

# Building Your Case Against the Swedish Model

This worksheet is designed to get you started with your case against the Swedish Model. The questions have been grouped thematically around a number of frameworks for approaching the issue. Most cases against the Swedish Model will draw on a few, or even all, of these frameworks. The section has been grouped in this way to help you develop your case in a systematic way and to hone in on particular areas depending upon the way discussions and debates about sex work and criminalisation are framed in your country or region.

When answering the questions, try and be as specific as you can about the changes you think the laws will make and why. You can strengthen your case using the arguments in the second part of the worksheet and evidence in Worksheet 3.

## 1 Develop Your Case

### SAFETY AND PROTECTION FROM VIOLENCE AND STIGMA

- Will it result in sex work being carried out in riskier situations? Give examples of how you think it may affect sex workers in this way.
- Will it displace sex workers from safer workplaces and work practices?
- Does it contribute to stigmatisation?

### EXPLOITATION AND TRAFFICKING

- Is the law being advanced as a way to combat trafficking?
- Will it make sex workers more reliant on criminal networks to work?
- Does it affect the relationship between sex workers and police/others in authority in a way that could be detrimental, i.e. would it prevent sex workers from reporting crimes against them?

### PUBLIC HEALTH

- How will the proposed law affect sex workers' access to health and other services?
- Will it result in more unsafe practices, eg. condom use, regular health check-ups?

### ECONOMIC/WORK

- Will it affect sex worker's ability to make a living? For example will it have a negative impact on sex workers' business and income?
- Will it displace sex workers from safer workplaces and work practices?
- Does it take away sex worker's power and autonomy in the sex industry?
- Will it affect their ability to organise for better conditions at work?

### POLITICAL

Think about how the law fits into a broader political framework and whether it is linked to other issues that are on the political agenda in your country or region, e.g. migration, austerity agendas.

- Does the law have broad public support?
- Do most people want to see the eradication of sex work?
- Will it affect the social and political inclusion of sex workers?
- Do the arguments made for the Swedish Model promote an ideologically-based understanding of sex work, for example, all sex work is violence against women; or that all sex work is harmful to women and therefore harmful to society.

- Are there hidden agendas behind the introduction of the law, e.g. is it being used as a way to address a panic about migration; to justify public spending cuts; or to promote another cause.

## PARTICIPATION

- Has the government; department; working group consulted with sex workers and their representative bodies at any time, before, during or after adopting and enforcing the new law (or promoting it elsewhere)?
- Did they get any first-hand information from sex workers or immigrants about their views on the law, their needs or concerns or their ideas on how to improve the situation of sex worker?
- Were sex workers intentionally excluded or marginalised from the process?

## PRAGMATIC/IMPLEMENTATION

- How would the law be implemented realistically; would it even be possible to implement the law?
- How would the costs compare against the seriousness of the crime?
- Are there likely to be any unintended consequences or loopholes caused by the offence?

## GENDER EQUALITY AND DISCRIMINATION

- Will the law affect all sex workers or will some groups be more affected than others, e.g. street sex workers; migrant sex workers; male or trans\* workers

## HUMAN RIGHTS

Most of the negative impacts of the Swedish Model has on sex workers will affect our rights in some way. Rights arguments are often important to make because they view sex workers as active agents who deserve equal treatment, rather than as problems to be solved or victims to be rescued. Human rights arguments often have strong appeal for those you want to convince.

The Open Society Foundation has produced an excellent guide that outlines **Common Human Rights Violations experienced by Sex Workers**. It also provides a key that advocates can use to help them determine if certain rights protected by international law have been violated, making clear the connection between abusive acts commonly experienced by sex workers and international rights guarantees. The document can be downloaded in English and Russian at: <http://www.opensocietyfoundations.org/reports/common-human-rights-violations-experienced-sex-workers>

## 2 Arguments Against Swedish Model

### SAFETY AND PROTECTION VIOLENCE AND STIGMA

In Sweden, sex workers report increased violence after the introduction of the Sexköpslag:

- Although there is no reliable study on the issue, sex workers “express fear of increased violence, as well as an actual increase” (Dodillet and Östergren 2011, 23; see also Scoular 2010, 20; Hubbard 2008, 147; Norwegian Ministry 2004,12–14; Östergren 2004, 2, 5).
- To avoid arrest for solicitation, sex buyers negotiate quickly, which prevents the sex workers from taking time to screen the client. Sex workers report that clients are often more stressed and scared and negotiation outdoors must be done in a more rapid manner. The likelihood of ending up with a dangerous client is greater.

Many street based sex workers fear that laws that criminalise clients will change the kind of clients they see; leaving more aggressive clients who are not deterred by the laws.

Indoor sex workers may be more apprehensive about seeking help from the police when they have had problems with an abusive customer. They fear that the police, once their personal address or work location is known, will target all their clients.

Sex workers report that criminalisation of clients in Sweden has reinforced and increased the social stigma about prostitution (Skarhed 2010, 34; Dodillet and Östergren 2011)

## EXPLOITATION AND TRAFFICKING

Laws that criminalise sex work or any aspect of sex work tend to make sex workers more reliant on third parties to continue working. This can often make them vulnerable to abuse and exploitation:

- As sex workers move into more hidden locations to avoid the police, they may end up in the hands of third parties to keep the police away and help find clients (Dodillet and Östergren 2011, 22; Swedish National Board of Health and Welfare 2007, 4–48; Bernstein 2008, 154, 163).

The Swedish Model is not an effective response to trafficking or violence and abuse against sex workers:

- There is no evidence to suggest that the Swedish Model reduces trafficking.
- It relies upon the conflation of trafficking with all sex work, seeing all migrant sex workers to be victims who need to be saved or rescued and, more than likely, deported.

Clients often play an important role in reporting cases of abuse and exploitation, sometimes bringing them to the attention of law enforcement:

- Men who will criminally prosecuted for soliciting prostitution will not be willing to report crimes or assist in prosecutions of crimes of violence against sex workers. In Turkey, International Organisation on Migration reported that the highest percentage of calls to an anti-trafficking hotline came from Turkish clients of victims. Cf United States Department of State, Trafficking in Persons Report 2010 – Turkey, 14 June 2010.

Many sex workers, academics, campaigning groups and allied organisations argue that criminalisation of clients will further marginalise and increase the vulnerability of migrant sex workers.

## PUBLIC HEALTH

In general laws the criminalise sex work limit sex workers' access to health and other services:

- Laws that criminalise aspects of sex work have tended to make it harder for health and specialist outreach services to be accessed by sex workers or for those services to find sex workers. UN study into HIV and the Law found that the invisibility of sex workers constitutes the biggest obstacle to outreach workers in terms of HIV/AIDS and STI education and prevention (UNAIDS 2002, 13).
- A 2012 report by the Global Commission on HIV and the Law – made up of former heads of state and leading legal, human rights and HIV experts, and supported by the UN Development Programme (UNDP) on behalf of the Joint United Nations Programme on HIV/AIDS (UNAIDS) found that laws that criminalise and dehumanise populations at highest risk of HIV – including sex workers; drive people underground, away from essential health services and heighten their risk of HIV. The legal environment in many countries exposes sex workers to violence and results in their economic and social exclusion. It also prevents them from accessing essential HIV prevention and care services. It recommended decriminalising voluntary sex work.
- Anand Grover, the UN Special Rapporteur to promote the right to physical and mental health, stated that “the criminalization of private, consensual sexual behavior between adults” prevents sex workers from accessing services, therapies and treatments, “leading to poorer health outcomes for sex workers, as they may fear legal consequences or harassment and judgement” (UN Special Rapporteur 2010, 10, 12–13).

A law criminalising clients that reduce the amount of work and money for sex workers could lead them to engage in unsafe sex and sexual activity they usually would not perform.

## ECONOMIC

Criminalisation of clients is likely to disrupt the work of indoor and street-based sex workers and affect their ability to earn a living.

The law is likely to lower prices on the streets since there will be less customers and more competition.

Disruption caused to their work by this law can result in unsafe working conditions for sex workers:

- Informal networks among sex workers are likely to weaken due to dispersal and the need to work in more isolated ways to avoid detection. This could affect their ability to warn each other about dangerous clients or give each other the same support.

Criminalisation of sex work means that sex workers do not have access to the protections afforded to other workers in other industries. It makes it more difficult for them to take action – individually or collectively, to challenge or resist unfavourable working conditions.

## HUMAN RIGHTS

The laws could limit sex workers' access to justice:

- Laws that criminalise sex work force sex workers to choose between their liberty and security when they are apprehensive about reporting abuse to the police.
- A Canadian trial court ruled that laws criminalising (1) the acts of living on the earnings of prostitution, (2) keeping a brothel, and (3) communicating in public for the purpose of prostitution (soliciting) are unconstitutional because they prevent sex workers from taking actions to make their work safer (Bedford 2010, 5–6). The Court found that “the laws, individually and together, force prostitutes to choose between their liberty interest and their right to security of the persons” (Bedford 2010, 5).

Sex workers have the right to consent and have that consent respected.

## POLITICAL

These laws take power and autonomy away from people working in the sex industry.

They are often pushed by small interest groups who have ideological agendas that are at odds with public opinion.

There is a worrying link between laws that criminalise and attempt to limit sex work and moral panics about migration and migrants.

In recent years punitive laws claiming to benefit women and marginalised groups in society have been introduced often at the expense or in place of health and welfare services that would actually benefit them.

## PRAGMATIC/IMPLEMENTATION

The enforcement of a law against sex purchase would be difficult and costly (reflected in low level of convictions).

It would most likely involve violating the Right to Privacy between two adults involved in a consensual sex act.

Scarce police and other public resources should be used in a focused way to target clients who are abusive, violent and commit other crimes against sex workers – not those who are respectful and have positive working relationships with sex workers.

## PARTICIPATION

Sex workers should be involved in decisions about policies that will affect them:

- Sex workers have a right (Right to Participation) to be consulted about laws and policies that affect them;
- Democracies should marginalised groups should
- Participation is a fundamental part of a democratic political process;
- When advocates and governments intentionally exclude the voices of sex workers or other persons who might disagree with them, they are claiming a monopoly on public dialogue and political decision-making.

## BUILT ON FALSE PRETENSES

Most pushes for a client criminalisation model are constructed upon the theory that sex workers are passive ‘victims’:

- They attribute the existence of sex work to unequal power relations between men (clients) and women (sex workers) and equate all commercial sexual transactions with male violence;
- They understand sex work as a “serious harm both to individuals and to society”

In response, we can say: it is true that sex work is firmly situated within patriarchy (as is most work in patriarchal societies) and that violence exists within sex work – particularly in street-based sex work – but sex work is not, *per se*, violence against women. In most countries, laws exist that disempower sex workers and prevent them from taking reasonable steps to ensure their safety.

## OTHER ARGUMENTS

Laws that criminalise clients **will not eradicate sex work**:

- Reports produced by the Swedish government and other researchers reveal that the government’s claims of success are not supported by facts. There is no evidence that fewer men are purchasing sex, that fewer women are selling sex or that fewer people are being trafficked into forced prostitution. At most, the government can demonstrate that there has been a drop in street-based prostitution but cannot explain the cause of the drop. comprehensive services and assistance to ensure the health and safety of the victims.