

The UNDP 2012 report “Sex Work and the Law in Asia and the Pacific” provides a comprehensive review of how laws, law enforcement practices, and policies across 48 Asian countries impact sex workers’ human rights and HIV vulnerability.

Objectives

1. Describe laws affecting HIV responses in the context of sex work.
2. Assess how legal environments shape HIV prevention and care.
3. Recommend reforms to create enabling environments for health and human rights.

Key Findings

Laws and practices harmful to HIV responses

- **Criminalization:** Nearly all countries (except New Zealand and New South Wales, Australia) criminalize sex work or related activities. This fuels stigma, restricts access to health services, and increases HIV vulnerability.
- **Punitive policing:** Widespread harassment, assault, extortion, and sexual violence by police/military against sex workers in countries like Bangladesh, Cambodia, and India.
- **Condom confiscation:** Police use condoms as “evidence,” discouraging their use in places like China, Myanmar, and Fiji.
- **Criminalizing clients:** Some nations (e.g., Nepal, Korea) penalize clients, which doesn’t reduce HIV risk and often worsens conditions for sex workers.
- **Licensing/registration systems:** These regulate only a small portion of the industry and exclude most workers, proving ineffective in HIV prevention.
- **Mandatory testing:** Coerced or compulsory HIV/STI testing violates privacy and fuels discrimination.
- **Lack of labour rights:** Sex workers lack workplace protections except in New Zealand and parts of Australia.
- **Identity and citizenship barriers:** Denied ID cards or documents limit access to healthcare and education.
- **Compulsory detention:** “Rehabilitation” centres in China, India, Myanmar, and Sri Lanka violate rights and provide little health support.
- **Anti-trafficking misuse:** Laws conflating sex work with trafficking lead to raids, arrests, and human rights abuses.
- **100% Condom Use Programmes:** When enforced coercively, these harm HIV responses and violate rights.

Supportive laws and practices

- **Judicial recognition:** Courts in Bangladesh, India, Nepal, and Taiwan affirm sex workers' constitutional rights.
- **Progressive policies:**
 - Myanmar and Cambodia prohibit condom confiscation.
 - Thailand allows social security access for sex workers.
 - Papua New Guinea and Pakistan support decriminalization and anti-violence measures.
- **Protective legislation:** Some countries (e.g., Lao PDR, Viet Nam, Fiji) have HIV laws ensuring confidentiality, voluntary testing, and anti-discrimination measures.
- **Decriminalization success:** New Zealand and New South Wales show improved health, safety, and near-zero HIV transmission among sex workers.

Community empowerment

Sex worker organizations (e.g., DMSC in India, SWiM in Myanmar, COSWAS in Taiwan, SWING in Thailand) have effectively:

- Advocated for law reform and rights protection.
- Partnered with police and health agencies.
- Promoted self-regulation, legal literacy, and safer working conditions.

Conclusions

- **Legal empowerment** is central to effective HIV prevention.
- **Decriminalization** leads to better health and rights outcomes.
- **Licensing models** exclude and stigmatize most workers.
- **Country-level actions** should focus on:
 - Law reform (repealing punitive laws)
 - Rights-based policing
 - Legal aid and education
 - Inclusion of sex workers in national HIV planning

Key takeaways:

The report concludes that **recognizing sex work as legitimate work**, protecting human rights, and **decriminalizing consensual adult sex work** are essential for achieving effective, sustainable HIV prevention and for ensuring dignity and safety for sex workers across Asia and the Pacific.