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Joint stakeholder submission by:

Red Umbrella Sweden

Red Umbrella Sweden is a Swedish organisation advocating for the rights, safety, justice and self determination of sex workers.



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and the Sexual Rights Initiative

The Sexual Rights Initiative is a coalition of national and regional organisations based in Canada, India, Egypt, and Argentina that work together to advance human rights related to gender and sexuality at the United Nations.

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Executive summary

1. This report by Red Umbrella Sweden¹ and the Sexual Rights Initiative delves into the consequences of the Nordic Model on the enjoyment of human rights by sex workers in the country. The Nordic model is premised on the idea that sex work is not work, and thus cannot be consented to, and that it must be eliminated from society. The Nordic model and indeed Swedish legislation also continuously conflates sex work with human trafficking, and other forms of sexual exploitation and violence against women, seeing them as existing on a singular continuum of violence and gender inequality, thereby making the concept of voluntary sex work by consenting adults a misnomer, by definition.
2. A notable example of this approach is seen in the mandating of the Swedish Gender Equality Agency, where the agency's remit is said to include 'developing preventive measures to combat men's violence against women, honour-related violence and oppression, prostitution and human trafficking for all purposes and violence in same-sex relationships.' Since 2018 the Swedish Gender Equality Agency has been responsible for coordinating national efforts to combat human trafficking. The Swedish Gender Equality Agency is also responsible for calling meetings of the National Task Force against Prostitution and Human Trafficking (NMT) which brings together agencies working to combat prostitution and all forms of human trafficking.
3. Through the Sex Purchase Act (now embedded within the penal code), Sweden aims to eliminate demand for sexual services through targeting the buyers of sexual services, with criminal sanctions ranging between fines and a one year custodial sentence. The minimum sentence was increased to a custodial sentence effective August 2022, despite the objections of the sex worker community.² Although the measures do not directly criminalise sex workers, a number of acts surrounding sex work are criminalised and sex workers thus experience de facto criminalisation.
4. Whilst there have been a number of publications highlighting the alleged successes of the legislation, including those produced by the government of Sweden, the lived experiences of sex workers, their agency, and their right to bodily autonomy continue to be erased from the popular narrative. Sex workers in Sweden are denied their right to work - which includes choosing the type of work that they would like to undertake, and the right to just and favourable conditions of work as the criminalisation of purchasers of their services and de facto criminalisation of sex work has led to increased risks of violence, and created barriers to accessing redress for harm in the course of their work, limiting access to justice healthcare, and housing.
5. Further, the current legislation has led to the criminalisation of families of sex workers, including the arrest of romantic partners, husbands, housemates etc on the basis that they are complicit in the sale of sex, with some accused of engaging in pimping. The evidentiary threshold for this assertion appears to be quite low- it suffices to cohabit with, and share living expenses with a sex worker. In this way, men are framed as perpetual predators, who cannot engage in non-exploitative romantic or domestic arrangements with women, and sex workers are subjected to an added layer of scrutiny as regards their romantic lives and their sexualities, and are prevented from having a love life like everyone else. Further, as all

¹ Red Umbrella Sweden is a Swedish organization advocating for the rights, safety, justice, and self-determination of sex workers

²International call out: Protest the Swedish government's proposition of increasing criminalization of sex workers environments!

https://assets.nationbuilder.com/eswa/pages/238/attachments/original/1651569254/Red_Umbrella_Call_Out.pdf?1651569254

cohabitants that are 18+ can be targeted under these provisions, this means that they can be used to target sex workers' kids, or elderly parents they care for, as well.

6. This legal approach means that the government of Sweden is implying the ridiculous notion that by respecting the right to bodily autonomy of their female partners or cohabitation partners, these men or family members are necessarily out of step with the standards of gender equality.
7. Sex work in Sweden, through the Sex Purchase Act legislation and public discourse is presented as inherently demeaning and contrary to gender equality, and as a moral scourge that must be addressed through concerted legal and policy measures. In the abolitionist framing that is prevalent in the country, buyers of sex are necessarily engaging in acts of sexual exploitation when purchasing sex, and sex workers are necessarily victims of unequal bargaining power, and gender inequality meaning that any consent that they may purport to wield is nullified by the asymmetry of power in the relationship. This framing has been effectively used to exclude the voice of sex workers, sex worker activists, and their allies from engagement on the legal and policy environment affecting sex work, and the ability of sex workers to enjoy the full range of their human rights. They are often excluded in law review processes, and they are not provided with social services that are fit for purpose.
8. Unfortunately, the rights of sex workers continue to be obscured in the UPR reviews of Sweden, just as the lived experiences of sex workers as a whole and particularly those who are not cisgender women continue to be obscured.
9. This report recommends that Sweden cease its protectionist approach to sex work, and instead decriminalise the buying of sex, and all activities associated with it. The government of Sweden should introduce measures that protect the *rights* of sex workers including their right to work, to bodily autonomy, to health, and to housing.

Introduction

10. The legislative and policy framework of Sweden marks sex work as something to be actively curtailed. Since 1999 purchasing— and attempting to purchase— sexual services has constituted a criminal offence in Sweden. Per the Sex Purchase Act found in chapter 6, section 11 of the Swedish Penal Code: *‘A person who, otherwise than as previously provided in this chapter, obtains a casual sexual relation in return for payment, shall be sentenced for purchase of sexual service to a fine or imprisonment for a maximum period of one year. The provision of the first paragraph shall also apply if the payment was promised or given by another person.’* The offense is comprised of all forms of offline sex work where physical contact is made either through intercourse and/or acts that involve a person touching another person’s genitals or the other person’s body with his/her own genitals.
11. For purposes of this provision, payment can be cash or kind. That is, payment can be money but it can also be goods or services such as alcohol, housings, gifts or travel agreed upon in advance. Included in the offence are situations where payment has been promised but not yet made, and where a third person pays for the sexual relations of another.³ Sentences for those found to have committed the offence are on a range of custodial sentences up to one year.
12. This criminalisation of the buyer of sexual services is widely known as the Nordic model, and is often touted as a pathway to criminalisation that targets demand for sexual services, without applying legal sanctions on sex workers. The provision is meant to deter people from buying sex because of the risk of being subject to police interventions, etc. In justifying these measures, the government has maintained that sex work is inherently an obstacle to gender equality and argues that it is not reasonable to prosecute the party that in most cases is in a weaker bargaining position, and position sex workers (who in the discourse are always assumed to be cis women, with a clientele made up of only cis men) as perpetual victims lacking agency and bodily autonomy, who are exploited by men. There has been no room to

³ Strengths and Weaknesses of the Swedish Anti-trafficking System

discuss sex work as work, the human rights of sex workers, and the need to ensure labour protections.

13. In this construction, there has been no room to take note of sex workers' lived experiences nor of their human rights, and sex workers are continuously constructed as hapless victims, operating under "false consciousness" should they want to continue to provide sexual services for compensation. Despite accepting recommendations on gender equality and on meaningful engagement with civil society⁴, Sweden continues to take an infantilising and paternalistic approach to sex work, women's bodily autonomy, and right to choose the work they engage in, instead implicitly codifying the commodification of women's bodies.
14. Sex workers' rights organisations who speak publicly are often refuted as 'pimps', 'sex industry lobbyists' and 'defenders of paid rape'. Even the term 'sex worker' is highly contested in Sweden. The voices of sex workers and sex worker rights organisations have been consistently and systematically silenced in the debate concerning the Swedish model, both in Sweden and internationally.

Impact of the criminalisation of the purchase of sex on sex workers' right to work, and right to just and favourable conditions of work

15. In its last review, Sweden only received one recommendation alluding to voluntary sex work by adults namely:
 - 156.191 Allocate adequate resources to implement the adopted national action plan to combat prostitution and human trafficking (Botswana);
16. We regret that there were no recommendations made that focused on the human rights of sex workers, but rather the recommendation received reinforced a narrative that sex work isn't work but rather something to be combatted. Whilst it is technically true that the person who sells sexual services is not punished with criminal sanctions through the existing legislation, in reality, sex workers experience de facto criminalisation, and report a slew of issues and challenges stemming from this approach to voluntary sex work of adults. These include the increase in social stigmatisation and discrimination on the basis of their work, experiencing barriers to access social and health services on the basis of their work due to the abolitionist approach taken by service providers who offer inappropriate care, or comments in the course of serving sex workers.
17. Sweden received a number of recommendations on addressing gender based violence, and violence against women including:
 - 156.221 Continue efforts to combat violence against all women (Montenegro);
18. Sweden's interventions must include addressing stigma, discrimination and violence against sex workers, which exists on a continuum, and as multiplied and impacted by the operations of different systems of oppression such as classism, patriarchy, and ableism. The heightened level of stigmatisation that sex workers experience as a result of the legislative and policy framework⁵, all contributes to the economic and other precarity of sex workers. It is unacceptable for increasing stigma and thus discrimination against sex workers, to be deemed a permissible outcome of Sweden's policy particularly as it increases the vulnerability of sex workers to violence, reduces their bargaining power, and makes them wary of those social services and justice functions of the state that they are meant to rely on.

⁴ 56.211 Continue efforts at the national level towards gender equality (Albania); 156.75 Continue to consult and have a dialogue with civil society working in the area of human rights protection (Bosnia and Herzegovina)

⁵ Indeed a governmental evaluation of the law undertaken in 2010 admitted that "the people who are exploited in prostitution report that criminalisation has reinforced the stigma of selling sex. They explain that they have chosen to prostitute themselves and feel they are not being involuntarily exposed to anything. Although it is not illegal to sell sex they perceive themselves to be hunted by the police. They perceive themselves to be dis-empowered in that their actions are tolerated but their will and choice are not respected. See Statens Offentliga Utredningar (2010). Förbud mot köp av sexuell tjänst - en utvärdering 1999-2008. Available: <https://www.regeringen.se/contentassets/2ff955c847ed4278918f111ccca880dd/forbud-mot-kop-av-sexuell-tjanst-enutvardering-1999-2008-sou-201049>

19. Despite posturing about the availability of services to support sex workers, in reality the services that are provided are neither accessible or acceptable, and for migrant sex workers they are also not readily available. The impact of stigmatisation and discrimination has also meant that sex workers are unable to access low-threshold harm reduction, and non-judgemental social and health interventions targeting sex workers. Sex workers also experience hostile policing of the community, especially those who are undocumented/irregular migrants and women of colour.⁶ Deportations as a punitive measure for engaging in sex work happen on a regular basis, particularly amongst racialised cis and trans women who are targeted by police.
20. Sex workers in Sweden have argued that the stigmatising and degrading identity attached to sex workers - exceptionalising them and their labour, is part of a broader framework of structural violence against sex workers as their needs are routinely dismissed due to the oppressive and unjust social conditions in which they live. 'Structural violence constrains the agency of those who are less socially valued and manifests itself in all fields of social situations, including discriminatory laws, exploitative economic conditions, repressive institutional practices, and prejudices— unlike direct violence— it often remains invisible and unquestioned.'⁷
21. Stigma and discrimination are one of the manifestations of the violence that sex workers experience, and sex workers are exposed to various forms of violence due to criminalisation and intersecting oppressions such as sexism, whorephobia, homophobia, transphobia, racism and classism. The criminalisation regime in Sweden exposes sex workers to other risks of violence. For example, the Sex Purchase Act has led to transactions being more hidden and driven underground, and in such environments buyers wield more power due to the risk that they are taking in order to purchase sex. When buyers, because of the law, have to prioritise their own safety, it makes it harder for the sex worker to prioritise theirs, especially if they are financially exposed and have few alternative means of supporting themselves.
22. Sex workers also cannot make use of collective organising for their safety and share premises with each other as this may be deemed to fall within the parameters of the prohibition of pimping, procuring and operating a brothel. If sex workers share an apartment, for example, and work together, they risk being charged with exploiting the other person and with leading her into sex work.⁸
23. Sex workers in Sweden experience a heightened risk of housing insecurity due to the obligation placed upon landlords through the Sex Purchase Act to withdraw tenancy agreements from those suspected of engaging in sex work. To top all of these issues off, there is the impact that being a sex workers has on the right to family life of sex workers. Sex workers have reported being penalised by court systems for being sex workers due to the stigma associated with the work, and the continued non-recognition of sex work as work, leading to the loss of guardianship of their children. Additionally - there is the continuous risk that anyone that a sex worker may cohabit with, and share living expenses with, may be deemed liable by the state for complicity in the sale of sex.
24. The Swedish law on procuring (koppleri) makes it illegal to "promote and financially exploit another person's engagement in casual sexual relations for payment" (Swedish Criminal Code, Act 2018:601, Chapter 6, Section 12). The Swedish Penal Code defines procuring as promoting or improperly financially exploiting casual sexual relations for payment of another person. Offences may render sentences of imprisonment for a maximum of four years or, if "gross", for at least two and at most ten years. In assessing whether the crime is "gross," special consideration is given to whether it is ruthless or promoted on a large scale. The

⁶ From Twenty Years of Failing Sex Workers:
https://www.nswp.org/sites/default/files/20_years_of_failing_sex_workers.pdf

⁷ From Twenty Years of Failing Sex Workers:
https://www.nswp.org/sites/default/files/20_years_of_failing_sex_workers.pdf

⁸ <https://www.migrazine.at/artikel/our-main-goal-support-each-other-english>

provision also applies to landlords who fail to do what can be expected to terminate the granted right of another person to their premises if they know that such premises are used for sex work. According to the Land Code and the Tenant Ownership Act, landlords and housing cooperative boards hold a corresponding right to repeal contracts of tenants on the grounds of sex sales, as granting someone the right to an apartment where the trade in sexual services occurs is seen as promotion of such relations. This clearly jeopardises the right to an adequate standard of living particularly housing of sex workers, which is out of step with the spirit of the recommendation received during the last UPR review where Sweden accepted the following recommendation:

- 156.201 Guarantee access to education, employment, housing and health services to all communities (Senegal);

25. Sex workers are thus unable to work from home, and risk forfeiting their housing if they try to do so, pushing them to do outcalls which may carry risks to their safety. An additional consideration in the matrix is the risk of the buyer being caught by the police. Also, there are ramifications for sex workers' rights to privacy as the surveillance of suspected sex workers is normalised through legislation and social norms, with neighbours posing a risk to sex workers by reporting them. At the same time, it is difficult to do 'out-calls' (visiting clients at their location) at neutral public spaces such as hotels because hotel owners also need to report those suspected of selling sex and if confirmed, they must expel those responsible or risk being seen as complicit.
26. Several inquiries into the impact of the Swedish model acknowledge that policing of sex workers and their clients under the Swedish model increases sex workers' economic insecurity and precariousness, resulting in limited bargaining power when it comes to negotiation with clients. Another major consequence of police harassment of sex workers and/or their clients is the displacement of sex workers to more dangerous areas. As police repression and brothel-keeping laws prevent sex workers from working in groups and having opportunities for assessing clients, sex workers are pushed to more dangerous working environments, such as clandestine street locations and into accepting more out-calls-situations in which their safety is under threat. They are also less likely to be reached by health and harm reduction services.
27. Remarkably, there is an immense lack of reliable data concerning violence targeted at sex workers since the Sex Purchase Act was introduced, despite the legislation's proclaimed aim of reducing gender-based violence. Despite considerable governmental efforts invested in assessing the impact of the law, no systematic attempt has been made to address the dynamics and determinants of violence and its manifold forms against sex workers.⁹ Evidence emerging from other jurisdictions where this approach has been taken such as in France indicates that working conditions for sex workers have deteriorated.

Right to health

28. Sweden received a number of recommendations on ensuring the fulfilment of the right to health including:
 - 156.207 Ensure that all women and girls, including those belonging to disadvantaged and marginalised groups, have access to adequate sexual and reproductive health services (Belgium);
29. Access to adequate healthcare services is compromised for sex workers in Sweden, including access to adequate occupational health, to sexual and reproductive health services, without experiencing stigma or discrimination at the hands of social and health workers. Harm reduction strategies, which are common in other countries in Europe, are not

⁹ From Twenty Years of Failing Sex Workers:
https://www.nswp.org/sites/default/files/20_years_of_failing_sex_workers.pdf

broadly implemented in Sweden since providing condoms, free anonymous health checks and testing for sex workers are seen as 'encouraging prostitution'.¹⁰

30. There are several barriers to accessing occupational health services for those who are regularly resident in Sweden and migrants alike. For the former, sex workers feel particularly scrutinised and monitored with some indicating that doctors have asked them why they require sexual health services on such a regular basis, particularly if they are married or in a relationship. For migrant sex workers (an estimated 70%-80% of sex workers in Sweden are migrant or mobile sex workers, from the European Union (EU) or countries outside of the EU), access to non-emergency health services in Sweden is difficult as access requires the prospective patient to provide a social security number (personnummer) which is hard to access, especially if one does not have a regular job and health insurance from their home country. Without this, migrant sex workers have difficulties in accessing non-emergency support from services targeting sex workers, including drug treatment, long-term counselling or support for exiting sex work and entering the mainstream labour market.
31. Regardless of immigration status, the process of recording health information brings with it some risk factors as all health information is filed in a journal, and many sex workers are reluctant to access health services for fear of revealing their occupation and having it be noted and used against them, whether in conversations relating to their migration status (where engaging in sex work is grounds for deportation, and for having border entry be barred), or in other aspects of daily life. Perceived stigma among sex workers also complicates STI prevention, and inhibits many from seeking help.
32. Whilst there are some specialised clinics where sex workers can request to be tested and visited for free, without providing any personal information, these clinics are only available in major Swedish cities. The same goes for the provision of mental health services; many sex workers are not able to access the support needed and feel that talking to their health care providers can be dangerous since they are not trained to address these issues.¹¹
33. LGBT sex workers are also systematically excluded from healthcare services. Some of the specialised service providers for sex workers claim to be LGBTQ-certified. However, they do not offer HIV-testing and their existing healthcare services are clearly aimed at cisgender women. At the same time, HIV testing centres which specialise in men who have sex with men and trans people are not equipped to provide testing and counselling for sex workers.
34. Community empowerment and community-led clinical and support services and programmes aimed at addressing violence against sex workers, such as sharing safety and health advice, are actively discouraged as they are seen to normalise sex work. These healthcare approaches are in stark contradiction with international recommendations and guidelines, such as the Sex Worker Implementation Tool (SWIT) of the World Health Organization.

Recommendations for action

1. Repeal the Sex Purchase Act and fully decriminalise both the sale and the purchase of sexual services
2. Ensure that available labour protections within Swedish law are extended to sex workers
3. Carry out a meaningful consultation process with sex workers living and working in Sweden in order to establish a legislative, policy and regulatory framework that respects their human rights, improves their safety and working conditions, and creates separate laws targeting human trafficking and consensual sex work..

¹⁰ From Twenty Years of Failing Sex Workers:
https://www.nswp.org/sites/default/files/20_years_of_failing_sex_workers.pdf

¹¹ Sex Workers Are the Experts of Their Own Experiences: Assessing Swedish Prostitution Policy with Sex Workers by Maria Giulia Taccari

4. Provide stable and sufficient funding to service providing agencies and NGOs that work with sex workers, prioritising and centring sex work leadership in their operations.
5. Take action to reduce the stigma associated with involvement in the sex work sector and combat sex workers' fear of being reported to the police through public institutions such as Skatteverket (the Swedish Tax Agency).
6. Implement the guidelines of comprehensive HIV/STI programmes with sex workers, issued by UN agencies and the World Health Organization, establishing community-led services, condom and lubricant programming, anti-violence measures and capacity-building for the sex worker community.