



DECRIMINALISATION OF SEX WORK

Summary

- Full decriminalisation of sex work is the removal of all sex work-specific criminal and licensing laws and police powers. This includes any regulation that treats sex workers, sex industry premises, clients of sex workers, or third parties differently to other workers and industries.
- Under decriminalisation, sex work becomes regulated through existing industrial, planning, civil and criminal laws.
- Decriminalisation gives sex workers access to workplace health and safety protections, and industrial rights mechanisms.
- Sex work-specific legislative frameworks such as criminalisation and licensing, as well as lack of comprehensive anti-discrimination protections, function as barriers to sex workers accessing healthcare,¹⁻³ including sexual health prevention, testing and treatment.⁴
- Criminalisation of sex work, along with stigma and discrimination, can increase sex workers' vulnerabilities to violence.⁵⁻⁷ These factors also make it less likely that sex workers will report or disclose incidents of violence.⁸
- Within Australia, only New South Wales, Victoria, the Northern Territory and Queensland have implemented decriminalisation frameworks.

Background

Decriminalisation of sex work is the removal of all sex work-specific criminal and licensing laws that apply only to sex workers, sex industry workplaces, clients, and third parties. Decriminalisation does not mean that the sex industry is unregulated; rather it becomes subject to the same comprehensive legal frameworks that apply to all other industries and workers in Australia. This includes, but is not limited to, workplace health and safety (WHS or OHS) regulations, industrial rights mechanisms enforced by bodies like the Fair Work Ombudsman and Commission, and existing planning, taxation, business, public health and criminal laws.

Full decriminalisation means removing sex work-specific criminal penalties for all sex workers. Criminalisation of specific groups, sex work-specific migration restrictions, detention, deportation, and surveillance of marginalised groups of sex workers are not compatible with decriminalisation.

Recommendations

- State and territory governments must implement the full decriminalisation of sex work, including anti discrimination and anti-villification protections, to ensure that sex workers enjoy full and equal protection under the law.
- Health, workers rights, and family, domestic and sexual violence (FDSV) organisations in Australia must adopt policies in support of sex work decriminalisation, and commit to evidence-based approaches to improve service delivery for sex workers.
- Fund community legal centres across Australia to deliver projects to support sex workers in accessing civil and criminal legal remedies.
- Fund peer-led national, state and territory sex worker organisations to support sex workers, provide health and safety education, and promote community empowerment.

Full decriminalisation must be accompanied by the introduction of specific anti-discrimination and anti-vilification protections so that sex workers can access the benefits of decriminalisation. It must also include expungement of all sex work-related offences and charges, and the permanent destruction of all sex work-specific registration records containing sex workers' personal and identity details. This ensures past legal injustices do not continue to impede sex workers' ability to fully participate in society.

Sex worker organising and leadership are essential to decriminalisation. Better laws and policies are attained when sex workers are integrally involved in all steps of law reform.⁹ This has been demonstrated in the successful campaigns for decriminalisation in the Northern Territory (2019), Victoria (2022), and Queensland (2024).

Scarlet Alliance and our members will continue to advise governments as key stakeholders in law reform in every state and territory until the full decriminalisation of sex work is achieved and effectively implemented. We will continue to advocate for sex worker rights and protect the gains we have won towards the full decriminalisation of sex work.

Decriminalise for health

Decriminalisation is the only model of sex industry regulation to enable evidence-based public health outcomes, including Australia's international obligations to end HIV transmission.¹⁰

Evidence shows that criminalisation creates multiple barriers to health for sex workers. A 2018 global meta-analysis found that 'any type of repressive police practice was associated with twice the odds of HIV/STI' among sex workers.¹ Sex work-specific legislative frameworks, such as criminalisation and licensing, function as barriers to sex workers accessing healthcare, including sexual health prevention, testing and treatment.²⁻⁴

Laws that criminalise sex workers with sexually transmissible infections (STI) or blood borne viruses (BBV) specifically, or that require mandatory prophylactic use or compulsory sexual health testing, are incompatible with decriminalisation. These laws perpetuate stigma, are based on outdated information about safer sex options, and incorrectly assume that sex workers will not engage in safer sex practices or voluntary testing unless forced by law to do so.¹¹ They also ignore that there is no evidence that sex workers in Australia have higher rates of STI and BBV than the general population.¹²

The economic implications of decriminalisation's improved health outcomes are significant. Modelling has quantified substantial 'health sector savings' resulting from averted cases of violence, HIV and STIs following decriminalisation.¹³ Decriminalisation is not only a social good, but also a fiscally responsible approach that reduces the burden on the public healthcare system.

Decriminalisation also removes barriers that discourage sex workers from carrying condoms (e.g., fear of them being used as evidence of sex work).¹ This enables sex worker organisations to more effectively distribute free condoms and provide health education, also leading to documented health savings from averted STI/BBV cases.¹⁴

Sex work decriminalisation is also an essential aspect of reproductive justice. While the right to bodily autonomy and sexual and reproductive health and rights (SRH) are recognised as fundamental human rights, these rights are consistently and increasingly eroded by state actors and private lobby groups.¹⁵ While these efforts aim to criminalise and stigmatise the bodies of all people engaging in 'deviant' behaviour, they disproportionately impact sex workers, LGBTQI+ people, people of colour, First Nations communities and migrant communities.¹⁵⁻¹⁷ The politicising of SRH has had devastating global consequences, including in the Asia-Pacific region.¹⁸ Sex work decriminalisation in every state and territory in Australia is a small step in mitigating these global harms, and a responsibility for Australia's commitment to human rights.

Decriminalise for safety and justice

Criminalisation is consistently linked to increased experiences of physical and sexual violence against sex workers from a range of perpetrators, including clients, intimate partners, employers and police.^{3,15,16} The pervasive stigma and criminalisation create an environment where sex workers are highly unlikely to report incidents of violence, seek remedies through the criminal legal system, or access crisis and support services, fearing prosecution or further victimisation themselves.^{1,5-7}



Planning laws or licensing systems that force sex work into industrial areas also severely compromise sex worker safety.¹⁹ These locations often lack public transport, have poor lighting, offer no amenities, and foster isolation. These problems are worse for sex workers who work at night. There is no evidence to support separating sex industry businesses or sex workers to '18+ precinct areas.' All sex workers must be able to choose work locations based on privacy, access to essential services, public facilities, access to clients and safety.

Prohibition or laws seeking to 'control' street-based sex workers are ineffective, exacerbate risks and create further barriers to accessing health and support services. Criminalisation compromises street-based sex worker safety and wellbeing, disrupts vital peer networks and displaces sex workers from familiar areas, making it difficult for outreach services to connect with them, and hinders their ability to organise, report crime, and access support.

Decriminalise for workers' rights

Decriminalisation is fundamental to upholding sex workers' right to participate fully in public life and achieve economic empowerment; enabling 'financial agency, security, and independence with access to resources, rights, and opportunities that enable sustainable livelihoods and personal well-being, including access to justice.'²⁰

There is a strong global evidence base that sex work decriminalisation,²¹ combined with safe and accessible migration pathways²² and resourcing for peer-led sex worker organisations,²¹ reduces sex workers' vulnerability to trafficking, slavery and slavery-like practices. As such, sex work decriminalisation is a vital aspect of Australia's commitment to combating modern slavery.

Decriminalisation in Australian jurisdictions has also enabled the development of workplace health and safety guidance material for the sex industry, creating guidance for workplaces and regulators.

Decriminalisation is internationally recognised and supported as best practice

Full decriminalisation of sex work is supported as best-practice regulation for eliminating HIV transmission,²¹ preventing violence,^{1,5} and promoting sex workers' safety, wellbeing and social inclusion.^{1,2,24} This has been acknowledged and endorsed by respected international organisations and policy makers, including:

- UNAIDS²⁵
- The World Health Organisation⁶
- The United Nations Population Fund (UNFPA), the United Nations Development Programme (UNDP),²⁶ and the United Nations Working Group on Discrimination Against Women and Girls²⁷
- The International Labour Organisation (ILO)²⁸
- The Global Alliance Against Traffic in Women (GAATW)²⁹
- Amnesty International³⁰
- Human Rights Watch.³¹

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