

Submission to the Universal Periodic Review (Third Cycle)

Joint submission by RFSL and RFSU

Sweden

July 2019



RFSL – The Swedish Federation for Lesbian, Gay, Bisexual, Transgender and Queer rights. RFSL was founded in 1950 and has since then worked to further the rights of LGBTQI people in Sweden and internationally through political advocacy, social activities and projects. RFSL is a member of ILGA and Transgender Europe.

www.rfsl.se

forbund@rfsl.se; Saltmätargatan 20, 113 59 Stockholm, Sweden



RFSU – The Swedish Association for Sexuality Education is a non-profit organisation that works for an open, positive view of sex and relationship issues. We believe that everyone is entitled to be what they want to be, to choose to live as they want and enjoy what they want. We are convinced that sex and relationships are important, both for the individual and society. We work locally, nationally and internationally.

www.rfsu.se

info@rfsu.se; Medborgarplatsen 3, 118 26 Stockholm, Sweden.

About the topics of the submission

This joint submission focuses on human rights concerns affecting sexual and reproductive health and rights, and the rights of lesbian, gay, bisexual, transgender, queer and intersex (lgbtqi) people in Sweden.

The rights of the child

“Normalizing” surgeries on intersex children

Sweden still performs sex “normalizing” surgeries on children born with different intersex traits. The largest group subjected to this harmful treatment today in Sweden are children who are assigned a female legal gender, born with 46,XX-karyotype and “masculinized” external genitalia, for example children born with CAH¹. There is no data on how many children are subjected to this every year.

In 2013 the Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, called upon all states to repeal any law allowing intrusive and irreversible treatments, including forced genital-normalizing surgery when enforced or administered without the free and informed consent of the person concerned².

A report from the Swedish Social Board for Health and Welfare about medical care for children born with intersex traits showed that surgeries are often carried out very early in the child’s life (3-12 months), long before the child is old enough to give their consent. The different Swedish medical teams working with intersex children also have different views and praxis on when and if surgeries should take place, resulting in unequal care depending on where in the country you are born. The view of the parents, and the parents’ ability to provide emotional support for the child if genital surgery is not performed, are strictly non-medical factors considered when making the decision about surgery³.

In 2017 The Swedish National Council on Medical Ethics published a comment on medical care for intersex children, where they emphasize that early surgical interventions should only be done when they are medically motivated, and that surgeries with the sole purpose to “normalize” a child’s genitalia should not be performed until the child is old enough to consent and be part of the decision. The comment highlights that it’s very important to protect the child’s right to bodily integrity.⁴

Despite this, these practices continue and there is no prohibition of subjecting children to these medically unnecessary treatments. Sex “normalizing” surgeries on intersex children are harmful and statutes examples of cruel, inhumane and degrading treatment.

¹ Vård och behandling av personer med intersexuella tillstånd. Socialstyrelsen. 2017

² Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez. UN. 2013

³ Vård och behandling av personer med intersexuella tillstånd. Socialstyrelsen. 2017

⁴ The Swedish National Council on Medical Ethics (SMER) Comment on care of intersexual children. 2017

Children's rights to their parents

Sweden is failing to ensure that all children living in Sweden have the legal right to their parents. There have, for example, been court cases regarding families with two mothers who have moved to Sweden, where Sweden has not recognised the legal status as parent for the mother who did not give birth to the child, despite the fact that she was recognised in the country where the child was born.⁵

There is also a case with a family with two mothers living in the UK, one of them being a Swedish citizen, where Sweden denied registering one of the women as the mother to the child she did not give birth to, despite the fact the UK had done so. This resulted in the child also being denied Swedish citizenship, which had been awarded to the child's sibling, whom the Swedish woman had given birth to. RFSL is now taking the case to the European Court of Human Rights.⁶ These cases are due to a gendered interpretation of the laws regulating international and Nordic fatherhood issues. There is a need for a change of the laws to ensure equal treatment of all children and families.

Many children and families are left for long periods of time without formal ties to each other, and the security coming with it, as a result of a Swedish lack of legislation regulating surrogacy agreements. There has recently been a court case about Sweden's refusal to register a Swedish woman as the mother of a child born through a surrogacy agreement in the US. The Swedish supreme court made it clear that Sweden has to register the woman as the mother, to respect the child's right to privacy and fulfill the principle of what is in the best interest of the child.⁷ The supreme court also stated that the case brings on several additional questions which could not be handled as part of the court decision and therefore needs to be addressed by the legislator.

Recommendations to the Swedish Government:

- Take all necessary measures to adopt legislative provisions that explicitly prohibit the performance of unnecessary surgical or other medical procedures on intersex children before they reach an age when they can consent.
- Implement programs to train medical and psychological staff on the rights of intersex persons.
- Make the necessary changes in the Swedish parental legislation to ensure that all children have equal legal protection and access to their parents.

⁵ https://www.dagenssamhalle.se/debatt/flytt-till-sverige-innebar-att-barn-forlorar-en-mamma-28193?fbclid=IwAR3n9chpGUPzmSSUp0_AJ7O7xWEcuHlzWRW1DNp0WRK-c7pKWKFiEewZnpA

⁶ <https://www.rfsl.se/aktuellt/stammer-staten-i-foraldraskapsarende/?fbclid=IwAR3LzRiWlaN2ITjHDtlfseu4PIrDZTXbrcBN1YUQh3-M3yc7urtej4RRmP8>

⁷ http://www.hogstodomstolen.se/Om-Hogsta-domstolen/Nyheter-fran-Hogsta-domstolen/Amerikansk-dom-om-faststallt-moderskap-efter-ett-surrogatarrangemang-erkanns-i-Sverige/?fbclid=IwAR3IKKdaJ_p19NYSvb7G_96gdHblTMLq8E6JLdbkLNjSa_Ee659aHwjG7ZM

The right to asylum

The situation of lgbtqi asylum seekers in Sweden

Sweden does not live up to the principle of non-refoulement. There is evidence of lgbtqi people being deported to countries where same-sex relations are criminalized, such as Nigeria⁸, Uganda³, Kenya⁹ and Bangladesh¹⁰. A number of cases related to deportation or refoulement of representatives of the lgbtqi community from Sweden have been reviewed by the UN Committee against Torture¹¹.

In 2015 Sweden adopted a law on temporary restrictions to obtaining a residence permit in Sweden¹². The law has now been prolonged until July 19, 2021. The law states that asylum seekers can only be granted temporary residence permits. The rationale behind temporary residence permits is that asylum seekers flee war or other situations that are temporary, and that the threat to life or freedom will change. However, the harmful situation for lgbtqi people in countries where they are persecuted or criminalised by the state is not temporary and the rationale for temporary residence permits is not fulfilled.

Recommendations to the Swedish Government:

- Give precedence to the principle of non-refoulement when considering the situation of refugees or asylum-seekers who allege that their lives, liberty or personal integrity may be at risk in their countries of origin, for example lgbtqi people fleeing countries that criminalize homosexuality or make it illegal to live as a trans person.
- Abolish the law on temporary restrictions to obtaining residence permit in Sweden, re-establishing permanent residence permits as the norm.

The right to recognition before the law

Legal gender recognition

Sweden legal gender recognition law and the practise from the Legal Advisory Board of the National Board of Health and Welfare requires trans people to go through mandatory gender affirming health care to get legal gender recognition. This goes against the Yogyakarta Principles, where it is stated that States should ensure a quick, transparent, and accessible mechanism that legally recognizes and affirms each person's self-defined gender identity and to ensure that no eligibility criteria, such as medical or psychological interventions, shall

⁸ Rättslägesanalys om återopande av asylskäl på grund av sexuell läggning Nigeria and Uganda, Peterson, 2013

⁹ Asylprövningen vid flyktingskap på grund av sexuell läggning, Gröndahl, 2012

¹⁰ Frukta och skam - En granskning av migrationsdomstolarnas bedömningar av HBTQI-asylärenden. Victoria Malmquist, 2016

¹¹ See e.g.: Committee against Torture: *E.J.V.M. v. Sweden*, communication no. 213/2002, decision of 14 November 2003, [CAT/C/31/D/213/2002](#); *Uttam Mondal v. Sweden*, communication No. 338/2008, decision of 23 May 2011, [CAT/C/46/D/338/2008](#); *E.A. v. Sweden*, communication no. 690/2015, decision of 11 August 2017, [CAT/C/61/D/690/2015](#); Human Rights Committee: *X. v. Sweden*, communication no. 1833/2008, views of 1 November 2011, [CCPR/C/103/D/1833/2008](#); *M. I. v. Sweden*, communication no. 2149/2012, views of 25 July 2013, [CCPR/C/108/D/2149/2012](#).

¹² Lag (2016:752) om tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige

be a prerequisite to change one's name, legal sex or gender.¹³ In 2018 the Swedish Government prepared a proposed law that ensures this right, but the proposal has been stalled, and there is no timeline for when a proposal will be voted on in Parliament.¹⁴ There is no possibility for non-binary people in Sweden to have their gender legally recognized, since a gender-neutral gender marker does not exist.

Recommendations to the Swedish government:

- Intensify efforts to implement a new gender recognition law, ensuring a quick, transparent and accessible mechanism based on self-definition for all, regardless of age.
- Ensure the complete separation between the right to legal gender recognition and access to the medical system.

The right to health

Access to gender affirming health care for all gender dysphoric persons

Trans people who experience gender dysphoria need access to gender affirming health care. There are several clinics offering this health care in Sweden but the queues to access the clinics range between 6-12 months, leaving trans people in challenging situations while waiting for life saving medical care. The waiting lines for people under 18 are even longer, and young non-binary persons cannot access gender affirming healthcare. In addition to this, the availability differs heavily across the country, and the use of the recommended national guidelines also differs from region to region.^{15 16}

Mental health and suicide

Sweden has a problem with worsening mental health among the population as a whole and among specific groups of the population in particular. Psychiatric diagnoses and prescription of psychotropic drugs is increasing among young people, especially girls¹⁷. Elderly people¹⁸, people with disabilities¹⁹, Sami people²⁰ and people in same sex marriages²¹ have worse mental health compared to the general population. Trans people, especially young trans people, are at risk for depressions, suicide ideation and suicide attempts^{22,23}. Hence,

¹³ Yogyakarta principles + 10, 2017, p.9

¹⁴ <https://www.regeringen.se/rattsliga-dokument/lagratsremiss/2018/08/vissa-kirurgiska-ingrepp-i-konsorganen-och-andring-av-det-kon-som-framgar-av-folkbokforingen/>

¹⁵ Transpersoner i Sverige, SOU 2017:92, available at: <https://www.regeringen.se/rattsliga-dokument/statens-offentliga-utredningar/2017/11/sou-201792/>

¹⁶ The guidelines, God vård av vuxna med könsdysfori, and God vård av barn och ungdomar med könsdysfori, available at: <https://www.socialstyrelsen.se/utveckla-verksamhet/jamlik-halsa-var-d-och-omsorg/hbtq/var-d-vid-konsdysfori/>

¹⁷ Utvecklingen av psykisk ohälsa bland barn och unga vuxna, Socialstyrelsen, 2017

¹⁸ Psykisk ohälsa hos personer 65 år och äldre, Socialstyrelsen, 2018

¹⁹ Slutrapportering av regeringsuppdrag inom ramen för "En strategi för genomförande av funktionshinderspolitiken 2011–2016, Folkhälsomyndigheten, 2016

²⁰ Kunskaps-sammanställning om samers psykosociala ohälsa, Sametinget, 2016

²¹ Psykisk ohälsa bland personer i samkönade äktenskap, Socialstyrelsen, 2016

²² Hälsan och hälsans bestämningsfaktorer för transpersoner, Folkhälsomyndigheten, 2015

²³ Targeted Victimization and Suicidality Among Trans People: A Web-Based Survey. Zeluf et al. LGBT Health. 2018

increased efforts and an intersectional approach are needed to prevent mental ill-health and suicide.

Access to sexual and reproductive health and rights

Access to subsidized contraceptives

According to Swedish law, Act (2008:344)²⁴, asylum seekers over 18 have the right to some health care in Sweden, care that can not wait, pregnancy related care, abortion care and contraceptive advice, and care related to the Communicable diseases Act (2004:168). But, contrary to the intentions in the law, contraceptives are not subsidized. This is due to procedures from the Swedish Migration Board, that have interpreted the law as only including contraceptives that have been prescribed by a doctor in relation to health care that can not wait, not but contraceptives prescribed by a midwife, for preventive reasons. This creates the cynical situation where abortion care is subsidized, but not contraceptives. It also results in a situation where asylum seekers have less access to subsidized contraceptives than people living in Sweden without the necessary documents.

Act (2013:407),²⁵ regulates access to health care for undocumented people in Sweden and states that contraceptives are also to be subsidized. But, this law excludes some groups, which affects for example Roma people from other EU countries who are living in Sweden. Roma women and girls do have some access to abortion care, maternity care and contraceptive advice, but there is a lack of the right to subsidized contraceptives. There is also a difference between different regions in how the law is interpreted.

Access to birth clinics and abortion care

Sweden has seen a large number of birth/maternity clinics closing over the past decade.²⁶ This has led to long travel distances for pregnant people living in some areas in Sweden. It is necessary to improve statistics on the effects of the closings of the clinics, to make sure that the number of children born outside of hospitals, against the intentions of the parents, for example in the car on the way to the hospital, are not increasing. It is equally important to ensure that the quality of care is not negatively impacted by long travel distances, and that Sweden conducts follow up studies on the effects, with a focus on access to and quality of care, from the parents' perspective.

It is also important to ensure that the access to abortion care is not impacted due to the closing down of birth clinics.

Equal access to HPV vaccines

Adolescent girls in Sweden are offered HPV vaccinations in the national vaccination program since 2010.²⁷ Since 2013 the national vaccination programmes are regulated by the Communicable Diseases Act.²⁸ The Public Health Agency of Sweden presented, in 2017, an investigation where they stated that all criteria to also include boys in the national HPV

²⁴ Lag (2008:344) om hälso- och sjukvård åt asylsökande m. fl.

²⁵ Lag (2013:407) om hälso- och sjukvård till vissa utlänningar som vistas i Sverige utan nödvändiga tillstånd.

²⁶ <https://www.ottar.se/artiklar/bb-avst-nden-kar-s-l-ngt-r-det-i-din-kommun>

²⁷ Regulation HSLF-FS 2016:51.

²⁸ 2004:168.

vaccination programme are fulfilled.²⁹ The Swedish government has yet to include boys in the vaccination programme.

Equal access to sexual health and rights

Comprehensive sexual education about contraceptives, gender issues, boundaries, STI:s, etcetera, helps young people to better understand their bodies, feelings, integrity and rights. It also helps to counteract gender stereotypes and address masculinity norms, as well as it empowers young people impacted by so called honor related norms.

According to the Swedish curricula, education on sex and relations is obligatory, but the subject is not yet included in the university programs for teachers, leading to deficiencies in how the subject is presented to the students. Recently there was a decision to introduce this in the university program, but we have not yet seen the effects. It is important that teachers get special training in education of sex and relations so they can transmit objective scientific-based information. We have no current data of the quality or the content of the education about sex and relations, but we do know that only 20 per cent of youths in the age 15-24 is satisfied with the education on sex and relations.³⁰

Increased efforts are necessary to ensure that access to education in sexual and reproductive health and rights are inclusive and available for everyone, including newly arrived people in Sweden, lgbtqi youth and young people from minority backgrounds.

There is to our knowledge no quantitative research on sexual health of people with intellectual disabilities in Sweden, although a report on living conditions of youth with disabilities shows that youth with physical, mental and/or intellectual disabilities have a higher prevalence of risk behaviours than their peers without disabilities.³¹ A qualitative study indicates that access to sexual education and support for people with disabilities may be more restricted in Sweden than elsewhere.³²

Also, the Swedish Youth Clinics are not accessible for all people, regardless of for example physical and intellectual capacities, and language levels. 57 per cent of the Youth Clinics have easy reading information in Swedish. 89 per cent of the Youth Clinics are accessible for persons in wheelchairs and 81 per cent have wheelchair accessible toilets.³³

According to the 2030 Agenda for Sustainable Development, goal 3.7, everyone should, by 2030, be ensured universal access to sexual and reproductive health-care services, including for family planning, information and education, and the integration of reproductive health into national strategies and programmes. The Authority Statistics Sweden (SCB) states, in a submission to the Swedish Government, it is a great challenge to follow up the

²⁹ <https://www.folkhalsomyndigheten.se/publicerat-material/publikationsarkiv/h/human-papilloma-virusvaccination-of-boys-in-the-swedish-national-vaccination-programme/>

³⁰ Public Health Agency of Sweden (Folkhälsomyndigheten), *Ungdomsbarometern - Ungdomar och Sexualitet 2014/2015*, 2014

³¹ Swedish Agency for Youth and Civil Society, 2012, *Fokus 12: levnadsvillkor för unga med funktionsnedsättning*.

³² Swedish Agency for Youth and Civil Society, 2015, Fokus 15: unga sexuella och reproduktiva rättigheter; Kulick & Rydström, 2015, *Loneliness and its opposite: sex, disability, and the ethics of engagement*, Durham, Duke University Press.

³³ Socialstyrelsen 2013, Återrapportering av regeringsuppdrag att kartlägga ungdomsmottagningarnas verksamhet (S2012/267/VS).

Agenda and measure the access to SRHR for persons with disabilities because disabilities isn't a principle of division.³⁴

Recommendations to the Swedish Government:

- Increase the availability to gender affirming health care, according to the recommendations in the national guidelines, on equal standards all across the country.
- Strengthen measures regarding suicide prevention both to the population as a whole and to specifically vulnerable groups to ensure that no one is left behind.
- Intensify efforts to ensure increased accessibility to psychological or psychiatric care for people in need of it.
- Ensure that the intentions in the law regarding subsidized contraceptives are followed in practice so that all people living in Sweden have access to them, including asylum seekers, people living in Sweden without the necessary documents, and people from other EU countries, including those belonging to vulnerable groups.
- Introduce statistics on how many children are born outside of hospitals, against the intentions of the parents, and closely follow the effects of the closed birth clinics, with regard to the access to and quality of care, from the parents' perspective.
- Make sure that access to abortion care is not limited as a result of the closed down clinics.
- Introduce a HPV vaccination programme where boys are included.
- Increase efforts to make sure that all young people in Sweden have access to good quality comprehensive sexuality education based on norm criticism. It should also focus on consent and mutuality in sexual and close relationships as one of the necessary factors in reducing sexual violence.
- Increase the efforts to make sure that all young people benefit from programmes and efforts introduced to increase knowledge of and access to sexual and reproductive health and rights, including access to the Youth Clinics.
- Improve statistics to be able to measure accessibility to these services for different groups in the population.
- Domestic policies and strategies on implementation of the Agenda 2030 must ensure that they are explicitly inclusive of the most marginalized and excluded people, including people with disabilities, lgbtqi people and migrants as well as people on intersection of these identities.

The right to a life free from violence and discrimination

Equal access to support and improved statistics for all

In Sweden, 98 per cent of the offenders in the reported cases of sexual violence are men, and the absolute majority of victims are girls/women.³⁵ Preventive work against sexual violence is too often focused on teaching usual victims (girls and women) to protect

³⁴ SCB. 2017. Statistical follow-up of Agenda 2030. SCB 010-479 40 00

³⁵ BRÅ, *Våldtäkt och sexualbrott*, available at: <https://www.bra.se/bra/brott-och-statistik/valdtakt-och-sexualbrott.html>

themselves rather than discouraging the perpetrators (often men). Therefore, preventive work should actively address men and boys, in fighting negative social stereotypes leading to violence against women.

The Swedish national strategy to prevent and combat men's violence against women do mention violence in same sex-relationships.³⁶ However, the strategy fails to specify any interventions meant to prevent violence in other situations/relationships than men violating women. It erases the experiences of lgbtqi people, who are especially exposed to gender-based violence due to breaking gender and sexuality norms. Trans people are especially exposed to different types of violence, including violence in close relationships.³⁷

A larger percentage of trans people are the victims of for example violence and threats, than the general population. Trans people (of all genders, including trans women and non- binary people) are twice as likely to have been subjected to violence than the general population in Sweden. It is very common to have experienced both physical, psychological, and sexual violence.³⁸

There are also other power structures to take into account. For example, 18 per cent of women with disabilities, between the ages of 16-29, have experienced violence or threats of violence, compared to 8 per cent of women without disabilities.³⁹ The national strategy on violence against women also define disability as a vulnerability factor for violence.⁴⁰

A high proportion of children with neuropsychiatric disabilities appear to be subjected to sexual offenses. 5-8 per cent of children in Sweden have these neuropsychiatric diagnoses, but preliminary results indicate 13 per cent of police sexual assault reports concern children with neuropsychiatric disabilities. According to the same research project police hearings are not adapted to individual circumstances and needs. Despite the disproportionate statistics few perpetrators are convicted. Only 64 per cent of the accused are convicted and 36 per cent are acquitted in general. In comparison, for children without disabilities the corresponding figures are 86 per cent and 14 per cent respectively.⁴¹

Racism, homophobia, transphobia - hate crimes and discrimination

Lack of knowledge and deficient data-collection continue to make it difficult to identify multi-sectorial discrimination in Sweden faced by people with different intersecting identities, such as for example LGBTQI people of color. The Swedish Constitution does not expressly

³⁶ <https://www.regeringen.se/informationmaterial/2016/11/nationell-strategi-for-att-forebygga-och-bekampa-mans-vald-mot-kvinnor/>

³⁷ Hälsan och hälsans bestämningsfaktorer för transpersoner. Folkhälsomyndigheten, 2015.

³⁸ Transpersoner i Sverige, SOU 2017:92, available at: <https://www.regeringen.se/rattsliga-dokument/statens-offentliga-utredningar/2017/11/sou-201792/>

³⁹ Swedish Agency for Participation (Myndigheten för delaktighet), *Samlad uppföljning av funktionshinderspolitiken - Hur är läget 2015?* A 2015:12

⁴⁰ Swedish Government. 2017. A national strategy to prevent and combat men's violence against women, Draft (kapitel 5, sid 109-155) from Makt, mål och myndighet – feministisk politik för en jämställd framtid Skr. 2016/17:10

http://www.regeringen.se/4ad0bc/globalassets/regeringen/dokument/socialdepartementet/jamstalldhet/en-nationell-strategi-for-att-forebygga-och-bekampa-mans-vald-mot-kvinnor_utdrag-ur-skr.-2016_17_10.pdf

⁴¹ Lainpelto, K., 2013. Evaluation of statements from children with neuropsychiatric disabilities - On legal certainty, objectivity and impartiality, ongoing science project at Stockholms university.

prohibit discrimination and negative treatment of transgender people or people with disabilities. Furthermore, the Swedish criminal code does not consider disability as motivation for hate crimes. Therefore, domestic statutory law requires to be harmonised with national and international anti-discrimination law. Such harmonisation would enable better data-collection on hate crimes as well as the state's possibilities to effectively prosecute such crimes.

There is a general lack of statistics regarding the situation of people of color in Sweden, due to a reluctance of introducing background questions relating to race in surveys. There is also a lack of data on the basis of more than two genders. There are a number of examples of how racism, homophobia and transphobia influences people's lives in Sweden, but statistics, especially with an intersectional perspective, can definitely improve.⁴²

It is also known that both LGBTQI people and people born outside of Sweden, or whose parents are born outside of Sweden, have a lower trust in public institutions than the general population.⁴³ This distrust may have its roots in discrimination or fear of discrimination.

Hate crimes based on both race and SOGIESC (sexual orientation, gender identity, gender expression and sex characteristics) grounds can be linked to an increased activity of right-wing extremist groups.⁴⁴ Over the last few years, there has been increased presence from organised nazi groups, such as the Nordiska Motståndsrörelsen (NMR, Nordic Resistance Movement), at for example pride events, and other manifestations for democracy, such as the annual "week of politics" in Almedalen, Visby, on the island of Gotland. So far, it has proven difficult to charge and persecute the members of the NMR with any crimes, despite them obviously constituting a threat to others, among them lgbtqi people, people of color, people belonging to minorities, and people holding opposing political views.⁴⁵

Recently the government made public their intention to investigate whether it is possible to ban racist organisations.⁴⁶ We are worried this might lead to a shrinking space for civil society to operate in, in a different political landscape, and follow the process closely. Our focus is instead to make sure that the legislation already in place is being upheld. The Swedish constitution defines a right to assemble which needs to be upheld when neo nazis

⁴² The Public Health Agency of Sweden, Swedish Agency for Youth and Civil Society, available at: <https://www.folkhalsomyndigheten.se/contentassets/a55cb89cab14498caf47f2798e8da7af/halsan-halsans-bestamningsfaktorer-transpersoner-15038-webb.pdf>
<https://www.folkhalsomyndigheten.se/globalassets/nyheter-press/dokument-nyheter/2014/utv-halsan-bestamningsfaktorer-homo-bi-fina-2014.pdf>
https://www.mucl.se/sites/default/files/publikationer_uploads/hon-hen-han.pdf; SCB, available at: [https://www.scb.se/sv/Hitte-statistik/Artiklar/Stor-skillnad-i-sysselsattning--mellan-inrikes-och-utrikes-fodda/#:Brå 2017:11 p.9](https://www.scb.se/sv/Hitte-statistik/Artiklar/Stor-skillnad-i-sysselsattning--mellan-inrikes-och-utrikes-fodda/#:Brå%202017:11%20p.9), available at: https://www.bra.se/download/18.4c494ddd15e9438f8ada9786/1513175214923/2017_11_Hatbrott_2016.pdf

⁴³ RFSL, "Förtroende att stärka."

https://www.rfsl.se/wp-content/uploads/2017/01/RFSL_rapport_Fortroende-att-starka_webb.pdf; Brå 2017:1 p.130

https://www.bra.se/download/18.37179ae158196cb172d6047/1483969937948/2017_1_Nationella_trygghetsundersokningen_2016.pdf

⁴⁴ Brå 2017:11 p. 10-11.

⁴⁵ <https://www.dn.se/debatt/utred-rattvasendets-misslyckade-lagforing-av-nazisterna-i-almedalen/>

⁴⁶ <https://www.regeringen.se/pressmeddelanden/2019/07/forbud-mot-rasistiska-organisationer/>

threatens it, and public safety concerns could be used to stop them from interfering with public events.⁴⁷

Improved support for people affected by honor related violence and norms

During recent years there has been increased attention in Sweden to the situation of people affected by honor related violence and norms. Recently a government investigation proposed to increase the penalties for honor related crimes, but more needs to be done.⁴⁸ It's important to empower the people affected, and train professionals such as the police, members of the justice system, people employed in the health care sector and social services.

Recommendations to the Swedish government

- Intensify efforts to combat all forms of violence, including hate violence affecting people belonging to different minorities, sexual violence, men's violence against women and violence in lgbtqi people's relationships. Introduce intersectional perspectives and actions in strategies, to reach all affected, including people with disabilities.
- Focus on reaching perpetrators early on, for example through comprehensive sexuality education.
- Introduce hate crime legislation that is inclusive of people with disabilities, and prohibit discrimination against transgender people and people with disabilities in the Swedish Constitution.
- Improve statistical methods, including considering introducing more background questions, to make sure that knowledge about people affected by violence and discrimination is accurate, has an intersectional perspective and take all relevant information into account.
- Take all necessary measures to improve the outcomes of court procedures, making sure that all victims get a fair procedure regardless of for example disabilities.
- Improve and strengthen support systems for all victims of violence.
- Consider instructing the police to make use of existing legislation in order to prevent racist, homophobic and transphobic organisations from accessing their right to assembly, and as a consequence preventing others from exercising their rights.
- Introduce trainings for the police and actors in the justice system, as well employees in the health care sector and social services, to improve knowledge and competence on men's violence against women and other intimate partner violence, hate crimes and honor related crimes. Trainings need to have an intersectional perspective, to ensure that knowledge about for example lgbtqi people and people with disabilities are included in this context.

⁴⁷ https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/kungorelse-1974152-om-beslutad-ny-regeringsform_sfs-1974-152 (see §25).

⁴⁸ http://www.sou.gov.se/wp-content/uploads/2018/08/SOU_2018_69_webb.pdf

The rights of people involved in transactional sex

Evaluate the legislation and improve the human rights of people selling sex

Since 1 January 1999, it is illegal to pay for consensual sexual encounters in Sweden with money or other forms of compensation. The act of selling sex is not criminalised. The purpose of the Sex Purchase Act is to discourage the buyers and decrease the number of people involved in transactional sex. It is also intended to obstruct the establishment of trafficking networks in Sweden⁴⁹.

In 2005, the provision was transferred to the Penal Code as Section 11 of a new Sexual Crimes chapter. In 2010, the Government presented a report with a 10-year evaluation of the Act in which they concluded that it had achieved the Government's intended effect⁵⁰. The report was heavily criticised by RFSL and others for not being impartial and not taking into account, nor respecting the experiences of people involved in transactional sex. Among other statements in the report, the evaluator stated that comments made by people involved in transactional sex, that the law had made their life more difficult and increased the stigmatisation, were not relevant, since the purpose of the law was to decrease the number of people involved.

The Sex Purchase Act does not differentiate between voluntary transactional sex and involuntary, for example trafficking and forced labour. This has made the empowering of people involved voluntarily very difficult. RFSL and others have noted problems in relation to HIV prevention, where the distribution of condoms has been seen as an "encouragement to crime", as well as situations where the person involved has been outed to neighbours when police have entered their apartment to arrest the buyer. We have also seen situations where a parent, who is involved in transactional sex, has lost custody of their children. The human rights of people involved in transactional sex in Sweden are seriously lacking.

The Sex Purchase Act is based upon a gender power perspective where transactional sex is seen as an example of men's sexualised violence against women. There is a need for more interventions reaching a wider group of people involved in transactional sex to ensure that all involved who need health services and assistance, have access to it. Another law that limits the rights of people involved in transactional sex is the law against procuring, which in some circumstances makes it illegal for people involved in transactional sex to have a domestic relationship since it is illegal to be supported by a person selling sex⁵¹.

We believe that the Sex Purchase Act does not solve the difficulties people involved in transactional sex face. We propose greater social efforts and more active engagement by the Government to stop the exclusion of people involved in transactional sex in society. There is also a lack of evidence that the legislation has had the intended effect as the number of people involved and the number of buyers in Sweden before and after the law was introduced remain unknown.

⁴⁹ <http://www.regeringen.se/sb/d/2593/a/116601>

⁵⁰ SOU 2010:49

⁵¹ Brottsbalken (1962:700) 6 kap 12 §

Social support and efforts for people who have experienced transactional sex and victims of human trafficking are insufficient and directed to the three largest cities in Sweden. Support and reaching youths on the internet is very poor. Consequently, more state investment in the social efforts for people with experience of transactional sex is necessary.

Recently, there has also been increasing attention brought to the fact that the Aliens Act of Sweden (Utlänningslagen 2005:716) allows people to be deported based on the fact that they have been offering transactional sex, although they have not done anything illegal.⁵²

Recommendations to the Swedish government:

- Objectively evaluate all existing legislation affecting people involved in transactional sex, with a clear focus on the effect on the human rights of people selling sex.
- Make a clear distinction between voluntary and involuntary transactional sex in research, policy and social support.
- Introduce measures to end stigma and discrimination of people involved in transactional sex, regardless of the legislation.
- Increase social efforts to support people involved in transactional sex.
- Ensure support from Government agencies to organisations for people involved in transactional sex.
- Encourage research in the field of transactional sex.

An independent national human rights institution

Sweden has still not established an independent national human rights institution (NHRI) despite accepted recommendations from the recent UPR review in 2015 and from the UN human rights Committees.⁵³ Sweden ratified the UN Convention on the Rights of Persons

⁵² <https://www.viewpointmag.com/2015/10/31/precarious-intimacies-the-european-border-regime-and-migrant-sex-work/>

⁵³ Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Sweden*, A/HRC/C/29/13, 13 April 2015, paras. 145.10-145.16; See also recommendations from UN human rights Committees, Human Rights Committee (HRC), *Concluding observations on the seventh periodic report of Sweden*, CCPR/C/SWE/CO/7, 25 April 2016, paras. 8-9; The Committee on the Elimination of Discrimination against Women, *Concluding observations on the combined eighth and ninth periodic reports of Sweden*, CEDAW/C/SWE/CO/8-9, 10 March 2016, paras. 20-21; The Committee on Economic, Social and Cultural Rights (CESCR), *Concluding observations on the sixth periodic report of Sweden*, E/C.12/SWE/CO/6, 14 July 2016, paras. 9-10; Committee on the Rights of Persons with Disabilities (CRPD), *Concluding observations on the initial report of Sweden*, CRPD/C/SWE/CO/1, 12 May 2014, paras. 61-62; Committee on the Elimination of Racial Discrimination (CEDAW), *Concluding observations on the combined twenty-second and twenty-third periodic reports of Sweden*, CERD/C/SWE/CO/22-23, 6 June 2018, paras. 8-9; Committee on the Rights of the Child (CRC), *Concluding observations on the fifth periodic report of Sweden*, CRC/C/SWE/CO/5, 6 March 2015, paras. 11-12

with Disabilities (CRPD) in 2008, and as such, also has a legal obligation to implement an independent NHRI according to Article 33 (2) of CRPD.

From our perspective, this institution would be relevant to protect the human rights of lgbtqi people in Sweden, for addressing multi-sectorial discrimination against women, and to ensure all women's and girl's human rights.

Recommendations to the Swedish government

- Establish a NHRI according to the UN Paris Principles and secure its independence by a placement under the Parliament.
- Establish the NHRI by law and promptly initiate a constitutional protection of the institution.
- Ensure the NHRI is allocated reasonable resources to enable its mandate in an efficient manner.
- Include in the mandate of the NHRI the possibility to intervene in national legal proceedings concerning human rights violations and represent individuals in international legal proceedings.