

*“Coming to Sweden I wanted a more peaceful life because I escaped from death....there is no life in this process, the only right you have is to breathe...”*

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## SAME STRUGGLES, DIFFERENT CHAINS

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Monitoring of the Implementation of the Recommendation CM/Rec (2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity in Sweden. With a focus on the lived realities of Trans refugees and asylum seekers in Sweden.

Compiled by Miles Rutendo Tanhira : Queerstion Media June 2018



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## **Acknowledgements**

Sincere appreciation to trans asylum seekers, refugees and people of colour respondents, our research assistant as well as the asylum lawyers.

## **List of Acronyms**

TGEU: Transgender Europe

EU: European Union

LGBTIQ: Lesbian, Gay, Bisexual, Transgender, Intersex and Queer

*\*Trans in this report refers to: transgender, non-binary and gender diverse people*

## **About Queerstion Media**

Queerstion Media [www.queerstion.org](http://www.queerstion.org) is a non-profit initiative for, with and by trans and gender diverse activists, refugees, people of colour and asylum seekers in Sweden. A collaboration with Swedish LGBTIQ activists, Queerstion Media strives to create trans led online and offline platforms to increase visibility of our lived realities, as well as to promote social integration of trans refugees and asylum seekers leveraging: media and documentation, creative expression, sports, cultural and skills exchange. Our online collaboration, solidarity and organising extends to trans individuals, organisations and activists in Sub Saharan Africa and the diaspora.

## 1. Executive Summary

This report provides a critical analysis of Sweden's legislation as well as proposed and implemented strategies in line with the Committee of Ministers' Recommendation CM/Rec (2010)5 to combat discrimination on grounds of sexual orientation or gender identity. In 2013 the first such report was published by RFSL extensively documenting the situation for LGBTQ people in the country.

This report serves to highlight the overall situation of marginalised LGBTQ refugees, asylum seekers and people of colour with a special focus on trans people. It also makes recommendations to authorities whose decisions have a bearing on the everyday lives of trans asylum seekers and refugees.

Since the 2013 report recommendations, there have been some progressive changes as well as some major retrogressive moves as far as asylum is concerned. In 2016, sighting the influx of refugees into the country, Sweden reviewed chapter 5 section 1 of the Aliens Act (2005:716)<sup>1</sup> to a temporarily tougher asylum law restricting residency permits to 3 years and further review. Sadly, this new law affects LGBTQ refugees because the unfavourable homophobic and transphobic situation remains even after 3 years. Currently, Sweden still deports LGBTQ asylum seekers to countries where they face persecution. A positive development during the same period, however, was the introduction of LGBTQ safety housing, although there is still a general lack of knowledge and uniformity from migration board officials especially for trans people's wellbeing and housing needs.

In Sweden, gender identity and expression are two separate asylum grounds which can be invoked during an asylum application. However, the migration board's legal counsel and case officers make decisions in an arbitrary and stereotypical manner, and do not consider the right to a self-determined name and gender identity/expression on the *LMA card* used to identify asylum seekers.

Another major setback is that trans-specific healthcare is not listed by the migration board as "healthcare that cannot wait". This further increases the health and wellbeing challenges faced by trans asylum seekers. More so, for trans refugees the waiting period to access state-assisted trans healthcare can take up to two years, and with the tougher asylum law, most are uncertain about if they can start this process.

In employment there are still barriers for trans people to access work opportunities. Trans asylum seekers who gain the right to work (*Att Und*) issued by the *migration* board still have a difficult time securing jobs due to fears of being outed by their LMA card or being discriminated against at work. Trans youths and refugees still experience bullying, homophobic and transphobic behaviour in Swedish for Immigrants schools (SFI).

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<sup>1</sup> Aliens Act (2005:716)

[https://www.government.se/contentassets/784b3d7be3a54a0185f284bbb2683055/aliens-act-2005\\_716.pdf](https://www.government.se/contentassets/784b3d7be3a54a0185f284bbb2683055/aliens-act-2005_716.pdf)

Meanwhile, in a progressive move, in 2017 a government commissioned report investigating the lives of trans people in Sweden was published<sup>2</sup>. The voluminous report takes an intersectional approach in highlighting issues facing trans people and makes concrete recommendation and steps towards the advancement of all trans persons rights in the country. A commendable move is also the current Government proposal to ensure full protection of trans people in hate crime legislation under the Discrimination Act. Gender identity and gender expression are included in the provisions on agitation against a national or ethnic group and unlawful discrimination, and in the rule on public prosecution of insulting behaviour.

## **2. Recommendations to the Government of Sweden for priority actions towards implementation of the CM/Rec (2010)5**

### **Right to seek asylum**

1. Ensure that country of origin information is updated regularly.
2. Ensure that Migration board's safe country list is thoroughly researched.
3. Ensure Laws that specifically impact on trans people's rights in country of origin list are documented.
4. Ensure Migration board personnel dealing with asylum cases are sensitised and regularly trained on LGBTQ, and particularly trans, rights and issues.

### **Health**

5. Ensure that trans-specific health-related and special needs are included in the services provided to asylum seekers for free or for a minimal fee by the state.
6. Continuously sensitise migration and healthcare service providers on the specific needs of trans asylum seekers and refugees.
7. Ensure Migration agency and refugee establishment agencies gather statistics on LGBTQ asylum cases handled and the needs of trans asylum seekers and refugees to ensure adequate and relevant planning.
8. Ensure Migration Agency facilitates spaces to directly engage with trans asylum seekers and get their feedback on their reaction to service provision.
9. Ensure trans refugees are provided with adequate information regarding access to trans specific healthcare.

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<sup>2</sup> TransTranspersoner i Sverige: Förslag för stärkt ställning och bättre levnadsvillkor/TransTrans people in Sweden, suggestions for strengthened status and better living conditions. SOU2017:52 <https://www.regeringen.se/4adda9/contentassets/3e2e892900fc4034a9d822413fdaefe7/transtranspersoner-i-sverige---forslag-for-starkt-stallning-och-battre-levnadsvillkor>

## **Housing**

10. Ensure that all trans asylum seekers are placed in safer LGBTQ housing.
11. Ensure that when providing housing for trans asylum seekers and refugees, the individual's safety, wellbeing and privacy are taken into account.
12. Ensure the Employment agency collaborates with municipalities to assist trans refugees to secure safer accommodation without discrimination.
13. Ensure that trans asylum seekers have their self-determined gender marker and names highlighted on the LMA card as well as in all correspondence from migration authorities, taking into account the high risk of discrimination in migration housing as well as when dealing with various actors in both private and public spheres.
14. Ensure the Employment agency (Arbetsformedlingen), the Tax office (Skatteverket) and the National Board of Health and Welfare provide adequate and relevant information to trans asylum seekers and refugees regarding the process of changing gender marker and names.
15. The Tax Agency Skatteverket and National Board of Health and Welfare further investigate and document administrative challenges faced by trans persons when changing gender marker.
16. Ensure that the Tax agency formulates concrete strategies to make the process of updating private sector on changing gender a smooth one.
17. Explore various alternatives ways to protect previous identity information for trans individuals other than limiting it to the option of hidden identity (skyddad identitet).

## **Employment**

18. Ensure the Swedish Work Environment Authority and reliable authorities facilitate mandatory trans-inclusive sensitisation for employers and service providers in the private sector.
19. Sensitise Tax office agency employees and vocational learning centres staff on trans issues.
20. More self-empowerment ventures such as organisations, entrepreneurships, start-ups, scholarships and internship opportunities for trans refugees should be supported by the employment agency Arbetsformedlingen and Government.

## **Education**

21. Ensure that SFI schools, as well as refugees integration curriculum, is revised to incorporate detailed information on LGBT issues and clarify more on trans issues.

22. Ensure that trans person are able to self-identify with the gender and names they prefer and that this is respected and reflected in school records.

23. Sensitise school authorities, continuously on trans peoples´ specific needs and issues.

### **Sports**

24. Ensure the Swedish Sports Confederation and reliable authorities looks into provision of safer recreational facilities that promote wellbeing of trans people in general.

25. Government should ensure grants are availed of to support and strengthen self-organising initiatives of diverse groups of trans people as well as provide safer space for recreational activities.

### **Multiple discriminations**

26. Ensure the Equality Ombudsman raises awareness on issues of multiple discriminations faced by trans people.

27. Ensure documentation of reported cases to determine prevalence of cases of multiple discriminations and propose strategies for retribution.

## **3. Introduction**

In 72 countries there exists a range of laws that criminalise consensual same-sex acts. These laws fuel state sponsored violence, impinging on the rights and dignity of Lesbian, Gay, Bisexual Transgender, Intersex and Queer people (LGBTIQ). The lack of recognition and protection by the state places LGBTIQ people at high risk of violence such as murder, rape, blackmail, long term or life imprisonment, discrimination, marginalisation, poverty, and isolation from families and society. With their lives in peril, many are forced to flee their countries to seek asylum in safer places. Sweden is among the countries which continue to witness many LGBTIQ people seeking refuge.

## **4. Methodology**

This report employs both semi-structured interviews and a qualitative desk study.

To conduct the semi-structured interviews, a sample of 8 diverse interviewees who are trans, refugees, asylum seekers as well as people of colour who are newly arrived in person through telephone and email correspondence. Interviewees were drawn from Arboga, Malmö and Stockholm. For confidentiality and security reasons, the interviewees names have been changed in the report to protect anonymity.

The desk study involved different documents from:

- Civil society reports
- Media/podcasts, documentary on LGBT refugees,
- Government inquiries, reports and state legal instruments
- Anti-racism and LGBTQI organisations.

We sent questionnaires to the Swedish migration board, Integration and employment agency, and RFSL lawyers. Migration Expert responded as well as RFSL asylum lawyers. However, it should be noted that we did not receive a response to the questionnaire sent to Arbetsformedlingen, the Swedish employment agency responsible for the integration of refugees.

This report's findings are drawn from the answers obtained from survey respondents.

## 5. Priority Areas

This report specifically highlights the everyday challenges faced by the minority trans people who are refugees, asylum seekers, people of colour and those living undocumented in Sweden. The report delves into the right to health, housing, respect for private and family life, asylum, employment, education, sports and discrimination on multiple grounds.

### I. Health

**CoE 33:** *“Member states should take appropriate legislative and other measures to ensure that the highest attainable standard of health can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity; in particular, they should take into account the specific needs of lesbian, gay, bisexual and transgender persons in the development of national health plans including suicide prevention measures, health surveys, medical curricula, training courses and materials, and when monitoring and evaluating the quality of health-care services.”*

According to the Migration Board expert, asylum seekers in Sweden have the right to emergency health and dental care that cannot be postponed<sup>5</sup>. The expert further highlighted that the Swedish Migration agency’s role regarding healthcare to asylum seekers is limited to giving information about their right to healthcare and about where they need to go to get healthcare, adding that more information about trans-specific healthcare in Sweden is provided by the National Board of Health and Welfare.

*“Asylum seekers also have the right to childbirth care, abortion care, contraception advice, maternity care and care according to the contagion prevention law. Asylum seeking children and youth under 18 years of age have the same right to free health and*

*dental care as the other children who live in Sweden. Also, asylum seekers are entitled to a health assessment/examination free of charge”<sup>3</sup>.*

However, trans-specific healthcare needs, such as endocrinological and psychological services are not included in these services. This situation results in trans persons self-medicating or stopping their treatment – both of which are to the detriment of their mental and physical health.

According to a 2017 Government-commissioned report investigating the lives of trans people in Sweden, among the whole population trans people were more likely to have thoughts and attempts of suicide.<sup>4</sup> Within the trans group, to a greater extent non-binary people rate their health as poor, similar to those who cannot live in accordance with their gender identity. Young trans people also rate their quality of life as poorer than young cis people.

The report also highlights that research indicates that up to one in four trans respondents have been subjected to discrimination or been treated badly within the health sector and that this leads to a reluctance to seek further care.

A transgender woman asylum seeker interviewee who, despite living in an LGBTQ asylum housing, resorted to a hunger strike in protest of the living conditions that they are subjected to. She also bemoaned the decision by the migration board to deny her the right to access hormonal treatment, even though she presented evidence that she had already started the treatment in her home country. She was told that if she should be granted asylum, then she could access such services.

At the time of the interview, she had been off her hormone treatment for 4 months and was feeling depressed because of the negative reversal effects resulting from the abrupt stop of this medication. However, two fellow housemates in a similar situation have been cleared by their migration case officers to receive state assistance to access hormonal therapy.

- **Refugees**

The 2017 Government report highlights that there are excruciatingly long waiting periods when it comes to accessing endocrinological, psychological and surgical treatment for trans people in the country. However, the situation is even worse for newly arrived trans refugees who, owing to their socio-economic status, are not in a position to avoid the wait by paying for their own private healthcare. This results in psychological stress, self-harm, depression, loneliness suicidal thoughts and anxiety, which also becomes a consequential physical health issue. Accordingly, health issues are fuelled by lack of support mechanisms to meet the psychological and health specific needs of trans asylum seekers.<sup>5</sup>

- **Persons living as undocumented**

For asylum seekers whose cases are denied, state assistance for healthcare, subsistence allowance as well as housing by the migration board is cut off. This leaves people in unhealthy

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<sup>3</sup> Sofia Knutsson Migration Board Expert response to sent questions

<sup>4</sup> Supra 2

<sup>5</sup>Supra 2

situations, which is worse still for trans refugees who, unemployed and living in abject poverty, may face more health risks as they are exposed to violence, homelessness, exploitation and sex work for survival.

## II. Housing

**CoE: 37**, “*Measures should be taken to ensure that access to adequate housing can be effectively and equally enjoyed by all persons, without discrimination on grounds of sexual orientation or gender identity [...]*”

*“We don't pay rent, electricity, water and heating. Yes, it's beautiful. But we're human beings! We pay the Internet bill with the money provided, cleaning material, personal care products (waxing, razor, shampoo, cleaning equipment for washing clothes and dishwashers etc). If you are a trans woman, make-up is important, and you need to buy them with the given 2000 kr [200EUR]. Coming to Sweden, I wanted a more peaceful life because I escaped from death....there is no life in this process, the only right you have is to breathe.” Hunger striker protest letter by trans woman asylum seeker residing in migration board's LGBT housing.*

In response to the housing situation, a Migration Board Expert explained that since 2016 the authority had set up ‘sheltered housing to reduce harassment and violence and to increase safety by providing a network and a social context for people in vulnerable situations including LGBTQ asylum seekers,’ adding that the migration board had received instruction on the assessment and documentation of special needs as regards the reception of asylum seekers and the asylum procedure.

The expert further highlighted that accommodation for asylum seekers is not typically provided in places where there are organisations such as, for example, RFSL, The Swedish Federation for Lesbian, Gay, Bisexual, Transgender and Queer Rights. However, the sheltered accommodations are located close to cities where such networks or organisations exist.

Our findings show that, while the migration board in Sweden has taken on the task of providing the so-called LGBTQ-friendly accommodation, there is a need to implement concrete strategies to consider the wellbeing, safety and security issues. Where housing is provided in isolated small towns, discrimination is rife. Furthermore, the meagre financial resources fail to cater to daily life-saving needs resulting in stressful situations as asylum seekers are compelled to live from hand-to-mouth. Respondents bemoaned the lack of uniformity from migration authorities when allocating housing. In some instances, LGBTQ asylum seekers were placed in migration housing with other refugees coming from diverse backgrounds, which likely further placed people at risk of being violated.

Asylum seekers also have the option of residing in their self-organised accommodation with friends or relatives, however some trans people end up living in the closet for fear of being outed. On a similar note, in cases where the state assisted refugees in finding accommodation, the respondents indicated that their safety and security needs were not taken into consideration

as they were placed in volatile areas where they were facing incessant discrimination, and thus felt imprisoned.

### **III. Right to respect for private and family life**

**CoE, 21:** *Member states should take appropriate measures to guarantee the full legal recognition of a person's gender reassignment in all areas in life, in particular by making possible the change of name and gender in official documents in a quick, transparent and accessible way [...]*

#### **Legal gender change for trans refugees**

While asylum seekers have no, or inconsistent, access to legal gender recognition, those granted refugee status have access to legal gender recognition, although the waiting periods are painfully long. Even though legal gender recognition measures are present in Sweden, in our findings it also came up that, owing to lack of information and adequate Swedish language skills, there are administrative barriers that trans refugees in particular encounter on a regular basis after changing their legal gender. It has also been observed that lack of knowledge on trans issues by both public and private actors subjects trans people to regular incidences of inconvenience, stress, humiliation and stigma.

*“I lost 5 kgs in less than two weeks just trying to get my bank documents changed to reflect my new legal gender marker and names. I went to different offices where I was met with subtle ridicule, suspicion and humiliation. In most cases, the personnel were reluctant to handle my case. I had to call several times, and in 3 different occasions my sensitive documents were lost and I had to resubmit. It took 3 months before I could have full access to my bank account. In all my life I had never felt so helpless.” Trans man refugee.<sup>6</sup>*

According to the Government commissioned 2017 report investigating trans persons living conditions: *“It is more common for trans people to experience harassment, degrading treatment and discrimination than the general population. Many trans people have experienced vulnerability and insecurity in various public spaces, for example, in restaurants, while travelling, or when accessing public toilets.”<sup>7</sup>*

Our findings also showed that many trans refugees and asylum seekers who are people of colour reported having encountered multiple discriminations on the basis of their race and gender identity, and unfair treatment by both state and non-state actors.

*“During the process of registering my gender marker change with the private sector, I encountered many hurdles which I feel were related to my race. I was treated with suspicion and even denied services whenever I tried to use my old identity card. I knew this treatment was wrong, I just didn't know where to report it.”*

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<sup>6</sup> Interview respondent

<sup>7</sup> Supra 2

In two cases, interviewees mentioned being too scared to report or question discrimination for fear of being victimised by authorities and eventually losing their asylum cases.

In another incident of violence motivated by racial profiling by state authorities, an asylum seeker suffered a broken arm at the hands of security guards at the central station. Despite having witnesses testify to her innocence, the case was dismissed by the police who alleged lack of credible witnesses.

**CoE24.** *“Where national legislation recognises registered same-sex partnerships, member states should seek to ensure that their legal status and their rights and obligations are equivalent to those of heterosexual couples in a comparable situation.”*

While people with permanent residency can enter into same sex marriage, the new Asylum Law adopted by Sweden in 2016 makes it impossible for refugees granted protection to be reunified with their partners and families. This adversely impacts on the lives of many LGBTQ refugees who may want to be reunited with their families and partners back home. Since most LGBTQ asylum seekers come from countries where their relationships are criminalised, they are also not able to meet the preconditions set by the migration board in order to qualify for family reunification.

*“With this requirement arise so many limitations for LGBTQ asylum seekers from countries where it is criminalised to be LGBT. It is impossible for them to live in registered relationships, marriage or cohabitation. According to the meaning of the law, such relationships will not be considered as qualifying as a family unit and in that case, so many LGBTQ asylum seekers are likely to lose family reunification possibilities. LGBTQ asylum seekers cannot prove having lived in registered relationships, provide marriage certificates or prove cohabitation with their spouses in their country of origin, since these acts are criminalised. Arguably, it becomes impossible for LGBTQ refugees to reunite with their spouses or families, a situation which further fuels isolation and loneliness.”<sup>8</sup>*

**CoE 44:** *“Asylum seekers should be protected from any discriminatory policies or practices on grounds of sexual orientation or gender identity; in particular, appropriate measures should be taken to prevent risks of physical violence, including sexual abuse, verbal aggression or other forms of harassment against asylum seekers deprived of their liberty, and to ensure their access to information relevant to their particular situation.”*

### **Right to self-determined name and gender for trans asylum seekers**

*“When someone applies for asylum in Sweden, we register their gender as it is given in their passport or other ID documents that they have. The LMA-card is not an ID document, but it shows that the person applied for asylum and has the right to be in Sweden whilst waiting for a decision on their application. The Swedish Migration Agency do not change a person's registered gender based on self-identification. Also, it*

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<sup>8</sup> Patrick Bazanye RFSL Asylum Lawyer

*is not within the agency's mandate to make gender identity assessments or to decide on legal gender.”<sup>9</sup>*

Our findings indicated the fact that the LMA card clearly states that it is not an identity document should be justifiable reason to issue trans asylum seekers with the name and gender that they prefer. The reason being that for many trans asylum seekers, this document creates insurmountable barriers owing to the mismatch between the gender marker indicated on the card with one's preferred gender identity or expression. This situation poses a security threat to trans asylum seekers, fuels stigma and discrimination, negatively impacts on freedom of movement as well as access to employment, education and recreational spaces such as gyms and social clubs, all of which are important for wellbeing.

A trans woman interviewee revealed how, after making continuous complaints and concerns regarding her safety, her case officer facilitated her gender marker change on the LMA card. This, again, is clear evidence of how decisions are made arbitrarily, and dependent on the case officer as well as the pressure applied by the asylum seeker.

#### **IV. Right to seek Asylum**

**CoE 3:** *“Member states should ensure particularly that asylum seekers are not sent to a country where their life or freedom will be threatened or face the risk of torture, inhuman or degrading treatment or punishment, on grounds of sexual orientation or gender identity”*

According to a state commissioned report 2017 research study investigating the living conditions for trans people in Sweden, there is a general lack of knowledge concerning trans issues by migration board officials handling asylum cases, leading to situations where decisions affecting trans asylum seekers lives are stereotypically and arbitrarily made by migration board personnel. As one trans refugee said:

*“After 7 months of waiting in limbo, my interview date finally arrived. However, it seemed that everyone was prepared but the interpreter. Not only was he not knowledgeable on trans terminology, during the interview he was also misinterpreting what I said, especially whenever I mentioned trans. After few interjections to correct him, my lawyer from RFSL eventually ordered that the interview be stopped and requested for a postponement until a competent interpreter could be provided. It took another 3 months for me to get an interview date, I felt like I was back to square one, the waiting was depressing.”<sup>10</sup>*

The investigation established that there are a notable number of cases where trans women were denied asylum because they were coming from countries considered ‘safe’ according to

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<sup>9</sup> Sofia Knutsson Migration Board Expert

<sup>10</sup> Interview respondent T.R

migration boards country of origin information. However, to avoid the negative consequences and humiliation of being deported back to places where they fled violence, some resorted to living as ‘undocumented’ with no state benefits. In the event that their country of origin is considered unsafe, but the EU country where they first entered before arriving in Sweden is deemed safe, regardless of having documented evidence of trans-related violence, trans asylum seekers risk being deported back to that EU country.

A trans African woman who fled persecution from her extremely homophobic country of origin ended up in Greece, where she was given permanent residency but was, however, sexually abused and publicly beaten up on several occasions. Despite reporting this to the police in Greece, she did not receive help. Fearing for her life, she fled again, this time to Sweden, to seek asylum. However, her asylum claims were denied despite providing all evidence of the violence in Greece along with psychologist’s letters. During her asylum process in Sweden, she was given a safe house by the migration board, as well as access to hormonal therapy, but was ordered to leave or face deportation because her case was considered to be in conflict with the Dublin Regulation. In this case, the Swedish authorities argued that Greece is a safe country for her which, given the abuses she suffered there, was clearly untrue.

In another case, a trans woman who has since fled deportation from Sweden reported in an interview that she got tired of the mental torture of waiting and living in fear, hence she gave in to traffickers who ended up leaving her in Dubai where she is currently facing a lot of violence.

## **V. Employment**

**CoE 29:** *“Member states should ensure the establishment and implementation of appropriate measures which provide effective protection against discrimination on grounds of sexual orientation or gender identity in employment and occupation in the public as well as in the private sector. These measures should cover conditions for access to employment and promotion, dismissals, pay and other working conditions, including the prevention, combating and punishment of harassment and other forms of victimisation.”*

**CoE30:** *“Particular attention should be paid to providing effective protection of the right to privacy of transgender individuals in the context of employment, in particular regarding employment applications, to avoid any irrelevant disclosure of their gender history or their former name to the employer and other employees.”*

### **Asylum seekers and employment**

During the asylum application process, individuals who submit their home country identity document, for example a passport, are issued with an LMA card indicating they have the right to work (Att UND) while waiting for their case. However, investigations show that in addition to the language barrier, another challenge in accessing jobs was the LMA card, which heightens fears of insecurity as trans asylum seekers encountered harassment and humiliation.

*“Although I really want to work since I have Att UND on my LMA kort, I am finding it a huge challenge because the gender marker and names on this kort place my life at risk and discrimination. Since I do not speak Swedish, I could get a job in a migrant community if it were not for my LMA card.”<sup>11</sup>*

Investigations also revealed that, in some cases, asylum seekers who secured part-time jobs were encountering challenges when trying to open bank accounts in order to receive their salaries. This was because banks, like many private entities, do not recognise or accept LMA card as an identification document.

### **Trans Refugees and Employment**

Trans refugees also noted that the option of having protected identity *skyddad identitet*, which is issued by the tax office Skatteverket as a security measure to protect trans persons after legal gender recognition to ensure that previous information before legal gender recognition is only accessible to authorised personnel working in the state departments, was both a blessing and a curse because, in most instances, it raised suspicion as to why their identity was hidden, thus accessing certain services including applying for jobs becomes difficult, especially for refugees as they were losing credibility.

Investigations revealed that most trans refugees encountered challenges with case officers at the employment agency Arbetsformedlingen. The personnel at the employment agency did not have understanding of trans issues and needs, for example, when it comes to assisting with employment.

*“When I changed names and gender marker, I communicated with my case officer at the Arbetsformedlingen about these changes. She notified me that she had changed the details in their database. To my surprise, 5 months later a letter was sent to my house with both my new and old names. Throughout the letter the case officer used the wrong pronouns, I felt disrespected and let down by the system because this information was probably what they were showing prospective employers, yet I was applying for jobs with my new ID and new gender marker.”<sup>12</sup>*

Because the process of changing gender marker takes a long time, some trans persons were finding it hard to apply for jobs with IDs that did not match their physical appearance, others noted that there was subtle discrimination in the way they were treated once they went for interviews.

A trans refugee working as an electrician for a construction company stated that the work environment was not safe for him to come out in, as he feared being bullied by his co-workers who exhibited homophobic and transphobic tendencies.

### **Undocumented trans refugees and employment**

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<sup>11</sup> Interview respondent A.S

<sup>12</sup> Interview respondent T.R

Research revealed that there is a tendency for some employers and people in general to exploit undocumented persons, and trans people were more vulnerable to sexual exploitation. In most instances, they could not report the cases of sexual violence or exploitation where they worked black market jobs and employers could dismiss them without payment.

## **VI. Education**

**COE 31:** *“Taking into due account the over-riding interests of the child, member states should take appropriate legislative and other measures, addressed to educational staff and pupils, to ensure that the right to education can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity; this includes, in particular, safeguarding the right of children and youth to education in a safe environment, free from violence, bullying, social exclusion or other forms of discriminatory and degrading treatment related to sexual orientation or gender identity.”*

### **Refugees and Education**

Refugees reported facing discrimination and transphobia in *Swedish for Immigrants* SFI schools owing to their gender identity and/or expression. This led to many dropping out and increasing the risk of having state funding support cut for missing school, further fuelling poverty. The fact that the schools do not take into account their self-determined identity also exposes trans refugees to humiliation, security threats and mental suffering.

*“I was separated in SFI class, no one wanted to sit with me. At one point, I was sitting at a table of 8 people by myself, the teacher noticed and tried to mix up during activities, but it was like forcing people. I felt isolated and degraded, I gave up.”<sup>13</sup>*

## **VII. Sports**

**CoE 39:** *“Homophobia, transphobia and discrimination on grounds of sexual orientation or gender identity in sports like racism and other forms of discrimination should be combated.”*

According to the 2017 Government commissioned report investigating the lives of trans persons in Sweden, it is common for trans persons to encounter discrimination in changing rooms or toilets at gyms and other sports centres, either from the general public or facility personnel.

*“My identity document was no longer matching my outlook. While waiting for a long time for it to be changed, I faced many problems. When I presented it to the gym receptionist, he denied that it was mine. After taking out all my bank cards with the same name, he was somewhat convinced but simply said, for my own security, he could not allow me to use the facility because he did not know which changing room I could use. When I told him that I already was in my gym outfit, he came up with the excuse*

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<sup>13</sup> (In)visible narratives of LGBTQ asylum seekers in Sweden 2014, Dir: Miles Rutendo Tanhira

*that it would be difficult if I wanted to use the toilet because they were all located in changing rooms.*<sup>14</sup>

This particular discrimination at gyms creates fear and stigmatises trans persons and, as a result of the negative treatment, they opt to avoid such places. For many trans people, exercise or sports helps to deal with dysphoria as well as to relieve stress. Not being able to exercise or take part in sport can contribute to poor mental health.

Our investigations revealed that one of the most affordable gyms that trans refugees could access has a notice clearly written on their website that, when it comes to accessing changing rooms, they only rely on information presented on the identity document issued by the tax office. This further creates challenges for non-binary as well as trans persons still awaiting gender marker changes but have started hormonal therapy.

While accessing a gym might seem like luxury for asylum seekers to have, for most trans refugees it is life-saving. However, owing to lack of finances, most trans asylum seekers are not able to pay gym subscriptions. The other challenge is that all gyms require that one has a personal number as they do not take LMA kort since it is not an identity card.

*“Several studies indicate that young trans people also have negative experiences from their involvement in sports, have experienced harassment associated with their trans identity, as well as a lack of support from coaches when this occurred.”*<sup>15</sup>

## **VIII. Discrimination on Multiple grounds**

**CoE 46:** *“Member states are encouraged to take measures to ensure that legal provisions in national law prohibiting or preventing discrimination also protect against discrimination on multiple grounds, including on grounds of sexual orientation or gender identity; national human rights structures should have a broad mandate to enable them to tackle such issues.”*

Sweden's Discrimination Act 2008 aims: “to combat discrimination and in other ways promote equal rights and opportunities regardless of sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age.”<sup>16</sup>

However, during our research, many trans refugees and asylum seekers who are people of colour reported having encountered multiple discriminations on the basis of their race and gender identity, and unfair treatment when dealing with both state and non-state actors. Respondents highlighted issues of racial profiling by police, security personnel, public as well as shop attendants. These experiences heighten insecurity, contribute to poor mental health as people develop low self-esteem, and it also impacts on freedom of movement of trans people of colour for fear of being targeted for crimes.

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<sup>14</sup> Interview respondent

<sup>15</sup> Supra 2

<sup>16</sup> Sweden Discrimination Act(2008:567)

In two cases, interviewees mentioned being too scared to report or question discrimination for fear of being victimised by authorities and eventually losing their asylum cases.

In another incident of violence motivated by racial profiling by state authorities, a gender non-binary asylum seeker suffered a broken arm at the hands of security guards who man the Stockholm central station, despite having witnesses to testify their innocence the case was dismissed by the police who alleged lack of credible witnesses.

It should be noted that the growing number of fascist and neo-Nazi groups which are allowed to protest in Sweden pose a threat to humanity. There is no doubt, if any, that their state-legitimised existence and ideology fans the flames of hate towards minority groups, with trans migrants, refugees and people of colour not an exception.