

# What are the impacts of criminalisation on sex workers' health, safety and access to services?

## Why this question is important

Debates on sex work policy often appears polarised between advocates of abolition and criminalisation of the purchase of sex (based on the view that prostitution is a form of violence) and advocates of decriminalisation (based on the idea that sex work is a form of labour made more dangerous by criminalisation).<sup>1</sup> There are also many countries which continue to fully or partially criminalise, or legally regulate, sex work. To date there has been no systematic review of the evidence (beyond the field of HIV) on how different laws and policing practices affect sex workers' health and wellbeing. This evidence is needed to support policy-making that protects sex workers' safety, health and broader rights. This is timely given active political interest in models of decriminalisation (introduced in New Zealand in 2003) and the criminalisation of the purchase of sex (currently law in Canada, France, Iceland, Northern Ireland, Norway, Ireland and Sweden).

## What we did <sup>2</sup>

We undertook a mixed methods review of research (quantitative and qualitative) conducted in any country, to assess the extent to which, and how, criminalisation affects sex workers' safety, sexual and emotional health, and access to health and social care services. We carried out:

- Searches of public health and social science databases (1990-2018) using terms relating to sex work, legislation, policing and health (including safety and care access). We included 86 studies (40 quantitative, 46 qualitative) across 33 countries, that reported data directly from people who sell sex and met key methodological quality criteria. We included studies with sex workers of all genders.
- A meta-analysis (pooling results from eligible quantitative studies) to estimate the average effect of experiencing physical/sexual violence, HIV or sexually transmitted infections (STI), and sex without a condom, for sex workers who had experienced repressive policing (arrest, imprisonment, confiscation of condoms or needle/syringes, violence from police, or displacement) compared to those who had not. We summarised data on emotional health, access to services, drug use and the effect of regulatory models narratively.
- A thematic synthesis, to identify key themes across qualitative studies, examining similarities and differences by legislative and policing models.

## What we found

- Sex workers who had experienced repressive policing were three times more likely to experience incidences of violence (sexual or physical, by any party), twice as likely to have HIV or an STI infection, and 1.5 times more likely to have sex with a client without a condom, compared to those who had not experienced repressive policing.
- Fear of police, and increased police presence, were linked to avoidance of health care services, and decreased access to HIV testing and services. Some evidence suggested that arrest was linked to increased attendance at HIV/STI clinics, but largely in settings where testing is mandatory following arrest. Mandatory testing is considered a rights violation by UNHCR and UNAIDS, creating barriers to services and worsen discrimination against sex workers living with HIV.
- The three studies that examined mental health showed that recent incarceration, arrest, and increased police presence were associated with poorer mental health. Repressive policing was also associated with increased alcohol and other drug use, increased public injecting (linked to skin and soft tissue injuries and infections), and injection in the groin (linked to overdose).

## Pathways through which these effects were realised:

**1. Disrupting sex workers' workspaces and safety strategies.** Laws against soliciting and communication in public places for the purposes of sex work, and feared or actual arrest (of sex

<sup>1</sup>Perspectives are simplified here for brevity.

<sup>2</sup>Full methods and findings can be found here: Platt L, Grenfell P, Meiksin R, Elmes J, Sherman SG, Sanders T, Mwangi P, Crago AL. Associations between sex work laws and sex workers' health: a systematic review and meta-analysis of quantitative and qualitative studies PLOS Medicine 2018: <https://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1002680>

workers or their clients), meant that sex workers had to rush client screening and negotiations, or conduct these in secluded places. This resulted in greater vulnerability to violence and theft. In indoor settings, laws against brothel-keeping prevented sex workers from working together, and sharing information, for safety, and sometimes restricted availability of condoms.

**2. Institutionalising violence, coercion and extortion, restricting access to justice.** Commonly reported policing practices - including arrest, detention, physical displacement, intimidation, verbal harassment, extortion and sexual services in lieu of arrest or detention, and physical and sexual violence - institutionalised violence against sex workers. Failure of police to act on sex workers' reports of violence against them, frequently blaming and criminalising them when such reports were made, created environments of impunity where violence, theft and extortion continued, and increased sex workers' reluctance to report violence or other crimes.

**3. Increasing stigma and inequality.** Repressive police practices reinforced existing inequalities and marginalisation, exacerbating disparities within sex working communities. Police targeted specific sex-work settings or populations, including trans women, people of colour, migrants, people who use drugs and people who work outdoors.

**4. Restricting access to health and social care and support.** Police crackdowns on sex work venues and outdoor areas disrupted peer networks and displaced sex workers from their usual places of work. This restricted established safety systems and access to outreach services.

Studies highlighted that in Sweden and Canada, **criminalisation of clients** did not improve access to services nor reduce sex workers' experiences of violence. In New Zealand, following **decriminalisation**, sex workers reported being better able to refuse clients and insist on condom use, amid improved relationships with police and managers. However, migrants continue to be excluded from this system. Studies in Guatemala, Mexico, Turkey and Nevada, US showed how **regulatory models** exacerbate disparities within sex worker communities. They enabled access to safer conditions for some, but excluded the majority (including the most marginalised).

**Limitations:** our review included only a small number of studies in contexts where sex work is decriminalised or where the purchase of sex is criminalised only, and few studies that documented the experiences of trans women or male sex workers (none included trans men). Few quantitative studies examined how criminalisation interacts with other factors that affect sex workers' safety and health (e.g. housing, poverty, migration, working conditions, service access).

### **What needs to be done?**

- The public health evidence clearly shows the increased harms associated with sex work criminalisation including where the purchase of sex is criminalised and regulatory systems.
- Reform of these demonstrably harmful sex work policies and laws is urgently needed if sex workers' right to health is to be realised. Existing qualitative evidence demonstrates the safety and health benefits of sex work decriminalisation where this has been implemented.
- Changes to sex work laws, alone, are not enough; they must be accompanied by wider political action to tackle stigma, discrimination and exclusion faced by sex workers. This can include laws against discrimination and hate crime, and inclusive housing, welfare and immigration policies. It also requires commitment to tackling cultures of stigma within institutions and broader society.
- Mixed-methods, participatory research in partnership with sex workers is needed to document the context-specific ways in which different legal and policing models interact with other social and structural factors, to inform locally-relevant interventions alongside wider legal reform.
- Opponents of decriminalising sex work voice concerns that this model normalises violence and gender inequalities. However, our review shows how criminalisation (including of clients) fuels these harms, by restricting sex workers' access to justice and reinforcing the stigmatisation and marginalisation of women, sexual and gender minorities.
- Alongside law and institutional reforms, interventions are needed to protect the safety and health of sex workers, including the funding and scale-up of specialist and sex-worker-led services that help address the multiple and diverse health and social care needs of people who sell sex.