



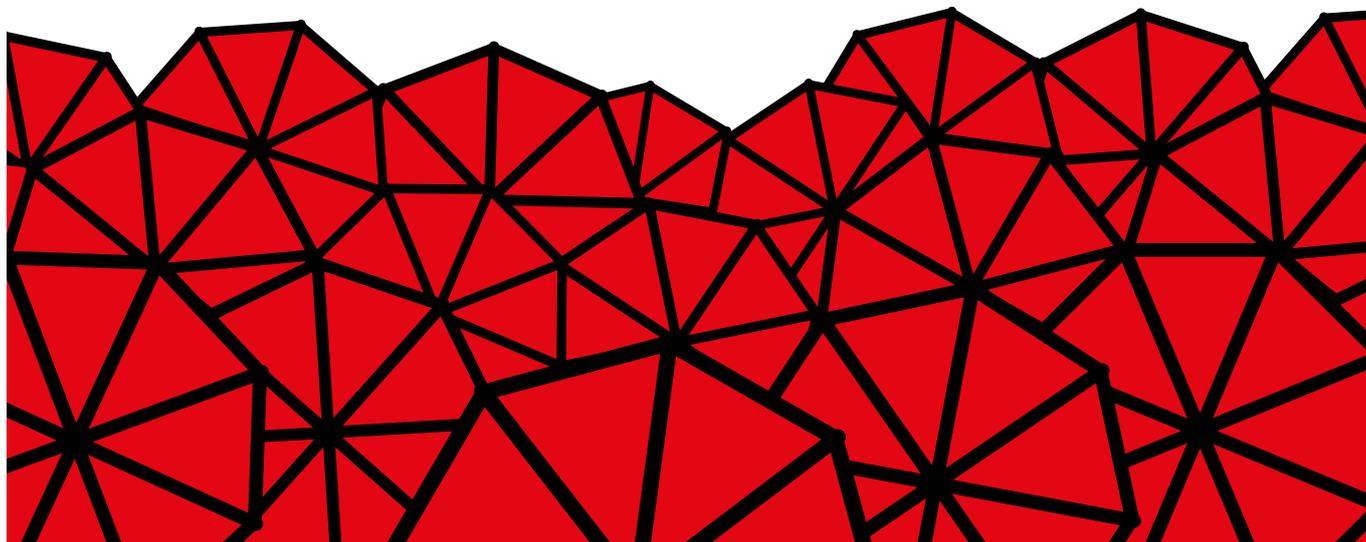
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Global Network of Sex Work Projects
Promoting Health and Human Rights

**BRIEFING
PAPER**

CASE STUDIES:

**How sex work laws
are implemented on
the ground and their
impact on sex workers**



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Introduction

Legislation around sex work can be extremely complex; different legal models exist in different countries and sometimes even within countries. NSWP published a mapping of national legislation used to regulate and criminalise sex work in 208 countries and dependencies, with sub-national legislation included for some countries. The map brings together information on laws which affect sex workers including: the criminalisation of the sale and purchase of sexual services; the criminalisation of the facilitation, management or organisation of sex work; and other laws used to regulate sex work such as mandatory health checks and travel restrictions.

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While understanding legislation and regulations is important, it does not give us a complete picture of the impact of sex work laws on the lives of sex workers. To understand this, we must understand how the laws are interpreted, enforced and implemented on the ground. NSWP has published seven national case studies to collate information on how sex work laws are interpreted and implemented by the police and other government authorities across diverse legal frameworks. These case studies examine the impacts in France, Greece, Kyrgyzstan, Malaysia, Mexico, New Zealand and Senegal. Their purpose is to help us understand how the implementation of different sex work legal frameworks affects sex workers. National consultants were appointed each country. They were tasked with carrying out focus groups and interviews with sex workers and other stakeholders (e.g. the police and lawyers who have experience representing sex workers). They used a detailed enquiry framework to build a picture of how each country's sex work laws are enforced and the impact this has on sex workers. The seven case studies have been published in full on the relevant country page on the NSWP website – this global briefing paper presents a summary.

France

In April 2016, France adopted the Nordic model, introducing laws criminalising the purchase of sex and retaining laws that criminalised third parties¹. While those who campaigned for the new law argued that it would 'decriminalise' sex workers, this has not been the outcome

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under the Nordic model. While national-level laws against soliciting were repealed, sex workers continue to be criminalised through the use of local anti-sex work by-laws, for example: parking bans on sex workers' vehicles or bans on sex work taking place in public areas. This has a significant impact on sex workers in France where a large and visible outdoor sex work tradition continues. The police continue to target sex workers for arrest and there are regular

police actions designed to 'clean up' areas of public sex work in France. Not only are sex workers still harassed and arrested by the police for soliciting, they are also targeted for prosecution under tax laws. The act of selling sex is technically legal and sex workers are therefore expected to declare their income as such. The introduction of the Nordic model has had an extremely negative impact on sex workers in France. The law criminalising clients has led to a reduction in the number of clients, and remaining clients now have more bargaining power. As a result, the prices in some areas have decreased by as much as a half and sex workers are suffering from a loss of income. Decreased demand has led to a decreased ability to negotiate safe sex practices, and more sex workers now feel forced to offer sex without condoms to ensure an income. Sex workers are now working in more remote areas to avoid police attention, which has increased their vulnerability to violence. Under the Nordic model, sex workers are increasingly reliant on third parties. Chinese sex workers working in Paris explained that they could no longer find clients on the streets because they were too scared to talk and negotiate with them. The only solution they have found is to pay intermediaries to write adverts and answer the phone for them to arrange appointments. Of course, they must pay these intermediaries when they were previously independent. The situation for migrant sex workers in France remains extremely precarious; police action targeting street-based sex workers is often specifically designed to find, arrest and deport migrants. The exiting path that was created under the new law has been a failure. In mid-2019, three years after the law was introduced, only 180 sex workers had accessed support from the exiting path. The aim had been to support 500 to 1000 sex workers a year. This exiting path does not work because the money available to sex workers while they exit is minimal – less than what people can access through the social security system – and migrants risk their residency permits being denied if they access the system.

You can read the full case study on France (in English and French) [here](#).

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.

Greece

Sex work in Greece is highly regulated. The legislation was first introduced in 1834 due to public health concern after a syphilis outbreak. According to the law in Greece, sex work can only take place legally in state-licensed brothels. Local municipalities are allowed to determine the number of licensed brothels in their area. To work legally in a state-licensed brothel, sex workers are required to obtain a personal license. The license lasts for three years and the application process requires a number of legal and medical documents, such as proof of identity, a criminal record check and HIV test results. Once licensed, it is mandatory for sex workers to have medical testing every 15 days for STIs, every three months for HIV and every month for syphilis. Sex workers will not be given a license if they are married; only single, divorced or widowed women are eligible. Even the assistants

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who work in state-licensed brothels as maids or receptionists must obtain a personal license; they must be aged 50 years or over and must also undergo mandatory medical testing for STIs, HIV and syphilis. In reality, the few existing licensed brothels make up a very small percentage of the sex industry in Greece because local authorities will not grant new licenses. Sex workers are reluctant to register because they do not want to be on record as sex workers with the authorities.

As a result, most sex work in Greece happens illegally. Consequently, sex workers are afraid of going to the police or a prosecutor to report crimes against them, as they believe they are going to be arrested. Most of the participants interviewed said they do not trust the police and feel threatened by them rather than protected. Sex workers in state-licensed brothels are visited by the police regularly to have licenses and medical certificates checked. If their documents are in order, these sex workers do not report having problems with the police. Street-based sex workers, however, face a different situation. They are often arrested, charged with soliciting and then fined. Most street-based sex workers in Athens reported receiving multiple fines which they are unable to pay. Their cases are often heard in their absence, and the only evidence is frequently police testimony. Participants in this case study noted that male sex workers working outdoors tend to be left alone by the police, who focus all their attention on female sex workers. However, transgender sex workers from one area of Athens reported that the police now protect them from attacks and harassment.

You can read the full case study on Greece (in English) [here](#).

Kyrgyzstan

In Kyrgyzstan, the act of selling sex is not criminalised but many ancillary activities associated with sex work are illegal, and this has a negative impact on sex workers. Street-based sex workers are at risk of being arrested and charged for the administrative offence of petty hooliganism. Until 2019, being charged with this offence meant a fine of 1,500 Soms (20 EUR) or administrative detainment for up to five days in a reception centre. However, new legislation was introduced in January 2019 that increased the fine to 60,000–80,000 Soms (750–1000 EUR) or ‘custodial restraint’ (where a person must live in a certain place and register with the police) for up to six months. This new legislation is more difficult to enforce due to extra procedural requirements, creating obstacles for police officers. In 2019, no cases against sex workers for petty hooliganism had reached the court at the time of writing. Nevertheless, it is routine in Kyrgyzstan for police officers to use the laws to extort money from sex workers, and this practice has continued

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despite the change in legislation. Sex workers working in apartments are at risk of being charged under the Criminal Code for running a brothel. As this is a much more serious offence, the size of the bribe sought by police can be upwards of 210,000 Soms (2700 EUR). In addition, police officers run protection rackets. Sex workers, either by choice or force, pay into these rackets to avoid charges. All the sex worker participants interviewed reported that extortion from the police was one of the biggest threats they faced; they all perceived the police negatively. Most of the interviewees said they would not report a crime against them. To avoid police attention, street-based sex workers spread out and avoid working in safer locations, leaving them more vulnerable to violence. They must negotiate quickly with clients to avoid interacting with police – this forces them to accept lower rates or agree to unprotected services. The police also try to extort large sums from transgender and male sex workers by threatening to reveal their sexual orientation or gender identity to their family and community. Street-based sex workers believe that sex workers who work alone are more vulnerable to harassment than those who work with madams or via the internet. This is because they are detained more often – there is no person who can act as an intermediary with the police. Working with an intermediary may be the best option for sex workers in Kyrgyzstan as it helps them avoid police harassment and means they are less likely to have to pay bribes.

You can read the full case study on Kyrgyzstan (in English and Russian) [here](#).

Malaysia

In Malaysia, there are two legal frameworks criminalising sex work: those contained in the federal Penal Code, and state-based Sharia laws. Muslim sex workers can be charged under Sharia Law or the Penal Code depending on whether they were arrested by the police or the *Majlis Agama* (State Islamic Religious Council). Non-Muslims can only be charged under the Penal Code. The Sharia laws most often used to target sex workers include laws against soliciting (for sex workers of all genders) and laws against male persons 'posing as women' (for transgender sex workers). Sex workers are usually arrested citing two sections of the Penal Code. Section 372B criminalises soliciting for the purposes of 'prostitution' or 'any immoral purpose'. Section 372A criminalises living on the earnings of 'prostitution' and/or acting as an intermediary. Sex work laws in Malaysia vary regionally, as Sharia Law comes under the jurisdiction of individual states. However, the key differences between states do not usually relate to offences, but to the sentencing. For example, there are differences in the number of days of imprisonment, the severity of caning, or the value of monetary fines

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given to sex workers convicted under Sharia Law. The sex workers interviewed for this case study said the most common punishments for sex work-related offences were: imprisonment for a few months; caning; or the *Majlis Agama* Supervision System, which involves mandatory counselling and regular reporting. Sex workers are charged with sex work-related offences, and they are also disproportionately charged under other laws. Laws that criminalise being transgender are often used to arrest and charge transgender women sex workers. The Dangerous Drugs Act, 1952, is also used to target sex workers; it criminalises

the possession of drugs, even in small amounts. Sex workers reported experiences of *belanja* or being set-up by the police. They report that police officers would plant drugs on them and then arrest them for possession. On public holidays and weekends, the police, state Islamic authorities and other law enforcement agents conduct raids of budget hotels, spas and private parties as part as their vice and drug operations. Sex workers are usually charged for drug offences rather than 'vice' offences even though the advertised objective of the raids is 'vice prevention'. Sex workers said that the laws in Malaysia affect their work and lives to a significant degree, and all of them perceived police negatively.

You can read the full case study on Malaysia (in English) [here](#).

Mexico

In Mexico, sex work is legislated locally as there are no federal laws on the matter. Each state or town regulate or prohibits sex work independently using health, security and public order regulations. In Mexico, there are approximately 13 states that adopt a regulatory approach to sex work. These states have adopted legal frameworks that permit sex work with very strict requirements and regulations. For example, sex work is only permitted in designated red-light zones or in licensed brothels. In addition, these local laws mandate registration for sex workers, including street-based sex workers in tolerance zones, and brothel-based sex workers. It is also mandatory for sex workers to attend regular medical examinations (vaginal examinations, HIV and syphilis tests). The medical examinations are expensive and sex workers must pay for these themselves. When a sex worker receives a positive result for an STI that is treatable and curable, their permission to work is restricted while they undergo treatment. In the case of a positive HIV result, their permission to work is permanently revoked. In many cases, sex workers with HIV have their privacy rights violated – the authorities share test results with brothel inspectors and owners. These regulations are usually only applied to cisgender women as the laws exclude men. Due to a lack of gender recognition laws transgender women are often officially classified as men. The police sometimes exploit a lack of knowledge about the laws to extort money from male and transgender sex workers by asking to see their permits even though the law contains no requirement for them to register. Some of the respondents in this case study said they try to meet the registration requirements, but that they struggle to comply with all the rules, as the system is plagued with irregularities and corruption. As a result

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of these regulations, sex work is effectively criminalised. It is so difficult to comply with the requirements that nearly all sex workers are working illegally. The sex workers interviewed said that this type of regulation affects them negatively; it stigmatises them, increases their vulnerability, gives the authorities excessive control over them, and often violates their human rights.

Anti-trafficking laws are also used to criminalise sex workers in Mexico. For example, when a group of sex workers share a house, the authorities can arrest the person who has signed the contract for that house and accuse them of trafficking under third-party laws. The way these laws are implemented means that all sex workers can be considered both as victims of trafficking or guilty of trafficking others. Sex workers do not feel protected by the law and do not trust the authorities due to high levels of corruption in the justice system and amongst law enforcement. As a result, many sex workers do not have access to justice in Mexico.

You can read the full case study on Mexico (in English and Spanish) [here](#).

New Zealand

Sex work was decriminalised in New Zealand when the Prostitution Reform Act (PRA) was passed in 2003. Decriminalisation meant that all criminal penalties concerning sex work were removed and activities like living on the earnings, soliciting, procuring, and brothel keeping are no longer illegal. Sex workers now have the same rights as any other worker and can access public agencies dealing with issues such as occupational health and safety and human rights protection. The PRA also introduced new laws that are specific to sex work. For example, the law states that all reasonable steps must be taken to use a prophylactic sheath (condom) for sexual activity that may transmit STIs between sex workers and clients. The sex workers interviewed for this case study felt that this part of the law was upheld by brothel managers, and that they could enforce it themselves by citing the legislation if clients sought sex without a condom. However, it was also seen as problematic. As use of condoms would be expected under the Health and Safety at Work Act (HSWA: 2015), this additional legislation under the PRA could be considered at best redundant, and at worse, stigmatising and harmful. While the PRA provides a national legal framework for sex work, local government bylaws control things like signage and zoning of sex work businesses. Some city councils have passed bylaws that seek

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to outlaw street-based sex work (or all sex work) via heavy regulation. However, across all the main cities in New Zealand, sex workers report consistent experiences and the spirit of the PRA is respected by local authorities. Overall, sex workers describe a sense of legitimacy and trust in the law since decriminalisation. However, they continue to experience stigma and discrimination from the community and some institutions. The relationship between sex workers and the police has improved since decriminalisation, although cisgender sex workers had a more positive

perception of police than transgender or non-binary sex workers.

Interviewees said they would report assault or violence to the police and many had already done so, reporting positive treatment. However, fear of stigmatisation when navigating the justice system as a sex worker remains. Street-based sex workers are more heavily policed than other sex workers – they are more visible and experience a higher degree of stigma. Street-based sex workers reported more interactions with police, such as being searched under the Misuse of Drugs Act or stopped for drinking alcohol in public. The brothel-based and other indoor workers interviewed had no experience with the police but had the impression that they were supportive of sex worker rights. The PRA states that any person with a temporary visa is prohibited from engaging in commercial sex either as a worker, manager or business owner. This has a significant negative impact on migrant sex workers in New Zealand, who, as illegal workers, are without the same access to justice as resident sex workers. At risk of deportation, migrant sex workers remain largely underground, putting them at an increased risk of violence and exploitation.

You can read the full case study on New Zealand (in English) [here](#).

Senegal

Sex work in Senegal is highly regulated. Although the law theoretically allows all women aged 21 years and above to do sex work, in practice, sex work is prohibited in most settings. For example, sex workers cannot legally work in hotels, in brothels, at home, or on in public places (the streets). The sex work laws in Senegal apply only to cisgender women sex workers, however, male sex workers can be arrested and charged under laws in the Penal Code against homosexuality. As a result, male sex workers must hide and work underground. Theoretically, female sex workers over 21 can work legally if they register with the authorities. To register, they must provide formal identification, four photographs and proof of residence. They must take these documents to their local hospital with the registration fee of 1000 CFA francs (1–2 EUR). Their records will be kept at the hospital and a copy will be sent to the police. This means that the police have sex workers' home addresses and can easily extort money from them. Registered sex workers are required to undergo medical checks every 15 days, although in practice, it is often 30 days. These check-ups consist of a vaginal swab to detect STIs and a general check-up from the doctor. Every 6 months they must undergo testing for HIV and syphilis. Sex workers must show the police their health book, their vaccination records and sometimes their passport, on request. If the police find sex workers who are not registered during these checks then they arrest them. As these regulations are onerous, most sex workers in Senegal are not registered with the authorities and therefore work illegally. As a result, the police routinely extort money from sex workers in all workplaces. All sex workers pay bribes whether they are

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registered or not, but those who are unregistered pay more. Registered sex workers who refuse to pay bribes can find themselves under arrest. They may spend the night at the police station but are usually released the next day. The police extort money from street-based sex workers as soliciting in public places is illegal. Migrant sex workers who were interviewed for the case study reported that they are especially vulnerable to extortion, not just from the police but also from the health authorities who charge them higher fees to access testing and services. As well as extorting money, police officers also abuse sex workers by demanding sex in exchange for not arresting them.

You can read the full case study on Senegal (in English and French) [here](#).

Conclusion

The case studies summarised above show how the implementation of different sex work legislative frameworks affect sex workers. The legalisation of sex work (Mexico, Greece and Senegal) causes harm to sex workers because the regulations are so restrictive and difficult to comply with that most sex work actually occurs illegally. This means that the majority of sex workers are at risk of arrest and prosecution in the same way as in countries where sex work is completely criminalised. In countries that criminalise sex work or the ancillary activities associated with sex work (Malaysia and Kyrgyzstan) it is clear that sex workers take risks to avoid police attention, like working in isolated areas or agreeing to unprotected services in rushed negotiations with clients. In addition, the police in these countries use the law and the threat of arrest to extort money from sex workers. The introduction of the Nordic model in France has led to increased poverty and risk-taking amongst sex workers due to reduced number of clients. Sex workers in France continue to be targeted by the police under municipal by-laws outlawing public sex work. Decriminalisation in New Zealand has been successful in building a sense of legitimacy among sex workers, most of whom are willing to report crimes against

them to the police, and to exercise their labour and human rights. However, stigma remains an issue in New Zealand and migrant sex workers do not benefit from the protections resulting from decriminalisation.

The power over sex workers that sex work laws confer on police is a theme present throughout these case studies. In each country except New Zealand, sex workers report fear of the police, and many face harassment, abuse and extortion. The decriminalisation of sex work is the only legal

framework that removes police power over sex workers to a significant degree (although the police may still target sex workers using other laws like drugs laws). While sex work remains a criminal offence or subject to onerous regulation, sex workers will continue to suffer at the hands of the police and will be forced take unnecessary risks at work.

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The Global Network of Sex Work Projects uses a methodology that ensures the grassroots voices of sex workers and sex worker-led organisations are heard. The Briefing Papers document issues faced by sex workers at local, national, and regional levels while identifying global trends.

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.



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