We are a Swedish feminist collective that works to build alliances and supportive networks between marginalised groups. We actively promote knowledge and research relating to sex work and sex workers’ rights. When writing our response to this inquiry, we have focused on issues relevant to a Swedish legal context in which the buyer of sexual services is criminalised and not the seller. In Sweden, prostitution is commonly defined as violence against women, and the Sex Purchase Ban (Sexköpslagen - the legal regulation that criminalises the client) which was introduced as a law in 1999 is based on research that was motivated partly by this hypothesis. We will, however, in this response, support with evidence that client criminalisation increases the violence against vulnerable women in the sex industry.

1. Should criminal sanction in relation to prostitution continue to fall more heavily on those who sell sex, rather than those who buy it?

1) As a group heavily invested in the struggle for women’s rights, with several active members who have experience within the sex industry, we object to the formulation of this question as it does not address the real and pressing issues that sex workers face. Based on the experiences of sex workers within and in touch with our collective, client criminalisation pushes sex workers into poverty, reduces their power in negotiations with clients, criminalises them for working together for safety’s sake, evicts and deports them.

2) There are in fact alternative legal models to the criminalisation of sex workers or the criminalisation of clients, for example the full decriminalisation of all parties involved in the selling and purchase of sexual services – a model that has proven to be successful in New Zealand and is advocated by Amnesty International following their important vote in August last year and their urgent call on governments around the world to review laws on prostitution. To criminalise the clients is not a better alternative in terms of safety for sex workers. Criminalising clients is usually done in an attempt to ‘end demand’ for sexual services – an approach which has proven to be very dangerous for people working in the sex industry. As a group with members with real and direct experiences of being sex workers under Swedish laws regarding prostitution, we can testify that a criminalisation of clients is de facto a criminalisation of sex workers.

3) To protect the health and rights of sex workers in an effective way, we recommend that governments remove all criminal laws that regulate sex work, including client criminalisation laws. Criminal penalties for clients maintain a system that continues to put sex workers at risk. Placing penalties on clients does not end demand for sex work, but forces sex work underground so that workers must provide services in clandestine locations, which increases the risk of violence and limits the power of the sex workers in the transaction (Norwegian Ministry of Justice and the Police Affairs, 2004).

4) Sex workers within and in contact with our group have said that clients under the Swedish law are more likely to be stressed and in a hurry, making it more
difficult for sex workers to safely negotiate the terms around the transaction, for example the location, setting clear consensual boundaries and using condoms for safer sex. Client criminalisation reduces the freedom of sex workers to negotiate with clients, organise for fair treatment, and publicly advocate for their rights (Shannon K and Csete J., 2010). Norwegian research supports the experiences of Swedish sex workers within our collective: the policing of clients on the street leads to greater harassment and violence. There has been increased competition between street-based sex workers because less people are willing to buy sexual services in public, which decreases the power and autonomy of sex workers and, in turn, gives more power to clients in terms of bargaining power and client choice (Norwegian Ministry of Justice and Police Affairs, 2004). There is also evidence that clients under the Swedish law are more likely to insist on using venues in places unfamiliar to sex workers, which makes it more dangerous and risky (The Norwegian Ministry of Justice and Public Security, 2014 and SCOT-PEP, 2015). Other research has shown that client criminalisation leads to situations where sex workers are forced to engage with aggressive or dangerous clients since clients who are more likely to abuse sex workers tend not to care about the law criminalising them (UNAIDS, 2009).

5) The Global Commission on HIV and the Law recommends that to ensure that an effective, sustainable response to HIV is met, which would be consistent with human rights obligations, countries must: 1) Reform their approach towards sex work: rather than punishing consenting adults involved in sex work, countries must ensure safe working conditions and offer sex workers and their clients access to effective HIV and health services and commodities. 2) Repeal laws that prohibit consenting adults to buy or sell sex, as well as laws that otherwise prohibit commercial sex, such as laws against “immoral” earnings, “living off the earnings” of prostitution and brothel-keeping. Complementary legal measures must be taken to ensure safe working conditions for sex workers (Global Commission on HIV and the Law, 2012).

6) According to a report by the Swedish Ministry of Justice, people who are involved in prostitution have, themselves, claimed that criminalisation has strengthened the social stigma around selling sex. They claim that they have chosen prostitution and do not see themselves as being forced into it. Despite it not being illegal to sell sex, they feel persecuted by the police. They feel infantilised because their actions are tolerated but their willpower and choices are not respected (The Swedish Ministry of Justice, 2010). Sex workers within our collective have generally had bad experiences with the Swedish police and authorities. Also, despite the intention of the Swedish regulatory model being the criminalisation of clients, Swedish sex workers maintain that they are persecuted and harassed by the police worse than the clients are. Examples include their homes remaining under constant surveillance, many are non-consensually placed on a register for the government to keep track of their movements and activities and many have experienced violent and traumatic police raids. Additionally, Amnesty has supported evidence that in both Sweden and Norway, Sexköpslagen (The Swedish Sex Purchase Ban) has provided cover for practices such as the removal of sex workers’ children and
the deportation of migrant or undocumented sex workers (Amnesty International, 2015).

7) Swedish Health and Safety authorities have also warned that client criminalisation leads to an increased reliance on potentially exploitative managers and third parties due to clients being less willing to negotiate the purchase of sex directly (Swedish National Board of Health and Welfare, 2007).

8) Voices within our group testify that the stigma against sex workers has increased under the law, which in turn puts them in danger and at risk of violence. For example, they are less likely to be taken seriously when reporting abuse, which means that many sex workers choose not to report crimes and abuse committed against them. When sex workers who have been the victims of violence, abuse or rape attempt to report this to the police, their allegations are dismissed and they are blamed for colluding with criminals (clients), as well as being monitored by the police, who then arrest their clients, leaving them with a reduced income. These other factors motivate sex workers to not report incidents to the police.

9) As a collective invested in women’s rights and everyone’s equal right to social welfare we firmly maintain that the Swedish Sex Purchase Ban (Sекскóпслаген) does not benefit sex workers. We have seen evidence that the ‘end demand’ approach, which is the dominant approach in a Swedish context, obscures the real reasons as to why people are exploited in the sex industry. The economic conditions that lead many people to engage in sex work, including poverty and austerity economics, cannot be addressed through continued policing, but through the provision of state benefits, training and alternative employment opportunities. Many people who resort to sex work are single mothers, transgender women, unemployed people or people on low wages, homeless people and undocumented workers and it is unacceptable for politicians to promote increased criminalisation of people belonging to such vulnerable groups. Instead of spending state funding on campaigns to ‘end demand’ and increased police control and legal sanctions, we advocate allocating this spending on affordable housing, accessible health care, education and harm reduction, which would give people realistic alternatives to sex work and offer social protection for those who continue to work within the sex industry.

10) In contrast to legal regulations that criminalise the clients, full decriminalisation of the sex industry was successfully implemented in New Zealand in 2003 and has since been advocated by organisations such as UNAIDS (2009, 2012), UNDP, UNFPA (2012), the Global Commission on HIV and the Law (UNDP 2012), the World Health Organisation (2012) and Amnesty International (2015). This model further advocates harm reduction in order to minimise exploitation and damage (Jordan, 2005). Full decriminalisation, including the decriminalisation of clients, has been found to protect sex workers and reduce the risk of violence and exploitation. Furthermore, it allows sex workers to work together, which increases safety and makes them more likely to report violence and exploitation to the
authorities, thus giving them more power to negotiate with clients, and it grants them workplace rights and the protection of employment legislation (Global Alliance Against Traffic in Women, 2011).

2. What are the implications for prostitution-related offences of the Crown Prosecution Service’s recognition of prostitution as violence against women?

11) We, as a collective, believe that prostitution is not synonymous with violence against women. Sex workers within our group can vouch that there is a huge difference between someone who is working voluntarily with consensual sexual exchange and someone who is being exploited and raped. According to Sullivan (2007) there is increased stipulation and detailed negotiation of which acts a sex worker consents to and which they will not engage in with a client when compared to non-commercial sexual encounters and this corresponds with the experiences of members of our collective.

12) When sex work is recognised as violence against women, it assumes that it is impossible to consent when doing sex work. This removes sex workers’ ability to name their own boundaries, and to speak out against violence. The evidence indicates that if a sex worker is automatically considered a victim of rape their consensual capacity and experiential reality is undermined, as is their ability to pursue complaints and criminal cases of rape (Sullivan, 2007). Regarding sex work as inherently violent also serves to normalise violence against sex workers. Sex work is not a form of sexual violence but sex workers are especially vulnerable to sexual and intimate partner violence due to the The Crown Prosecution Service’s implementation of prostitution related offences, as well as other intersecting oppressions such as sexism, whorephobia, homophobia and transfobia, racism and classism. It is accurate to state that violence against women is occurring in relation to sex work but this violence is being implanted through the state due to the criminalisation of many facets of prostitution. When pursuing prosecutions such as brothel-keeping the state fails to care about how the women working there are treated. Since no distinction is made between small collectives in which women co-operate for safety’s sake and who get to keep their own money and set their own hours and boundaries and establishments run by coercive bosses, there are increased arrests of women with little consideration to nuances such as agency and autonomy.

13) This collective maintains that consenting sex between adults in exchange for payment is not inherently violent and this rhetoric is incredibly dangerous when bought into by clients. Clients who believe it is impossible to rape a sex worker are more likely to use the services of trafficked sex workers, view their payment as ownership rather than exchange and perceive women as commodities (O’Connell Davidson, 2003). Conversely men who support sex worker’s rights and understand prostitution to be a sector of work are more likely to care about trafficking and are less likely to be violent, abusive or exploitative of sex workers (O’Connell Davidson, 2003 and Global Alliance Against Traffic in Women 2011).
14) When it comes to work and violence against women there are many other labour sectors that are also female-dominated and that have a low status (such as cleaning or care work), which are equally, if not more exploitative, less well paid, have more precarious working conditions and less job security. This collective thus call upon the British state to increase labour rights for all professions including sex work, and particularly those professions that are dominated by women, women of colour or migrant women. By naming sex work as violence against women, without acknowledging the exploitation of women that goes on in other labour sectors, the stigma for sex workers increases and sex work is singled out, whilst the exploitation of many women is ignored.

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