

# Decriminalisation



## The Smart Sex Worker's Guide



**Global Network of Sex Work Projects**  
Promoting Health and Human Rights

## **SEX WORK IS WORK:**

# **Only Rights Can Stop the Wrongs**

**The Global Network of Sex Work Projects (NSWP) exists to uphold the voice of sex workers globally and connect regional networks advocating for the rights of female, male and transgender sex workers. It advocates for rights-based health and social services, freedom from abuse and discrimination and self-determination for sex workers.**

The Global Network of Sex Work Projects uses a methodology that highlights and shares the knowledge, strategies, and experiences of sex workers and sex worker-led organisations. Smart Guides are the result of desk research and a global e-consultation with NSWP member organisations, including case studies from some members.

The term 'sex workers' reflects the immense diversity within the sex worker community including but not limited to: female, male and transgender sex workers; lesbian, gay and bi-sexual sex workers; male sex workers who identify as heterosexual; sex workers living with HIV and other diseases; sex workers who use drugs; young adult sex workers (between the ages of 18 and 29 years old); documented and undocumented migrant sex workers, as well as and displaced persons and refugees; sex workers living in both urban and rural areas; disabled sex workers; and sex workers who have been detained or incarcerated.

NSWP is part of Bridging the Gaps – health and rights for key populations. This unique programme addresses the common challenges faced by sex workers, people who use drugs and lesbian, gay, bisexual and transgender people in terms of human right violations and accessing much needed HIV and health services. Go to [www.hivgaps.org](http://www.hivgaps.org) for more information.

# Contents

<b>Introduction</b> .....	<b>3</b>
<b>Summary of existing sex work legal models</b> .....	<b>6</b>
<b>Criminalisation</b> .....	<b>6</b>
<b>Legalisation</b> .....	<b>7</b>
<b>Depenalisation</b> .....	<b>7</b>
<b>Decriminalisation</b> .....	<b>8</b>
<b>Case Studies</b> .....	<b>9</b>
<b>New South Wales, Australia</b> .....	<b>9</b>
<b>New Zealand</b> .....	<b>13</b>
<b>Northern Territory, Australia</b> .....	<b>19</b>
<b>Key strategies sex workers are using to advocate for decriminalisation</b> .....	<b>22</b>
<b>Recommendations</b> .....	<b>28</b>
<b>Conclusion</b> .....	<b>29</b>



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March at the Sex Worker  
Freedom Festival,  
Kolkata, 2012

# Introduction

**The term decriminalisation has historical and political currency for the sex workers' rights movement. It is the term that most clearly reflects the NSWSP core value: opposition to all forms of criminalisation and other legal oppression of sex work (including sex workers, clients, third parties<sup>1</sup>, families, partners, and friends). International research and evidence demonstrate that decriminalisation creates safer working environments for sex workers, affords them the protection of workers' rights, improves their access to health services, reduces their vulnerability to HIV, violence, stigma and discrimination, and is key to tackling the exploitation that occurs within the sex industry.**

In addition to law reform, decriminalisation involves reforming police practice and law enforcement, since sex workers in many countries face significant levels of discrimination, extortion, corruption, and violence at the hands of the police. Criminalisation means sex workers face criminal records, incarceration, deportation, eviction from housing and even a loss of rights to care for their children. When sex workers can work without fear of being targeted or attacked by the police, then the conditions of their work and their lives can be improved substantially.

New Zealand is the only country to have decriminalised sex work at a national level<sup>2</sup>, although the legislation does not offer migrant sex workers the same legal and social protections as sex workers who are citizens of New Zealand. In terms of sub-national, state-level legislation, New South Wales (NSW) and most recently, the Northern Territory (NT) in Australia have also decriminalised sex work. This Guide provides case studies of all three and their respective legal models.

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1 The term 'third parties' includes managers, brothel keepers, receptionists, maids, drivers, landlords, hotels who rent rooms to sex workers and anyone else who is seen as facilitating sex work.

2 "[Global Mapping of Sex Work Laws](#)," NSWSP.

Since the implementation of the Disorderly Houses Amendment Act in NSW in 1995<sup>3</sup> and the Prostitution Reform Act (PRA) in New Zealand in 2003<sup>4</sup>, many leading international human rights organisations have called for the decriminalisation of sex work, including WHO, UNAIDS, UNFPA, Human Rights Watch and Amnesty International, along with the medical journal *The Lancet*. Sex worker-led organisations, leading academics and activists are mobilising and campaigning for decriminalisation, utilising the positive outcomes of the New Zealand legislation as key evidence.

This Smart Guide draws on the expertise of a number of key informants, sex workers' rights organisations, and sex workers based in New Zealand and Australia, gathered through in-depth interviews and a global e-consultation with NSW member organisations. The guide explains how legislative change has been achieved and details the processes that have been used to develop legislative models that respect and protect sex workers' human and labour rights, improving their working conditions and lives. It outlines the key advocacy actions that were pivotal to achieving progress in law reform, as a tool that sex workers and allies can use to raise awareness and advocate for a rights-affirming approach to sex work.

It aims to provide sex workers' rights organisations with ideas and strategies that they can adapt to their own legal framework and context, to use in their advocacy and campaigning in their own countries. It also highlights the learning and best practices from both New Zealand and Australia, as well as the potential challenges and pitfalls involved in pursuing a decriminalisation advocacy strategy.

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3 New South Wales Parliament, 1995, "[Disorderly Houses Amendment Act.](#)"

4 New Zealand Parliament, 2003, "[Prostitution Reform Act.](#)"



# Summary of existing sex work legal models

**Decriminalisation is a distinct legal model to that of depenalisation, legalisation, and criminalisation<sup>5</sup>. To provide context for the processes used to achieve decriminalisation, this section outlines the main legislative frameworks along with their impact on sex workers' lives and rights.**

## **Criminalisation**

Criminalisation refers to a legislative framework of laws that make sex work, or activities associated with sex work, a crime. The criminal laws are enforced by the police and other law enforcement agencies and result in the arrest, prosecution, and punishment, including imprisonment, of sex workers. Even if the acts of selling or buying sex are not criminalised, often other associated activities are, including soliciting on the streets or in a public place, advertising, sharing premises with other indoor sex workers, other activities associated with buying (e.g. 'kerb crawling'), and brothel-keeping, facilitating or 'profiting' from sex work, which can include sex workers themselves. Convictions can lead to criminal records, which can limit sex workers' access to support services, housing, and employment, along with their rights to migrate, and even see or look after their children.

By having to operate in covert, isolated conditions, sex workers face a higher risk of extortion and violence, compounded by the fact that they often cannot turn to the police when crimes are committed against them, which effectively gives their perpetrators impunity. Under the 'Nordic model', which purports to 'only' criminalise clients or third parties, the criminalisation of the purchase of sex leads to sex workers being subject to increased violence, stigma, exploitation, police repression, and reduced access to justice and services.

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<sup>5</sup> NSW, 2014, "Briefing Paper: Sex Work and the Law: Understanding Legal Frameworks and the Struggle for Sex Work Law Reforms."



## Legalisation

Although legalisation and decriminalisation are often confused, in practice they are very different; decriminalisation refers to the removal or absence of laws that outlaw and oppress sex workers, while legalisation is the introduction of laws that aim to impose state regulation and control sex work and sex workers. Most often, such regulation is unfair and overly restrictive when compared to the regulation of other types of work.

Local or national limitations can be placed on sex workers' working conditions, including hours of work, working locations, the number of workers allowed in each area, mandatory HIV/STI testing, and mandatory registration. Police are most often the enforcers of these laws, resulting in sex workers and sex work businesses facing excessive fines, increased surveillance, raids, prosecution, and criminal sanctions for non-compliance. Legalisation often has the greatest impact on undocumented migrant sex workers since it creates a two-tiered system in which 'illegal' workers must evade the law and accept exploitative working conditions and human rights violations.

## Depenalisation

Depenalisation refers to the end of regulation of sex workers, through administrative offences and public order laws rather than criminal laws. Administrative offences often deal with public order and security offences, some of which are sex work specific, while others are general offences that target sex workers, such as loitering, public indecency or public dress codes. Such offences can be used to oppress sex work businesses and sex workers by restricting their access to certain areas of a city, enforcing compulsory HIV/STI testing or forcing them into rehabilitation.

Public order laws regulate the use of public space, impacting how and where sex workers and sex work businesses can operate. These laws can incorporate mandatory licensing for sex work businesses, including a requirement to publicly display licences including full names. Zoning restrictions can include 'prostitution-free' zones, which limit sex workers to more isolated areas, which negatively impacts their health and safety and increases their risk of violence at work.

Administration offences and public order laws are still enforced by the police, often leading to harsh punishments and disproportionate penalties, including large fines, police detentions and lengthy prison sentences. These offences and laws can be used in combination and in addition to criminal laws, and are often accompanied by loosely worded guidelines that leave sex workers open to unlawful police practices such as extortion or violence.

## Decriminalisation

Decriminalisation removes or repeals all criminal laws that prohibit sex work itself, along with all associated activities. Decriminalisation should also encompass the removal of all legal oppression beyond criminal laws, including laws that disproportionately impact sex workers, such as laws against vagrancy, public nuisance, obscenity, drug use, homosexuality, and crossdressing.

UK parliament protest in 2018

Decriminalisation improves the safety of sex work by reducing work-related violence, including police violence, and by increasing access to justice, support services and health services. Legally recognising sex work as work also reduces the stigma, discrimination and harassment experienced by sex workers, their partners, and families. It also affords sex workers the same rights and social protections as other workers, improving their opportunities and economic empowerment. Under decriminalisation, sex workers no longer fear arrest, imprisonment, deportation, or having a criminal record because of their work.



# Case Studies

## New South Wales, Australia

Amid widespread police corruption and coercion, sex workers started to push for law reform in NSW in the 1970s. They reported being regularly fined and forced to pay bribes to the police, offered to name the offending officers and distributed newsletters across brothels in NSW to engage and mobilise sex work communities. The Australian Prostitutes Collective (APC) ran a government-funded drop-in centre for sex workers, as well as visiting brothels in the state with condoms and occupation-specific advice about the HIV/AIDS epidemic. They consistently called for law reform, as well as a boycott on providing sexual services to MPs until this was achieved.

An internal undercover operation found that police were heavily involved in organised crime, which led to the repeal of prostitution laws in 1979<sup>6</sup>, decriminalising street-based sex work. However, controls were introduced to restrict street sex workers to busy commercial roads where cars had difficulty stopping safely, enabling police to charge sex workers with obstructing traffic. The old Disorderly Houses Act (1751)<sup>7</sup> was revived to close down brothels, which pushed more sex workers onto the street, increasing their vulnerability to police corruption and extortion.

These new state regulations sparked ground-breaking original research by APC, who interviewed 100 sex workers and found that approximately half had been violently assaulted and a third had been raped at work. APC's research was a key contribution to the NSW Select Committee which reviewed sex work laws in the mid-1980s, linking police corruption with brothel protection and identifying the need for organisational reform.<sup>8</sup> APC engaged with state representatives in regular meetings, and discussed sex work law with the NSW Attorney General:

***“Speaking with local state level politicians face to face, they showed the government that we’re not deviant, we’re fairly normal people. They directly challenged deeply entrenched ideas about sex workers – such as being too lazy or stupid to get a ‘real’ job – showing that we’re real, articulate people with goals and passions and ambitions, deserving of human rights.”***

CAMERON COX, SEX WORKERS  
OUTREACH PROJECT (SWOP) NSW

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- 6 Sydney Criminal Lawyers, 2019, [“Decriminalised: The NSW laws governing sex work.”](#)
  - 7 Parliament of Great Britain, 1751, [“Disorderly Houses Act” \(repealed\).](#)
  - 8 New South Wales Parliament, 1999, [“The Regulation of Prostitution: A Review of Recent Developments.”](#)

The Royal Wood Commission investigated corruption in the NSW Police Force and heard evidence that corroborated many sex workers' testimonies from the NSW Inquiry a decade prior. The Commission concluded that the police were inappropriate regulators of the sex industry and identified "a clear nexus between police corruption and the operation of brothels"<sup>9</sup>, and the NSW Attorney General announced sex work law reform to reduce police corruption by permitting well-run brothels to operate. After about twenty years of advocacy, in 1995 the NSW government finally decriminalised brothels<sup>10</sup>, which enabled local councils to regulate sex work venues and made NSW the first jurisdiction in the world to decriminalise sex work.

However, the Brothels Legislation Amendment Act (2007)<sup>11</sup> increased powers for local councils to monitor and shut down brothels<sup>12</sup> and a 2015 government enquiry into brothel regulation<sup>13</sup> proposed a new national licensing system for brothels, to be regulated by the police. With the threat of losing a decriminalised model, sex workers' rights advocates fought to protect existing policy; Touching Base launched a year-long research project with a Sydney University<sup>14</sup> and SWOP NSW amplified sex worker voices in the debate. The final government review rejected a new licensing system, describing decriminalisation as "the best way of protecting sex workers and maintaining a more transparent sex work industry".<sup>15</sup>

A public health study in 2010 compared sex workers' health services across three Australian cities with differing legal models, and concluded that Sydney, NSW, had the best work safety, peer-education and support measures due to decriminalisation and reduced police interventions.<sup>16</sup> Two years later, a report for the NSW Ministry of Health<sup>17</sup> on sex work stated that the NSW sex industry had not increased in size, there were no associated incidents of police corruption, and that sex workers' mental and sexual health was at similar levels to that of the general population.

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- 9 [New South Wales Parliament, 1999, "The Regulation of Prostitution: A Review of Recent Developments."](#)
  - 10 [New South Wales Parliament, 1995, "Disorderly Houses Amendment Act."](#)
  - 11 [New South Wales Parliament, 2007, "The Brothels Legislation Amendment Act 2007 No 29."](#)
  - 12 [SWOP, 2007, "A summary of the Brothels Legislation Amendment Act 2007."](#)
  - 13 [New South Wales Parliament, 2015, "Extract From Votes and Proceedings - Regulation of Brothels Inquiry."](#)
  - 14 [Scarlet Alliance, 2016, "World renowned, best practice model of sex work decriminalisation to remain in NSW."](#)
  - 15 [New South Wales Parliament, 2016, "Government Response to Report 1/56 of the Legislative Assembly Select Committee on the Regulation of Brothels entitled "Inquiry into the Regulation of Brothels."](#)
  - 16 [Australian and New Zealand Journal of Public Health, 2010, "The decriminalisation of prostitution is associated with better coverage of health promotion programs for sex workers."](#)
  - 17 [UNSW, 2012, "The Sex Industry in New South Wales, A Report to the NSW Ministry of Health."](#)



South Australia Parliament House Rally, 2016

NSW currently has the most liberal sex work legislation in Australia<sup>18</sup>: sex workers can now report crimes such as theft or assault at work without the risk of getting arrested themselves and can file a complaint if they are not treated fairly by the police. However, street-based sex workers are still criminalised and severely restricted, and cannot operate within view of a school, church, hospital, or house<sup>19</sup>. Brothels and independent sex workers are highly regulated by local councils, and there are strict limits on the advertising of sex work in all sectors of the industry. The council can find a multitude of ways to reject an application to open a sex work premises:

***“Even if it’s acceptable on planning grounds, they can just write their own zoning laws and gentrify red light districts out of existence. And if a prospective business is even vaguely near a church, they’ll refuse it – local religious groups would go bananas.”***

CAMERON COX, SWOP NSW

18 “Global mapping of sex work laws: New South Wales, Australia,” NSWSP.

19 “Decriminalisation of Sex Work in New South Wales,” NSWSP.

Local council regulations mean that most sex work venues remain unauthorised or illegal; less than 15% of brothels operate with development consent due to strict regulations, a lack of appropriate planning policies, and the fact that legal appeals to the council are prohibitively long-winded and expensive.<sup>20</sup> By operating under the pretence of being a massage parlour, the need for discretion impacts working conditions, such as not keeping condoms on the premises. Independent workers have to apply publicly in order to offer sexual services from home, which is a highly prohibitive process that automatically informs the applicant's neighbours of their services.

Due to repeated challenges from the 'Nordic model' lobby, sex workers' rights activists have to keep fighting just to maintain these laws, let alone improve them.

Adel, a 27-year-old transgender BDSM provider in NSW says that her work is not particularly stigmatised:

***"In my everyday interactions with non-workers, I don't keep it a secret from most people".***

When starting out, Adel benefited from the structure of sex work premises:

***"When I was younger, I was grateful for the house I was in, and the management I had; it gave me a lot of agency in refusing and stopping bookings."***

Martina, a 33-year-old female escort, also feels secure in her workplace:

***"Incoming clients are on video, their ID is checked. I see them from the camera and decide whether to go in, and if I do and still feel uncomfortable then I can refuse them. If I go ahead, I get the whole fee upfront, they shower first, then I check them for signs of STIs. During the booking if he doesn't respect me or my boundaries then I can kick him out and keep the money. Protection is 100% compulsory; it's illegal to work without it."***

Both workers access affordable, occupation specific health services, including free safe sex supplies and free psychological counselling for sex workers. But Yvan, 48, a male BDSM provider lacks legal protection when working from home:

***"Two people working from the same private premises, while safer, are still breaking the law."***

And despite the government's many measures to address police corruption, Adel does not trust the police:

***"Never forget the raids and arrests recounted to me by other workers, and how one girl was always put on the 'pig shift' to blow the cops that came by to threaten the brothel each night. My own experiences of police harassment and sexual interest have been negative."***

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20 "Decriminalisation Since 1995," Scarlet Alliance.

## New Zealand

The Massage Parlours Act (1978)<sup>21</sup> regulated venue-based sex work in New Zealand, including brothels under the guise of being ‘massage centres’. The Act defined massage centres as public spaces, and as such the police could use the laws against soliciting in public to raid sex workers’ workplaces and criminalise them along with the venue’s owners and operators. A nurse describes her role at the NZPC sex worker health clinic: “It was terrible – sex workers were treated like criminals. One of the reasons I did this job was because it was a human rights issue; we needed to look after these women.”

Workers were regularly entrapped by undercover police, with condoms seized as evidence and sex workers’ names filed and recorded on a police register, which could lead to criminal convictions. Georgina Beyer, a former Labour MP and former sex worker, states that workers were regularly abused and victimised while clients could act with impunity due to a complete failure of institutional authorities: “The police should have been thrown in jail for what they did, and police patriarchy and misogyny is only recently, finally being challenged.”

New Zealand sex workers began organising in the 1980s and formed the Aotearoa New Zealand Sex Workers’ Collective (NZPC), which became a government-funded organisation in 1988. New Zealand had recently decriminalised gay sex in 1986<sup>22</sup>, and set up the world’s first needle exchange programme in 1989, which significantly reduced levels of HIV infection among people who use drugs<sup>23</sup>. Dame Catherine Healy, a sex worker and NZPC national co-ordinator who co-founded the Collective and spearheaded the campaign, addresses the importance of political context: “We were among the AIDS community, and public health was open to talking about sex work, and wanted us to be organising to combat HIV.”

Healy identified a need to collaborate as part of the women’s movement, and NZPC formed a working group with mainstream women’s organisations and liberal feminist groups including the National Council of Women of NZ and the National Collective of Independent Women’s Refuges, and began preparing a reform Bill for decriminalisation. The group focused on community-building, working together, and drafting a Bill with the help of a law professor. As they established their networks and lobby base, they attended meetings in Parliament to build confidence with politicians and normalise sex workers’ presence in political spaces.

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21 New Zealand Parliament, 1978, “[The Massage Parlours Act \(1978 No 13\)](#).”

22 New Zealand Parliament, 1986, “[Homosexual Law Reform Act 1986](#).”

23 New Zealand Government, 2002, “[Needle and syringe exchange programme saves lives](#).”

A feminist advocate who was involved in the drafting of the Bill advised on presenting sex work as a decent, everyday occupation that regularly occurs between consenting adults – to keep the Bill politically realistic and more likely to succeed:

***“One of our concerns was teens entering the industry, especially young homeless LGBT workers with this as their only income. We wanted to encompass and protect them in the Bill – but my advice was to not do that, which sounds awful – but it was just too big a stretch for the wider electorate to accept. After a Bill is passed and up for review, you can then decide if you want to broaden its application.”***

The working group researched political parties to find the most suitable politician to promote the Bill, and Tim Barnett was a natural fit; an openly gay politician and sex work ally who was already familiar with the local Christchurch Prostitutes’ Collective and the need for law reform. Barnett, a former MP and former general secretary of the Labour Party, became involved with the PRA at Catherine Healy’s request shortly after he gained his first parliamentary seat in 1996. Helen Clark then became Prime Minister, having been Health Minister while radical programmes for needle exchange and HIV/AIDS were implemented.

Clark gave Barnett the political space to pioneer this legislation, which he approached from a policy perspective:

***“In her heart she felt that sex work was damaging and that if you can avoid it happening, you should. But in her head, she knew we needed to consider the reality of the situation and improve safety.”***

TIM BARNETT, FORMER LABOUR MP

A member’s Bill was drawn from a ballot, and Barnett’s number was selected, which gave him permission to get the Bill drafted through the Parliamentary Council Office. Barnett took the draft Bill to his party for backing as a conscience vote, then he brought the Bill to Parliament and it passed on first reading. Over the next two years, the Committee heard 222 submissions, including supportive entries from the New Zealand Federation of Business and Professional Women and the Young Women’s Christian Association. NZPC targeted specific groups first for initial public support, even if the affiliation seemed unconventional, to encourage other allegiances to follow. A trade union representing carers lobbied on the issue of sex and disability:

***“They described how disability limits access to intimacy, it was very influential. Carers were forced to break the law by ‘procuring’ sexual services, when simply helping a patient fulfil their wants or needs.”***

TIM BARNETT





Sixteen oppositional submissions supported the 'Nordic model', but the Committee reported in favour of decriminalisation and passed the Bill on a second reading in 2002. The Bill triggered intense opposition from evangelical Christians but did have public support from the Family Planning Association, the public health sector, and the LGBT community.

Framing the Bill appropriately was essential; the working group used simple, clear messages such as "sex work is work" and presented decriminalisation as a women's issue, and a step towards gender equality. NZPC discussed women's relationships to the state and broached the question of whether women should be protected or penalised by the state. They explained that decriminalisation prevented the work from being driven underground and enabled sex workers to obtain help when needed. The group also presented decriminalisation as a labour issue, with examples of how law reform would make their work less precarious, and as a health issue via HIV prevention. The cost of policing was also raised, since criminalisation diverted police resources that could be used elsewhere.

An array of powerful, clear, and relatable sex worker voices was essential in successfully lobbying the Select Committee:

***"Sharing the reality of their jobs in a way that's human, personal, humorous, impactful and poignant. The Committee had assumed it was physically exhausting work – but soon realised that it's often more like sitting on the edges of beds talking to men about their problems. We took a member of the Committee and her daughter to see a dominatrix and her BDSM studio – they admitted it was very hard to condemn!"***

TIM BARNETT

The working group received media training so that they were fully prepared for interviews, and despite often fielding basic or trite questioning, their strategy was to respond promptly and frequently. Having a diversity of sex worker voices was crucial, from an untrained visceral response to a poised, articulate speaker to present in different settings, as necessary. Journalists often pressured workers to reveal uncomfortable or salacious personal details including their sex work status, so preparation was key:

***"There's times I'd been hauled out of a booking, running out of a hotel, chatting with the media. Some came out, others didn't. It's fine to just speak about the issues, and neither confirm nor deny. Sometimes I could see audiences visibly bristle but we'd find ways to keep them on side, with a hook to keep them interested."***

CATHERINE HEALY, NZPC

The group found politicians to be the greatest challenge, as they were advocating for the community while simultaneously building their own careers. For a functional collaboration, both sides needed to understand each other's processes and the political environment that they were working in:

***“We needed them, and they needed us – like a hole in the head. We had to remind them of our different ways of working, to keep them under control. Tim and I fought like crazy all the way through. I wish I’d bullied politicians more. There was a bit of respect there, for their position – but f\*\*\* that.”***

CATHERINE HEALY, NZPC

Georgina Beyer was elected in 1999 and was the world's first openly transgender MP. She considers it imperative that sex workers have strong, authentic advocates with whom they can resonate and feel represented by in political spaces. During one of her Parliamentary speeches she outed herself as a former sex worker to demonstrate her expertise and insight:

***“I’m passionate about protections for sex workers, having seen terrible exploitation and coercion by club owners, with drugs involved. My colleagues turned their noses up at the topic, and swept it under the carpet while unnecessary, unjust and unfair victimisation was going on. I spoke from the heart, while other MPs were whipped into party lines.”***

GEORGINA BEYER, FORMER LABOUR MP

At the third and final reading the PRA passed by just one vote: 60 votes to 59, with one abstention. Although the Muslim faith typically prohibits sex work, MP Ashraf Choudhary abstained<sup>24</sup>, which enabled the vote to swing in favour of decriminalisation. The PRA decriminalised sex work in 2003 and removed all laws that had criminalised the purchase, sale and organising of sexual services. Since the passing of the Act, sex workers have had previous related convictions removed, and NZPC have consulted with the government to produce a set of workplace health and safety rules, including an obligation for employers to promote safe sexual practices.

Law reform immediately boosted labour rights; New Zealand sex workers can report bad managers and unsafe working conditions, along with exercising the right to refuse or report an unsafe client. No longer concerned with having to evade the law, sex workers can operate in safer environments where it's easier to enforce boundaries, and with the option to work alongside colleagues, which increases security along with opportunities to form friendships, networks and unions. Sex workers can be self-employed and operate independently without obligation to pay a third party or work at an establishment such as a strip-club or brothel.

24 [“MP: Why I didn't vote on sex bill,”](#) New Zealand Herald.

However, the PRA prohibits people with temporary visas from engaging in sex work, which directly impacts migrant sex workers in NZ. As ‘illegal’ workers they face the risk of deportation and have to remain largely underground, with increased risk of violence, coercion and exploitation, and no access to justice.<sup>25</sup> NZPC and the Human Rights Commission are lobbying to amend the Act, having interviewed migrant NZ-based workers and presented evidence of their increased vulnerabilities at work.

Nevertheless, decriminalisation has drastically improved the safety and wellbeing of most sex workers,<sup>26</sup> with an improvement in the rights of sex workers across all sectors of the industry.<sup>27</sup> International research has highlighted that “despite intensive investigations by Immigration New Zealand, no cases of trafficking in the sex industry have been identified to date”<sup>28</sup>. A 2008 report<sup>29</sup> by the Prostitution Law Review Committee found that sex workers are more willing to report crime, the sex industry has not increased in size, and the health and safety of the majority of sex workers has improved due to the PRA. A review<sup>30</sup> from the Department of Public Health found that 90 percent of sex workers reported better employment, legal and occupational health and safety rights, 64 percent found it easier to refuse clients and 57 percent noticed an improvement in police attitudes.

In 2014, a sex worker pursued a brothel operator for sexual harassment through the Human Rights Tribunal, and she won the case and was awarded NZ\$25,000 for emotional damages.<sup>31</sup>

Dixie, 19, a gender non-conforming stripper, escort and BDSM provider feels fully supported by the legal protections that are in place for sex workers:

***“I have a contract that states I’m allowed to choose what bookings I do, that I can walk out any time, that I can choose my services and I get the final say every time. When the woman who ran my old agency tried to pressure me into offering unprotected sex, I asked NZPC for help and was given the option of taking her to court for damages.”***

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25 Women’s Studies Journal, 2017, “Decriminalisation and the rights of migrant sex workers in Aotearoa/New Zealand: Making a case for change.”

26 “Global mapping of sex work laws: New Zealand (Aotearoa),” NSWP.

27 Criminology & Criminal Justice, 2014, “A decade of decriminalization: Sex work ‘down under’ but not underground.”

28 GAATW, 2018 “Sex Workers Organising for Change: Self-representation, community mobilisation, and working condition.”

29 New Zealand Government, 2008, “Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003.”

30 University of Otago, 2007, “The impact of the Prostitution Reform Act on the health and safety practices of sex workers.”

31 NZLII, 2014, “Human Rights Review Tribunal [2014] NZHRRT 6.”

## Northern Territory, Australia

The first Northern Territory (NT) sex workers-only organisation, Panther, was formed in the 1980s and called to repeal the laws that created highly restrictive working conditions and criminalised so many aspects of their work. Panther was housed within a union's NT offices, unions assisted in paying the rent so that sex workers could organise, and consequently sex work activism has a longstanding allegiance with the territory's unions.

Until very recently, the Northern Territory was covered by the Prostitution Regulation Act (NT) (1992)<sup>32</sup>, and it was the most discriminatory jurisdiction in Australia for sex workers due to the strictly enforced police registration system. Escort agencies had to be licensed and were subject to rigorous police surveillance, and sex workers working with an agency had to be listed on a lifelong police register. Anyone with drug offence charges in the previous ten years was banned from registration, which was likely to have severely limited their income as a sex worker and further increased their vulnerabilities and marginalisation.

Brothels, massage parlours and other sex work venues were illegal, yet it was also illegal to work from home or on the street. Workers were only allowed to provide sexual services in a hotel room or client's home, and they could not provide services in the same location where they organised their bookings. Sex workers were not allowed to work together, whether with one colleague, a small group, or a co-operative, and they could not hire support staff such as drivers, security or booking assistants. These policies made the work more dangerous and more isolating, and therefore harder for workers to meet, organise or campaign for legal reform. As part of the 1992 Act, the Escort Agency Licensing Board was set up with the power to grant, renew and cancel agency licences. A year later the Board recommended further reform to legalise brothels, but the government considered it too controversial and rejected the proposal. The Attorney-General's department conducted reviews in 1996 and 1998, with a report on the regulation of escort agents and sex workers in 1999, which eventually led to the repeal of the Brothels Act (1907) in 2004, to allow escort agencies to run without regulations. However, brothels and street-based work remained illegal.

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32 Northern Territory Government, 1992, "Prostitution Regulation Act (NT) (1992)."

Sex Worker Outreach Program (SWOP NT) continued to organise with sex workers, call for law reform and protest that NT was the only part of Australia that required registration with the police. Leanne Melling, an outreach worker and coordinator for SWOP NT, states that a unified message was fundamental from the outset when formulating a decriminalisation strategy:

***“We ensured that past and current sex workers could be unified in response. We needed to ensure that everyone was on board and if people weren’t, or didn’t agree with something or felt other workers were being thrown under the bus, then we discussed it.”***

LEANNE MELLING, SWOP NT

Sex workers are the experts in their lives and the reforms that will protect their rights, and can therefore position themselves as the key policymakers, especially when equipped with the appropriate facts and evidence:

***“We said ‘Look, we’re the workforce, we know the industry, we know the issues that we’re up against’, and we provided evidence and case studies consistently, everywhere from community stalls to formal meetings.”***

LEANNE MELLING, SWOP NT

By presenting themselves as the leaders in facilitating law reform with a clear and unified message, sex worker advocates were in a stronger position to form alliances. SWOP NT utilised their membership with the national group Scarlet Alliance for technical support in 2013 and 2014 and forged a united force with Scarlet Alliance to support their decriminalisation campaign. SWOP NT also gave clear guidance to others advocating for their rights, which meant that they could operate as part of the very strong trade union movement and successfully lobby the NT Labour Party.

Sex workers’ rights advocates approached decriminalisation as a labour rights issue and aligned with trade unions accordingly. Unions offered platforms for sex workers to speak at events including International Women’s Day and showed their solidarity by publicly supporting decriminalisation campaigns. The campaign gained support from Labour Women and Union Women, and the Australian Services Union, partly because many sex workers and sex worker organisations were union members already.

NT governments had consistently rejected calls for law reform, until the Australian Labor Party was elected in 2016. By approaching a party which was already pro-workers' rights, sex workers were well positioned to push for health and safety and other industrial protections, and for a charter of human rights. For the next two years, sex workers arranged, with the main supportive unions, to appear as delegates at conferences and speak to the motion; they gained unanimous support by the NT Labour Conference while all party ministers approved the motion.

In early 2019, the government issued a discussion paper<sup>33</sup> with a consultation period, with sex workers speaking at formal levels through submission processes for legislative reform, and at Economic Policy Scrutiny Committees. The legislation was prepared and introduced in late 2019 as the Sex Industry Bill<sup>34</sup>, and the Bill was considered and passed by the Legislative Assembly, which finally decriminalised sex work<sup>35</sup> after about twenty years of advocacy.

The Bill aims to decriminalise sex work including brothel-based, street-based and indoor sex work, and legalise sex work contracts to enhance sex worker, client and public health and safety. The Bill repeals the PRA (1992) and its associated penalties, enables sex workers to work together and gives them access to workplace protections and labour rights equivalent to those of other workers in the state.<sup>36</sup> The Bill recognises sex work as an occupation, and supports access to justice so that sex workers can report a crime without fear of being arrested.

At least a quarter of the NT population identify as Indigenous Australians (Aboriginal Australians and Torres Strait Islanders)<sup>37</sup> and are likely to represent a considerable proportion of the regional sex worker community. NT sex worker and advocate Desirae August explains that the Bill is designed to specifically include Aboriginal members who may not identify as sex workers:

***“Aboriginal sex workers deserve access the same protections as other workers, regardless of how we work and how we identify. This Bill provides important changes to the NT sex work laws that will be beneficial to all sex workers, including Aboriginal workers.”***<sup>38</sup>

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33 Northern Territory Government, 2019, “Reforming the Regulation of the Sex Industry in the Northern Territory.”

34 Northern Territory Government, 2019, “Sex Industry Bill 2019.”

35 “Global Mapping of sex work laws: Northern Territory, Australia,” NSWSP.

36 “Bill to decriminalise sex work introduced in Australia’s Northern Territory,” NSWSP.

37 “2016 Census: Aboriginal and/or Torres Strait Islander Peoples QuickStats,” Australian Bureau of Statistics.

38 “Sex Workers Celebrate the Passing of the Bill to Decriminalise Sex Work in the NT,” Scarlet Alliance.

# Key strategies sex workers are using to advocate for decriminalisation

**NSWP conducted a global e-consultation within its membership to gather information on how decriminalisation would improve the lives and protect the rights of sex workers in their country or region, the barriers to decriminalisation, the evidence needed to influence policy-makers, and the techniques they are using to advocate for law reform. Sex worker-led organisations are already using the successes of the decriminalised models in New Zealand and Australia in their advocacy to lobby for change in their own countries, as shown in some examples from our survey.**

In Zimbabwe, Pow Wow state that criminalisation directly impacts the safety of sex workers: “They are vulnerable to stigma and discrimination which leads to violence, and poor working conditions which put their lives at risk.”

Sex work is legalised in Austria, which links to structural repression of sex workers:

***“Legalisation doesn’t give us equality – in fact we have no labour rights! This framework requires us to pay taxes with no benefits in return. If a sex worker loses their job, they can’t access any state benefits or programmes for unemployed people... during the Covid-19 crisis sex workers weren’t eligible for any emergency state funds.”***

RED EDITION, AUSTRIA

Despite its many limitations, Berufsverband erotische und sexuelle Dienstleistungen (BesD) in Germany describe the legalisation of brothels and other sex work venues as a positive starting point:

***“It has helped to normalise sex work, which no longer operates completely underground. As the public sees brothels operate just like any other business, public opinion can slowly become tolerant of sex work venues, and positively influence how policymakers talk about sex work.”***

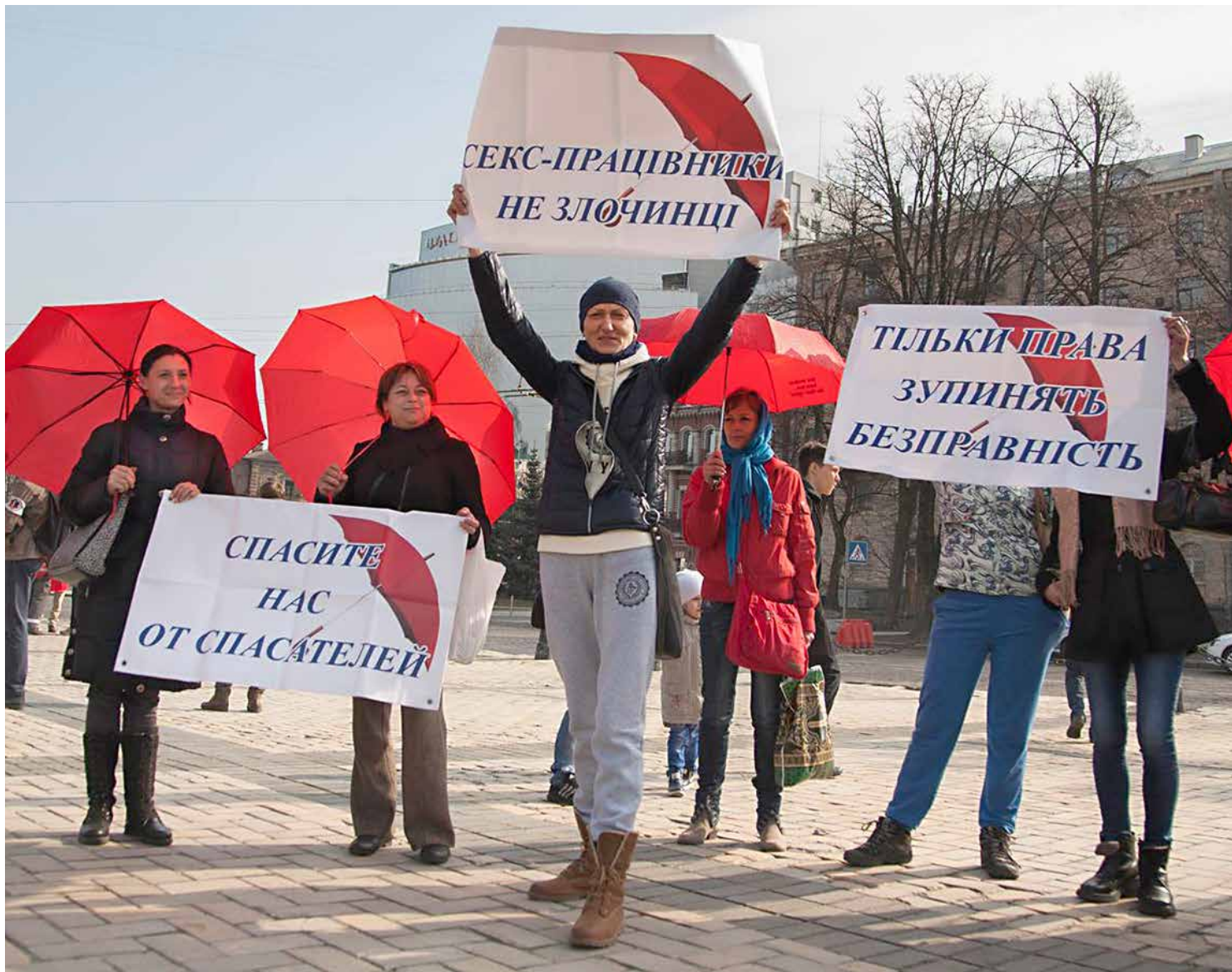
BESD, GERMANY

Most organisations identify similar barriers and obstacles to achieving a decriminalised model, including religious and fundamental feminism, and the conflation of sex work with human trafficking:

***“The inherent hypocrisy of Catholic Apostolic and Roman societies, where everyone consumes sexual services, but apparently no one does... white feminism that occupies all the spaces of power...[and] a discourse of trafficking and illegal immigration, which restricts movement and over-monitors sex workers.”***

ASOCIACIÓN DE PROFESIONALES DEL SEXO (APROSEX), SPAIN





Cultural, moral and religious factors combine to increase sex workers' social stigma and discrimination; Organización de Trabajadoras del Sexo (OTS), El Salvador describe being seen as criminals by authorities and as diseased by society. Governments and politicians are unlikely to challenge this prevailing narrative; Red Edition explains that in Austria, politicians raising such topics risk losing voters.

Association Tilé Coura (ATC) in Mali pinpoint religious organisations as their main obstacle, as they have the most political power and are currently blocking all sex education. ATC are conducting sex work awareness-raising campaigns and events to target administrative and religious authorities.

#### PLAPERTS International Meeting 2014



PITARP state that in Kenya, decriminalisation would “enable sex workers [to] know their rights and fight for justice.” Uganda Network for Sex Worker-Led Organisations (UNESO) consider decriminalisation to be achievable in Uganda through learning from the achievements of other advocates: “We can learn and adopt the strategies used by New Zealand in the fight for decriminalisation, because we all have similar barriers to freedom.”

CO Legalife-Ukraine actively use the positive experience of countries with decriminalisation in their advocacy, since most policy makers in Ukraine are not familiar with the decriminalised model.

In the Republic of North Macedonia, STAR-STAR compiled a comparative analysis of the different global sex work regulatory frameworks and found the New Zealand approach to be the most favourable. During the elections in July 2020, eight political parties signed a declaration to decriminalise sex work in Republic of North Macedonia, including the two leading parties.

OTS regularly meet with representatives from the Ministry of Labour and municipal authorities in El Salvador in a form of collaborative governance to address sex workers’ needs, since sex work is recognised as a form of labour. APROSEX in Spain have formed a sex workers’ union to build community and support networks and raise awareness of the potential for legislative change. SWOP in the USA pursues an advocacy agenda that includes leading a working group, collaborating with other national decriminalisation efforts, creating a decriminalisation response toolkit and continuing to research the failures of criminalisation.

Pow Wow identify health as their entry point to campaigning for decriminalisation in Zimbabwe: “As sex workers we are part of the key populations and can contribute to ending AIDS – if sex workers are free to work.” As they continue to work towards achieving decriminalisation, many sex worker-led organisations also look at how international human rights law and treaties could be used in their activism as a means of recognising sex workers’ fundamental human rights<sup>39</sup>.

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39 NSWP, 2018, “Smart Guide: Rights-Affirming International Policies Relating to Sex Work.”

To lobby for decriminalisation, many organisations such as COVIE, Côte d'Ivoire and Pow Wow, Zimbabwe suggest presenting key evidence, including statistics around violence and crimes against sex workers, and highlighting sex workers' lived experiences, stigma, and social exclusion. UNESO, Uganda propose:

***“Conducting meetings with key stakeholders, advocacy training among sex workers, human rights awareness meetings, training in human rights and laws that affect sex workers and developing advocacy coalitions and petitioning unfavourable sex work laws and policies.”***

Despite overwhelming support for decriminalisation, many advocates warn that the existing New Zealand and Australian models cannot easily be replicated in other jurisdictions. OTS in El Salvador adopt a separate system: “We have our own model, given the multiplicity of ways of providing sexual services,” as do workers in Cameroon:

***“We are working in the fight against HIV/AIDS which is the only cover sufficient to intervene with sex workers. This struggle, which is now highly political, is concerned with issues of mental health, human rights and sexual and reproductive health.”***

AVENIR JEUNE DE L'OUEST (AJO), CAMEROON

As noted earlier, the decriminalisation legislation in New Zealand prohibits migrants from conducting sex work, a concern that continues to be the subject of advocacy in New Zealand itself, and a key issue for NSWP member organisations globally in their campaigning:

***“This is an impractical imposition in Germany, where the majority of sex workers are immigrants. It is doubtful whether such a restriction could be implemented and enforced under EU law, since it could only apply to non-EU immigrants.”***

BESD, GERMANY

Several respondents to the survey identify the need for more independent research comparing the negative impacts of criminalisation to the benefits of decriminalisation, as a weapon in the fight against the misinformation used by the 'Nordic model' lobby.

UK parliament  
protest in 2018



# Recommendations

- **Develop cohesive, unified messages** – support diversity within working groups to empower communities and develop unified strategies and messages
- **Consider the context** – factor the political environment into drafting and campaigning, with carefully framed sex work issues that are politically relevant and realistic
- **Frame carefully** – consider approaches to remove the controversy associated with sex work, such as presenting decriminalisation as a health or labour rights issue
- **Fully utilise research** – prepare selections of effective, easily accessible evidence to strengthen campaigning
- **Conduct original research** – document human rights violations as evidence to contribute to committees, debates, and inquiries
- **Be visible and outspoken** – visit political spaces to normalise sex workers’ presence and ensure the inclusion of diverse sex worker voices
- **Promote sex worker expertise** – take leadership roles in sex work law reform and request platforms to present sex workers as key stakeholders
- **Build connections and networks** – develop unions, join unions, form working groups, and request support and affiliation from adjacent human rights groups, civil rights movements, and sympathetic political parties
- **Be media savvy** – obtain media or public speaking training and select speakers and stories to best suit each media outlet
- **Know the enemy** – anticipate pushback and prepare counter arguments for likely challenges from religious groups, the ‘Nordic model’ lobby and others
- **Persevere** – it can take years if not decades to achieve legislative reform, but the tireless achievements of advocates across Australasia prove the possibility of positive change.

# Conclusion

**Being able to safely earn a living is a fundamental human right, and decriminalisation is the best way to achieve this for sex workers. Sex workers deserve the same rights as all workers, including protection from workplace exploitation, violence, and police corruption, and the right to report workplace-related crime and access justice.**

Since the 1970s, sex workers have been organising across Australasia to demand sex work law reform. Pioneering sex workers' rights activists shattered the silence that had previously surrounded local prostitution laws and spoke out publicly about their working lives and how they were negatively affected by sex work laws.

A 2019 study<sup>40</sup> recognises the achievements of sex workers' rights activists in the decriminalisation of sex work in NSW, and their integral role in law reform through producing and submitting their own ground-breaking research. It states that sex workers' voices are essential to any process of law reform, and that sex workers were the key contributors to radical policy and law transformation. After decades of disputing sex work legalisation, Cameron Cox from SWOP NSW advises to "try to get it right first time with decriminalisation – it will save a lot of struggles further down the line."

The PRA passed in NZ almost twenty years ago and evidence of the significant improvements to NZ-based sex workers' lives and rights continues to grow. Many books and studies have been published about the process of decriminalisation in NZ, featuring first-hand accounts of the many positive impacts that the PRA has had on sex workers' rights and lives. While the current sex work regulatory frameworks in NZ and NSW are not perfect, advocates are working hard to review the legislation in order to boost the rights of all sex workers, alongside protecting the existing decriminalised elements of the law.

The cumulative achievements in NZ and NSW have laid the essential groundwork for NT to develop a broader, more inclusive decriminalisation policy from the outset. Sex workers' rights activists are taking the lead as experts when engaging with the government, politicians, unions, and other stakeholders across the health and justice sectors, which should set the precedent for advocates in other regions and countries to follow in their footsteps:

***"We hope that these critical reforms will demonstrate the importance of best practice partnerships between sex workers and government, and lead to similar campaigns for the decriminalisation of sex work in other states."***<sup>41</sup>

JULES KIM, SCARLET ALLIANCE

<sup>40</sup> The International Journal for Crime, Justice and Social Democracy, 2019, "How sex worker activism influenced the decriminalisation of sex work in NSW, Australia."

<sup>41</sup> "Sex Workers Celebrate the Passing of the Bill to Decriminalise Sex Work in the NT," Scarlet Alliance.



**nswp**

**Global Network of Sex Work Projects**  
Promoting Health and Human Rights

## **SOLIDARITY IN ACTION**

**Even before the HIV epidemic, sex workers were organising themselves. NSWP, as a global network of sex worker-led organisations, has strong regional and national networks across five regions: Africa; Asia-Pacific; Europe (including Eastern Europe and Central Asia); Latin America; and North America and the Caribbean.**

NSWP has a global Secretariat in Scotland, UK, with staff to carry out a programme of advocacy, capacity building and communications. Its members are local, national or regional sex worker-led organisations and networks committed to amplifying the voices of sex workers.



**nswp**

**Global Network of Sex Work Projects**  
Promoting Health and Human Rights

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