

PARLIAMENTARY HEARINGS ON ADDRESSING UNHEALTHY ADOLESCENT SEX – DEBATES ON CONSENTING SEX BETWEEN TEENS CONTINUES

Press Release by: the Community Law Centre, University of the Western Cape in conjunction with Resources Aimed at the Prevention of Child Abuse and Neglect; the Centre for Child Law, Teddy Bear Clinic

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On 03 March 2015, Parliament's portfolio committee on Justice and Correctional Services started with day one of public hearings into the controversial amendments to the Sexual Offences Legislation that aim to decriminalise consenting sexual activity between teenagers in the same age group.

The Chairperson, Mathole Motshegka, indicated that the Committee had received over 900 submissions from the public. During the hearing, the committee demonstrated their commitment to grappling with their dual duties to uphold the Constitution and to represent diverse public opinion. Committee members reflected that unhealthy adolescent sexual activity is a broad social issue linked to social values, and taking direction from the Constitutional Court, that criminalisation is harmful and unconstitutional, considered how best the state can address it.

While presenters from the Commission on Gender Equality and the Catholic Bishop's Conference argued that the decriminalisation should be extended up to 18 years old for consenting activity, others argued that the law should not be changed and that sexual acts between consenting adolescents should remain a crime up to 16 years old, or in the case of the Family Policy Institute, that it should be raised to 18 years.

Child protection experts from organisations that work with abused children and child offenders, argued that criminalising the behaviour is not the best way to address unhealthy sexual activity in this age-group. Christina Nomdo, the Director of Resources Aimed at the Prevention of Child Abuse and Neglect explained "there is a wealth of research in South Africa that shows that the most effective way to ensure that adolescents make healthy decisions is to build programmes to support parents to have open and non-judgemental communication with their children about relationships and their sexuality".

Professor Ann Skelton, Director for the Centre for Child Law at the University of Pretoria argues that "this is best achieved through laws and policies of the departments of Education, Social Development and Health, not criminal law." She explains that by making

developmentally normal and consenting behaviour a crime, young people are exposed to the punitive criminal justice process, including police questioning, questioning from prosecutors and criminal trials, and if they are found guilty the consequences can be serious.

Dr Shaheda Omar from the Teddy Bear Clinic in Johannesburg described the extremely negative impact that criminalising the behaviour had on clients of their centre over the past few years, she indicated that the criminal justice processes do more harm than good and that girls face more social stigma than boys do as a result of criminalising. “The children have displayed signs of post traumatic stress disorder, compelling symptoms of depression, self-mutilation, and suicidal thoughts because of the stigma. The psychological wounds are deep. This has very serious consequences for these children, the shaming and humiliation has led to psychological distress, low self image and at times school drop out.” She stated.

Steve Swart and MP in the committee from the African Christian Democratic Party argued that this bill was lowering the age of consent, however child rights experts refuted this, stating that it remains a crime for anyone over 18 to engage in consensual sexual activity with a person under 16.

Proponents for criminalisation argued that without this crime as a deterrent, parents and teachers will have no tools to prevent their teens from rampant sexual activity. “this is a real concern for many parents” explained Samantha Waterhouse from the Community Law Centre, UWC, “but decriminalising is not the same as giving permission, family, religious and social values are more powerful than the law in guiding the choices that parents and teens make about what’s right and wrong - right now we are not doing enough of the things that can really make a difference to give adolescents support and guidance to make healthy sexual decisions, in fact by criminalising it we make it harder to provide effective support.”

Hearings will continue today and on Tuesday and Wednesday next week

Ends.

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