



SEX WORK AND RELIGION

ASIJKI
COALITION TO
DECRIMINALISE
SEX WORK IN
SOUTH AFRICA



ASIJKI | FACT SHEET 2016

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Many people in South Africa are religious. According to data from the 2001 census, around 80% of South Africans call themselves Christians, with smaller numbers of Muslims, Hindus, Jews and people who follow African traditional religions. The link between sex work and religion is therefore important. This fact sheet argues that, although many people view sex work as sinful, religious views cannot be the basis for law in South Africa. It also argues that it is our duty to care for sex workers.

1 RELIGIOUS PERSPECTIVES ON SEX WORK

- Many religious people in South Africa see sex outside of marriage as sinful, and therefore believe sex work to be sinful¹.
- However, many people who study religion argue that the importance given to sexuality – and especially women’s sexuality – by many religious people shows social discrimination against women that is not supported by religious texts^{2,3}. Lending money with interest and other “financial sins” are condemned at least as strongly as sexual sins in the Bible (Deuteronomy 23:19-20, Matthew 21:12-13) and the Qur’an (2:275-280), but these verses are often ignored or read differently because banking and credit are now seen as socially desirable activities. There are also several stories in the Christian Bible where Jesus is described rejecting stigma and punishment for women who are seen as sexual sinners, including Luke 7:36-50 and John 8:1-11⁴.
- All religions have a strong tradition of providing comfort and support for the poor and oppressed. In the Christian tradition, this has been described as a “preferential option for the poor”⁵. This “preferential option” should apply very strongly to sex workers, because they are amongst the most oppressed and marginalised people in society^{6,7}. Kevin Dowling, who is the Catholic Bishop of Rustenburg, has given out free condoms to many people, including sex workers, because he believes it is more important to protect health and life than to support Catholic beliefs around contraception and sexual morality⁸. Similarly, in Morocco, many Islamic religious leaders have been trained to care and provide safer sex counselling for sex workers⁹.
- However, it is largely religious groups that feel most strongly that sex work should not be decriminalised in South Africa and around the world^{10,11}. The power of these groups has resulted in the United States government enforcing an “anti-prostitution pledge” that hold back money from organisations that “advocate the legalization or practice of prostitution”¹², even where those organisations are providing vital health or other services to sex workers^{13,14}.
- Similar groups have tried to win over many African countries, mainly opposing abortion rights and gay rights but also wanting to keep sex work a crime^{15,16}. In New Zealand, the most important group trying to reverse the 2003 law decriminalising sex work was a religious group called the Maxim Institute, which also opposes gay rights¹⁷.
- In South Africa, religious organisations opposing the decriminalisation of sex work include Doctors for Life (DFL)¹⁸ and the Family Policy Institute (FPI)¹⁹. DFL is best known for being against abortion rights and reproductive technologies, but has also been against gay rights²⁰. The FPI strongly opposes gay rights and is linked to the US-based Family Research Council, which is listed by the Southern Poverty Law Centre as an “extremist organisation”²¹. The FPI has itself become known for extreme views, stating that gay rights and abortion rights in South Africa were responsible for the Marikana shootings²². Nevertheless, it has guided government policy on family life²³ and on film classification²¹.
- These organisations and individuals have the right to express their views and to believe that sex work, being gay, lesbian, transgender, bisexual or intersexual (LGBTI), as well as abortion, are sinful and immoral. But the law is not the same as private morality (i.e. these beliefs) and South Africa has a very dark apartheid history which believed the two were the same thing. The Sexual Offences Act of 1957, which contains most of the conditions under which sex work is currently illegal, was originally the infamous “Immorality Act”, which also made interracial sex and sex between men illegal. So long as no one is forced, essentially personal judgements about what adult sexual acts are immoral should not be decided by public lawmakers. And it certainly should not be ruled by criminal law. Decisions about sex should rather be left up to adults to decide for themselves, in line with the human rights stated in the Constitution.
- Supporting decriminalisation does not mean that sex work is either “good” or “bad”. It is a response to the fact that some people do choose to sell sex and that criminal law’s interference with this choice has violent and unhealthy outcomes for sex workers and society. It is also a human rights-based view that people need to be supported in their choices and protected from harm wherever possible.

2 THERE IS NO EVIDENCE THAT THE SWEDISH MODEL IS SUCCESSFUL

- Religious organisations and individuals have the right to their views, and to promote them in public. However, under the Constitution of 1996 and the Equality Act of 2000, the South African state has two duties: 1) to allow everyone to preach and practice their religion freely, but also 2) to protect people from being forced to follow religious rules they do not accept. This means that sex work cannot be illegal simply because it is seen as sinful by one or more religions, even if followers of that religion are a majority of the population. Similar laws protecting religious freedom exist in most other democratic countries.

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- Under decriminalisation, the buying and selling of sex becomes legal. Employment of sex workers is also legal. Sex work would be controlled by general labour law, allowing sex workers to organise legally. It also means that employers (e.g. brothel managers) must obey health and safety labour laws. Force, trafficking and other abusive labour practices would remain illegal.
- Research has shown that decriminalisation is the best way to reduce violence^{24, 25, 26} against sex workers, help them enforce labour rights^{27, 28} and reduce HIV²⁹. Currently, criminalisation results in abuse of sex workers by the police^{30, 31}. Criminalisation increases stigma and discrimination against sex workers, which is the main cause of violence and abuse against them^{32, 33}. For these reasons, the decriminalisation of sex work is backed by major human rights organisations including Human Rights Watch³⁴, Amnesty International³⁵ and the South African Commission for Gender Equality³⁶, as well as health-focused organisations like UNAIDS³⁷, the World Health Organisation³⁸ and the Lancet Journal³⁹. There are also many organisations around the world that are led by sex workers or represent sex workers: these very strongly support decriminalisation⁴⁰.
- Decriminalisation is needed to protect the lives, health and well-being of sex workers. Members of religious groups that focus on care for the marginalised should therefore support decriminalisation. They should also ignore arguments focused on controlling what is seen as sexually abnormal when those arguments remove care, compassion and human rights.



“Decriminalisation is needed to protect the lives, health and well-being of sex workers.”

This Briefing was written by Dr Dean Peters and plain-language edited by Giles Griffin

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