Natal intersectoral task team and south african counter-trafficking governance*, Thesis, Doctor of Philosophy in Political Science, University of KwaZulu-Natal, February 2013.
- Fondation Scelles, Charpenel Y. (under the direction of), *Sexual Exploitation – A growing menace*, Economica Ed., 2013.
- Goodyear M, Lowman J, Fischer B, Green M. « Prostitutes are people too », *The Lancet*, Vol. 366, no.9493, October 8th, 2005.
- Harrington J., *Prostitution should remain illegal in South Africa*, Christian Lawyers Association, February 23rd, 2010.

- Juslogon, « The criminalisation of sex work kills », *The Messenger News.co.za*, October 22nd, 2014.
- Manoek S.-L., *Stop harassing us ! Tackle real crime ! » - A report on human rights violations by police against sex workers in South Africa*, Women's Legal Centre (WLC), Sisonke, Sex Workers Education and Advocacy Taskforce (SWEAT), August 2012.
- Mposo N., « Jobseeker lured to prostitution », *IOL.co.za*, March 20th, 2014.
- Nyathi-Mokoena UCA, Choma HJ, « Prostitution under the Sexual Offences Act in South Africa: A Constitutionnal Test », *International Journal of Humanities and Social Science*, Vol. 3, no.1, January 2013.
- Olifant K., « Prostitutes protest against cop brutality », *IOL.co.za*, March 8th, 2013.
- WHO, UNAIDS, UNICEF, *Vers un accès universel: Etendre les interventions prioritaires liées au VIH/Sida dans le secteur de la santé – Rapport de situation 2009*, 2009.
- Padayachee K., « Women guilty of running brothel », *IOL.co.za*, Decembre 23rd, 2014.
- Rondganger L., « Asian women lured to SA for sex work », *IOL.co.za*, August 29th, 2014.
- Sapa, « Brothel witness agreed to prostitution », *IOL.co.za*, August 7th, 2014.
- Shaik N., Farley K., « Police swoop on Durban North brothel » - *IOL.co.za*, November 9th, 2014.
- South African Law Reform Commission Act, *Discussion Paper 0001/2009 Project 107 "Sexual Offences Adult Prostitution"*, ISBN : 978-0-621-38498-7, 2009.
- Spinks R., « One former prostitute in Cape Town, two NGOs battling over how to help her », *Good*, October 6th, 2014.
- U.S. Department of State, *Trafficking in Persons Report*, July 2015.
- Watt (Van der) M., « Human trafficking in South Africa: an elusive statistical nightmare », *Times Live*, July 16th, 2015.
- Zimbabwean Z., « Hard times forces sex workers into mobile prostitution », *iHarare*, July 14th, 2015.
- Zimbabwean Z., « Zim Women resorting to prostitution in South Africa », *iHarare*, June 1st, 2014.