



nswp

Global Network of Sex Work Projects  
Promoting Health and Human Rights

COMMUNITY  
guide

# The Decriminalisation of Third Parties





## Introduction

The global sex workers' rights movement calls for the full decriminalisation of adult sex work, including the decriminalisation of third parties. NSWP uses the term 'third parties' because it recognises the diversity of relationships that exist between sex workers and others in the organisation and facilitation of sex work. The term 'third party' can include a range of individuals, including but not limited to, managers, brothel keepers, receptionists, maids, drivers, landlords, hotels who rent rooms to sex workers, and anyone else who is seen as facilitating sex work.

The call to decriminalise third parties is based on the belief, supported by evidence, that the continuing criminalisation of third parties has a direct and harmful impact on sex workers themselves. Decriminalising third parties will help sex workers organise to root-out exploitation, oppression, and violence (from both state and non-state actors), and to address unfair or abusive working conditions.

## The criminalisation of third parties harms sex workers in many ways:

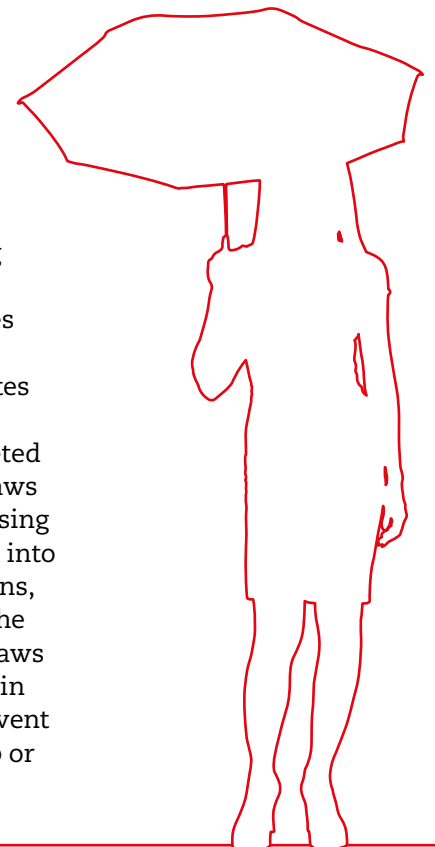
### Laws against third parties obstruct HIV prevention in contravention of the International Labour Organization's (ILO) Recommendation 200

ILO Recommendation 200 makes it clear that sex workers deserve workplace protection against HIV, including access to condoms and other safe sex equipment. The criminalisation of third parties, however, means that managers of sex work venues must hide the fact that sex is being sold. One of the most widely reported ways of avoiding police attention is by not making condoms and safe sex supplies available on the premises. The criminalisation of third parties, therefore, prevents an effective response to HIV and increases sex workers' vulnerability to HIV transmission.

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### Laws against third parties force sex workers into more dangerous and harmful working conditions

Working indoors has been shown in many research studies to provide a safer working environment for sex workers, but the criminalisation of third parties is frequently used to shut down brothels and other venues. Websites that sex workers use to advertise their services are now being targeted and closed by authorities, using laws that criminalise third parties. Closing these websites forces sex workers into more dangerous working conditions, including onto the street, where the risk of violence is much greater. Laws against third parties are so broad in many countries that they can prevent sex workers hiring anyone to help or assist them with security.





### **Laws against third parties are used by authorities to prosecute and harass sex workers directly**

In many countries, sex workers are prosecuted directly using third party laws. For example, In Malawi the police have used third party laws against 'living on the earnings of prostitution' to justify arresting sex workers. In many countries around the world, sex workers are arrested for brothel-keeping when they work collectively for safety, even if this is with only one other sex worker.

### **Laws against third parties are used to prosecute friends and family members of sex workers**

Friends and family members of sex workers can also be prosecuted as third parties. In 2014 in the US, a woman was convicted of 'promoting prostitution' and labelled a sex offender after she drove her friend, a sex worker, to work.

A number of third party laws around the world state that men 'who live with or are habitually in the company of' sex workers are deemed to be 'living on the earnings of prostitution', a criminal offence. This effectively criminalises any male partner of a sex worker and sends a dangerous message that sex workers' relationships are exploitative by default.

### **Laws against third parties are used by authorities to harass sex workers and limit their access to housing and services**

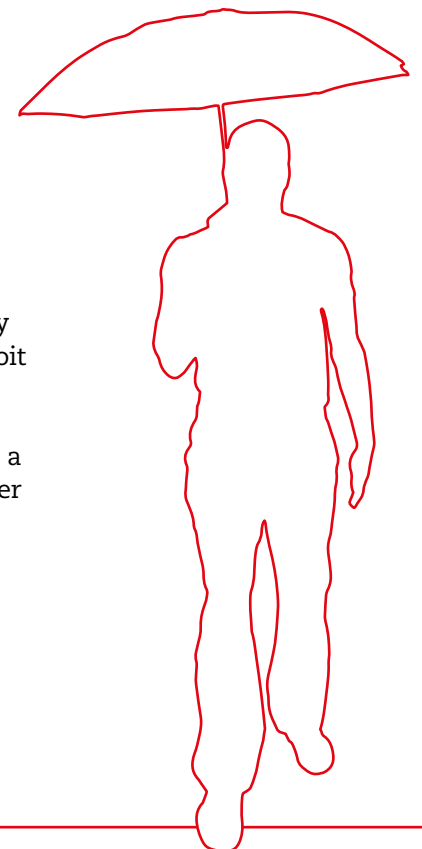
In some Nordic countries where clients are criminalised and sex workers are supposedly decriminalised, such as Sweden and Norway, the authorities are known to use third party laws to harass sex workers. One common occurrence is the forced eviction of sex workers by threatening their landlords with prosecution under third party laws. Sex workers are not only made homeless, but often lose deposits they have put down on apartments. These kinds of operations also make sex workers distrust the authorities and prevent them reporting violence to the police for fear of eviction.

### **Third party relationships under decriminalisation**

While third parties in the sex industry remain criminalised, sex workers will continue to experience barriers to enjoying their legal rights. In contexts where third parties have been decriminalised, there is evidence to show that sex workers are empowered in their interactions with third parties and have access to legal rights to challenge bad practice.

In New Zealand, sex workers have employment and human rights protections and are able to take their managers to court if they withhold wages or financially exploit them in other ways. Sex workers also have wider protections from discrimination and harassment. In a famous case from 2014, a sex worker won a case of sexual harassment taken against the manager of a brothel and received NZ\$25,000 in compensation.

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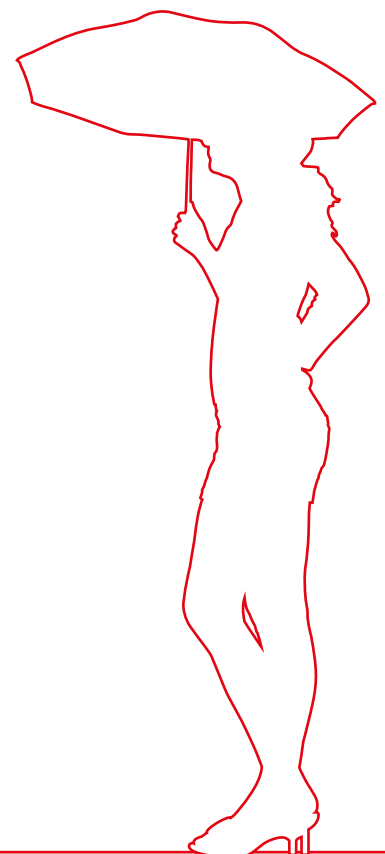


## Conclusion and Recommendations

There is a growing international consensus that the best way to protect the human rights of sex workers is to decriminalise sex work, including third party involvement. As a result of the harm caused to sex workers by the criminalisation of third parties, NSWP makes the following recommendations:

- 1** NSWP calls on all national governments to repeal laws criminalising consensual third party involvement in sex work, including laws against brothel-keeping, procuring and 'living on the earnings of prostitution'.
- 2** NSWP calls for the organisation and management of sex work to be regulated according to existing labour laws and business regulations.

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This Community Guide is the result of desk research and gathering case studies from NSWP members.

Community Guides aim to provide simple summaries of NSWP's resources, further detail and references can be found in the accompanying Policy Brief.



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NSWP is part of Bridging the Gaps – health and rights for key populations.

Together with almost 100 local and international organisations we have united to reach 1 mission: achieving universal access to HIV/STI prevention, treatment, care and support for key populations, including sex workers, LGBT people and people who use drugs.

Go to: [www.hivgaps.org](http://www.hivgaps.org) for more information.

