

## The main reasons why Partial Decriminalization is best for South Africa

Partial decriminalization basically takes the fault away from the prostitutes and blames the men who pay. So while prostitution is still illegal under this regime, the buyers are arrested not the sellers. This usually means the men instead of the women, although of course sometimes women can be the buyers.

In short, it shifts the focus from the Supply side of prostitution to the Demand side.

There are four contextual reasons why fully legalizing prostitution should be delayed. First the fact that the population maps in South Africa have a bulge at the bottom. Its population is very young, disproportionately so. This is not a typical profile, either historically in this country, or around the world in any country.

The second reason is related to this. Youth are finding it hard to enter the work force. For example, most COSATU members are over the age of 35. It's a fact. Unions are member-organizations. Non-members are not their focus. So youth unemployment is much higher than baseline unemployment. And the unemployment of young women is highest of all.

Third, we are living through the AIDS pandemic. The first surge is over, but epidemics have historically come back in surges. Already almost 15 percent of citizens are HIV-positive. It could be on the rise again?

Fourth and last, while South Africans have bought into "human rights" as the prevailing moral or ethical system, it is not letting go of its traditional customs. It is trying its best to hold these two world-views (which sometimes clash) concurrently. BOTH are enshrined in the Constitution.

Age should be a determining factor in the decision whether to leave prostitution as a crime, or partially decriminalize it to penalize the buyers, or to legalize it. I have seen no research *by age* that suggests that young citizens want it decriminalized. As for their elders, I believe there is a built-in caution that says, Wait... proceed with caution; this would be hard to reverse or is backfires. So let's not go for "radical moral transformation" just yet! Let us bring up our youth to both respect human rights and also our cherished traditions.

In urban settings, those age-old customs are still there, although more in the background. For example, people may still pay Lobola but they pay with cash not with cows. So youth grow up with an awareness of tradition even if human rights ethos is more prevalent in the city. Biologically, the young of any species should be protected by the older generation. This is true of birds and elephants; are we any different? Oliver Tambo said that a nation that does not take care of its youth has no future – and doesn't deserve one.

We know that vertical transmission (i.e. mother-to-child) and transmission by blood transfusions are no longer major risks. Transmission happens from sexual relations.

As the hormones start to jump around the age of Puberty, we can all expect some exploration and experimentation to go on. It is up to parents to create suitable conditions for this – is legalizing the sex trade the way forward? Especially when steps are being taken to raise the drinking age from 18 to 21! There is no Parliament in the world that can increase the age of Puberty!

This is a numbers game, and in South Africa in the here and now, the youth outnumber their forbears. Decriminalizing prostitution should not go from A to Z in one zip legislation. First, we should try to slow down the Demand. This is in sync with the Minister of Health's "War on Blessers". Go after the men who pay. Leave the women alone for a change.

We are all familiar with the narrative – men dominate women in every way because they have more money and power, etc. The infection rate is higher among woman, and highest of all among prostitutes.

Ah, but wait! More men die of AIDS than women. That is also true. So the overall life expectancy of men stands at 59, while for women it is 66. Is that fair? What are the long-term implications? Partial decriminalization is aimed at reducing Demand. This can be even seen as having the effect of protecting men from HIV transmission, and thus prolonging their lives.

Speaking cynically, is anyone surprised that an Elective Conference where the number of women in the Top Six dropped, also reversed the policy decision of the Consultative Conference six months earlier? Which only ratified the SALRC's decision after its long review?

Of course the human rights activists are behind this turn-over. But it is safe to say that the majority of Feminists in South Africa – like the majority of Feminists world-wide – prefer partial decriminalization as a strategy, to full decriminalization. In March 2018 many stakeholders met with the SALRC to discuss the way forward. 39 of them made presentations. 31 of these belong to the Coalition to End Sexual Exploitation in SA.

If we turn for a moment into the deep rural areas, for example in KZN where virginity-testing is still practiced, we will not find support for decriminalization. The opposite is true. In that setting, the same human rights activists who want to legalize prostitution will also go after virginity testing, *ukuthwala*, and other customs, and want to change them too. But they must remember that these cherished cultures also have constitutional rights to cohabit in this country with Humanism.

I was asked recently to name one Feminist who opposes Decriminalization. Well I have never met Nozizwe Mdlala-Routledge, but I admired the principled stand that she took when she was the Deputy Minister of Health under Mbeki and Manto. She opposed the prevailing ANC policy of that time, and it cost her her job. That is what Mashele and Qobo called "vindictive triumphalism" in their book The Fall of the ANC. They say that after the Polokwane conference, this came to be the predominant attitude of the ANC. Others just call it arrogance. Or else call it Vanguardism.

This attitude has caused the ruling party to use Parliament as a rubber stamp, just to validate its top-down decisions - like this one. Whereas Parliament itself is supposed to be where policy is vetted, including the voices of the Loyal Opposition. Following which there should be free voting. But the ANC does not have the self-confidence to face those risks. Because "Father knows best".