

Opposing Criminalisation

The application of criminal law to sex work remains possibly the biggest challenge to sex workers' health and human rights. Laws and policies contribute to the economic and social marginalisation of sex workers and their families, cause further social exclusion, as well as poverty, violence, harassment and exploitation and impede access to health care.

You can read more about the criminalisation of clients in the NSWP Briefing Paper which is available in [English](#), [Chinese](#), [French](#), [Spanish](#), and [Russian](#). Or you can browse through the extensive resources section on 'Law Policy and Human Rights' on the [NSWP website](#).

Across the world NSWP member organisations are continually engaged in advocacy and campaigning against the criminalisation of sex work, sex workers, clients and / or activities relating to sex work.

Here are some of the most recent developments relating to criminalisation and how they were covered in the media.

Denmark

Denmark recently moved to drop the introduction of a bill which would have criminalised the purchase of sex.

Explaining its rejection of the "Swedish Model," Minister of Justice, Mr Morten Bødskov said: "Recent study shows that a ban on the purchase of commercial sex cannot be expected to lead to a decrease in prostitution or the exploitation of prostitutes, but on the contrary, is likely to have negative consequences for the prostitutes." Read the Danish Ministry's press statement (in Danish) [here](#).

An [earlier poll carried out by a Danish news agency](#) indicated that only 20 percent of the Danish population supported the government's proposal to outlaw the purchase of sex, with 67 percent of the population being opposed.

The Netherlands

News from colleagues in the Netherlands came last month that plans for a new 'prostitution law' seem to have been put 'on hold'. Almost three years ago the Dutch Ministry of Justice began drafting new proposals that would have made registration of sex workers mandatory, planned the criminalisation of clients, an increase in the legal age for sex work to 21 and proposed a licensing system for escorts. The proposals also directly linked sex work with human trafficking. More information on these proposals can be found on the [Mama Cash website](#).

Almost immediately sex workers, sex work activists, lobbyists and allies began organising and lobbying politicians against the proposals. It would seem that this lobbying has been successful.



Sex workers protest against the criminalisation of sex work at the Sex Worker Freedom Festival, Kolkata, July 2012.

Switzerland

Groups including Aspasie have spoken of the continuing lack of labour rights and the needs for safer working conditions in Switzerland, despite the 'legalised' environment for sex workers there.

In relation to creeping criminalisation in Europe, they also warned that Switzerland must not be allowed to be 'contaminated by bad ideas' from neighbouring countries. Read the full article [here](#).

European Women's Lobby

In a further example of creeping criminalisation across the continent of Europe, on December 4th the European Women's Lobby presented proposals to members of the European Parliament (MEP's) advocating criminalising the purchase of sex across the whole of the European Union. Their [press statement](#) cites the Swedish law as a model of good practice and recommends the adoption of such a law across country borders.

Sex workers across Europe raised their voices against the EWL call for a 'prostitution free Europe'. Read more on the [ICRSE website](#).

Kyrgyzstan

The Ministry of Internal Affairs in Kyrgyzstan announced recently that they intend to criminalise sex workers.

The MIA prepared the draft of the law "On amendments to the Administrative Code of the Kyrgyz Republic". The justification for these amendments are that 'prostitution is anti-social, directly linked to the spread of STIs, including HIV as well as spreading drug addiction and alcoholism'. The prospective punishment could be a fine or as much as 30 days in prison.

Tais Plus along with partner organisations and rights defenders are campaigning against this initiative. You can read more on our website [here](#).

Fiji

A senior government official in Fiji recently sparked controversy on the subject of decriminalisation by telling a newspaper that health authorities are calling for changes to the law. The Ministry of Health's acting permanent secretary, Dr Josefa Koroivueta stated to the [Fiji Times](#):

"For many years sex work has been regarded as illegal in the country. We need to address this so that sex workers do not face discrimination." Dr Koroivueta said Fiji was working towards a human rights-based approach and discrimination of sex workers was against human rights.

But the Fijian Government **insisted that no such change is planned**.

Croatia proposals

Croatia's government has proposed fines of around twice the average monthly salary for sex workers and their clients, in legislation that will target the purchasers of sex for the first time. At the moment the law already outlaws 'prostitution', but only sex workers have been prosecuted. Read more as reported in the [International Herald Tribune](#).

Scotland and Northern Ireland

Two countries in the United Kingdom – Scotland and Northern Ireland – have just completed public consultations on proposals to introduce legislation to criminalise the purchase of sex.

In Scotland, Rhoda Grant MSP (Labour) launched a public consultation on her proposal for her private members bill, 'Criminalisation of the Purchase of Sex (Scotland) Bill'. **SCOT-PEP** have been campaigning vigorously against the proposals and there will be updates on their [website](#) relating to the consultation as it progresses.

In Northern Ireland, Lord (Maurice) Morrow MLA (Democratic Unionist Party) ran a consultation on his draft **Human Trafficking & Exploitation (Further Provisions & Support for Victims) Bill** which he has already drafted. His Bill includes a range of measures aimed at tackling trafficking, but most disturbingly also includes the 'introduction of a new offence of paying for the sexual services of a prostitute'.



Justice for sex worker mothers march, May 2012, Kolkata. Courtesy of DMSC.

California, USA

Sex work activists in California fought to prevent the adoption of Proposition #35 (also known as the Californians Against Sexual Exploitation Act) which gives extended powers for law enforcement agencies to raid sex workers' workplaces and interrogate people in the name of finding trafficked victims. NSWP also **condemned** the proposals.

Sadly on November 6, Californians passed Proposition 35 by a huge majority. This proposition fails to recognise the benefits of including sex workers in the fight against forced labour, exploitation and other abuses within commercial sex and it also puts both sex workers and victims of trafficking in a much more vulnerable situation with regards to exploitation, violence and importantly, impedes healthcare provision.

Read more on the story [here](#).

Republic of Ireland

The Irish government has confirmed it is to introduce tough new laws on prostitution in the coming months. Justice Minister Alan Shatter **announced the plans** that will see new legislation drafted as early as possible in 2013.

Canada

Canadian sex worker groups continue to build consensus and mobilise around mounting a Charter challenge. The British Columbia case began in 2007 when a former sex worker launched a Charter challenge to the provisions of the *Criminal Code*, which cover the keeping of a common bawdy-house, living off the avails of prostitution and communicating for the purposes of prostitution in a public place. They are arguing these infringe the constitutional rights of sex workers and make the legal work more dangerous.

Ontario Court of Appeal judges recognised the unconstitutionality of the articles criminalising bawdy houses and living on the avails of prostitution, except in cases of exploitation. However, disappointingly they agreed to maintain the *Criminal Code*

sanctions around communicating in public for the purpose of prostitution – meaning people working on the street are subject to the most repression and human rights abuses.

See link to the Stella press release on the [NSWP website](#).

France

French minister for women's rights Najat Vallaud-Belkacem's plans for the 'elimination of prostitution' and call for measures to be introduced to criminalise clients have drawn

protests from **French sex workers and allies** as well as scorn from **French intellectuals**.

Zimbabwe

This is a video on criminalisation of sex work in Zimbabwe produced by Zimbabwe Lawyers for Human Rights. The video highlights the many negative impacts of criminalisation including, amongst other things, the abuse, extortion and violence sex workers face from police. Watch it on [YouTube](#).



Photographed by Dale.Bangkok



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Sex workers protest against the criminalisation of sex work at the Sex Worker Freedom Festival, Kolkata, July 2012.

Other news stories

Convening on Decriminalisation of Commonwealth Countries

Sex workers and other experts from around the world gathered in Sydney in November to examine the impact of decriminalisation in New South Wales in 1995.

The conference was organised by OSF and hosted alongside **Scarlett Alliance**. “Decriminalisation has delivered successful health outcomes and removed corruption from the sex industry in NSW,” said CEO Janelle Fawkes.

Over 50 delegates from 11 countries converged on Sydney to pick up tips of best practice and expressed dismay at the NSW government's proposal to remove decriminalisation of sex work through a review process.

The Sex Worker Outreach Project (SWOP) Executive Director, Kylie Tattersall, said of the news “It is a great shame that delegates have travelled from 11 countries hoping to learn from the great gains of decriminalisation in the NSW sex

industry, and to have to tell them the government are talking about taking decriminalisation away.”

Read more on the Scarlett Alliance website including the [media release about the conference](#).

Sex Purchase Law in Norway

Anne Johnsen blogs about the sex purchase law in Norway and calls for the law which stigmatises sex workers and their clients to be repealed. Read her blog entry [here](#).

NSWP responds to World Bank report ‘The Global HIV Epidemics Amongst Sex Workers’

While NSWP welcomes and supports the recommendations contained in the recent **World Bank Report**, we very much regret that as a member of the Technical Advisory Group we have not able to endorse this report as it stands. We continue to advocate that further work and analysis is required before the real cost benefits of sex worker-led programming are fully realised.

We strongly believe such a document is needed and could be a

very strong advocacy tool for resource mobilisation, but equally strongly believe that the costings are fundamentally flawed and remain counterproductive and even potentially harmful. Also the report remains silent on the impact of structural barriers created by criminalisation and other legal oppression of sex work and the negative impact legal frameworks have upon community empowerment based HIV programming.

Read the full NSWP response [here](#).

NSWP welcomes WHO guidance

NSWP welcomes the launch the ‘**Prevention and Treatment of HIV and other sexually transmitted infections for sex workers in low- and middle-income countries: Recommendations for a public health approach**’. Read the full story [here](#).

NSWP in particular welcomed the recommendation that all countries should work toward decriminalisation of sex work and elimination of the unjust application of non-criminal laws and regulations against sex workers.

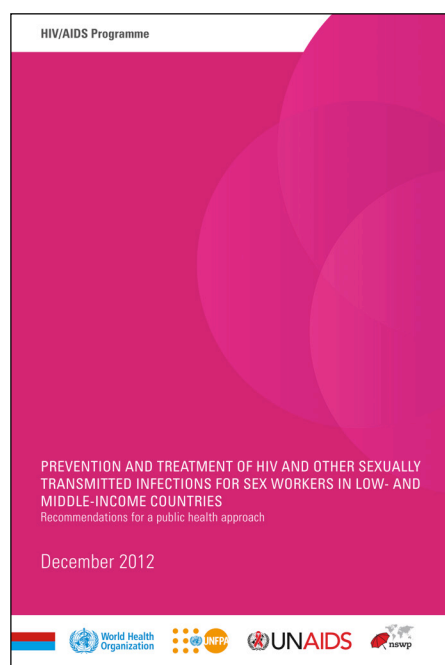
For full information see ‘**Publications**’ below.



ICRSE at European Sex Work, Human Rights, Labour, and Migration Conference Brussels, 2005

Publications

WHO launches 'Prevention and Treatment of HIV and other sexually transmitted infections for sex workers in low- and middle-income countries: Recommendations for a public health approach'



Launched in December, the guidance was developed jointly with WHO, UNFPA, UNAIDS and NSWP who conducted the qualitative survey of sex worker values and preferences relating to the interventions being considered.

The report is designed for use by national public health officials and managers of HIV/AIDS and STI programmes, NGOs and health workers, but will also be of interest to international funding agencies, health policy-makers and advocates. It combines good practice recommendations derived from ethics and human rights principles, with technical evidence-based

recommendations supported by scientific evidence AND the lived experiences of sex workers across the globe.

NSWP particularly welcomed the recommendations that governments should work towards the decriminalisation of sex work and the unjust application of non-criminal laws and regulations against sex workers which exacerbate sex workers vulnerability to HIV and STIs. In addition we welcome the recommendation that HIV prevention and treatment programmes need to include interventions to enhance community empowerment among sex workers that is sex worker-led and the recommendation set out in the document that redefines the ethical use of periodic presumptive treatment (PPT) for sex workers. It emphasises that PPT should only be used as an emergency short term measure under the strictest of conditions and while comprehensive sexual health services are being developed and that PPT must only be offered if its uptake is voluntary, not imposed as part of a coercive or mandatory public health regime.

Download the recommendations in full [here](#).

Sex Work and the Law in Asia and the Pacific

- Criminalisation of sex work increases vulnerability to HIV by fuelling stigma and discrimination, limits access to sexual health services and condoms.
- Removing legal penalties for sex work allows HIV prevention and treatment programmes to reach sex workers and their clients more effectively.
- There is no evidence that decriminalisation has increased sex work.

These are some of the findings in an unprecedented study issued by the UN Development Programme (UNDP), the UN Population Fund (UNFPA) and the Joint United Nations Programme on HIV/AIDS (UNAIDS).

Sex Work and the Law examines 48 countries in Asia and the Pacific to assess laws, legal policies and law enforcement practices that affect the human rights of sex workers and impact on the effectiveness of HIV responses.

Where sex work has been decriminalised, there is a greater chance for safer sex practices through occupational health and safety standards across the industry.

"There is no evidence from countries of Asia and the Pacific that criminalisation of sex work has prevented HIV epidemics among sex workers and their clients," In fact, the report states that "evidence from the jurisdictions in the region that have decriminalised sex work – New Zealand and New South Wales (Australia) – indicates that the approach of defining sex work as legitimate labour empowers sex workers, increases their access to HIV and sexual health services and is associated with very high condom use rates."

"At regional and global levels, countries have pledged to revise and remove laws, policies and practices that block the HIV response. This report will be a vital resource to inform national reviews on such laws and practices to be carried out the next two years towards the ultimate vision of ending AIDS," said Steven J. Kraus, Director, UNAIDS Asia and the Pacific.

