

# Criminalising the Sex Buyer: Experiences from the Nordic Region

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This brief examines the effects of criminalisation of sex buying on sex workers and people in the sex trade, especially on their vulnerability to violence and exploitation. Because in the Nordic region, as in many other countries, many of the people in the sex trade are migrants, this brief also examines how the policing of commercial sex under the ‘Nordic model’ intersects with immigration policies and their enforcement.



# Introduction

In 1999, Sweden was the first country to use criminalisation of sex buyers as the central policy in a broader approach aiming to end demand for commercial sex. Versions of what is now commonly known as the “Nordic model”<sup>1</sup> of sex trade legislation, which also criminalises third-parties but ostensibly leaves sex sellers out of criminalisation, were passed soon after in Norway and Finland, and policies centred on criminalisation of sex buying have been adopted throughout Europe and North America.

The Nordic model policies rely on radical feminist arguments of commercial sex as a form of violence against women as a rationale for the abolition of the sex trade. Because women in this ideology are seen as victims, they should not be further punished but instead protected. The legislative change was meant to advance gender equality and well-being at both societal and individual levels through using the law as a normative tool to communicate to the public that commercial sex is not acceptable.<sup>2</sup>

This brief examines how the criminalisation of sex buying affects sex workers and people in the sex trade, especially their vulnerability to violence and exploitation. Because in the Nordic region, as in many other countries, upwards of 70 per cent of people in the sex trade are migrants, this brief also examines how the policing of commercial sex under the Nordic model intersects with immigration policies and their enforcement. The brief concludes that the Nordic model impacts negatively on sex workers and people in the sex trade, and that the impacts are multiplied when those who sell sex are migrants. It recommends removing criminal penalties related to consensual commercial sex to protect the safety, integrity and rights of people in the sex trade.

1. Other names include the Swedish model, the end demand model, the equality model, the neo-abolitionist model, and the partial decriminalisation model.
2. May-Len Skilbrei and Charlotta Holmström, *Prostitution Policy in the Nordic Region: Ambiguous Sympathies* (Farnham, Surrey ; Burlington, Vermont: Ashgate, 2013).



The study demonstrates that we need a more nuanced understanding of the regulation of commercial sex, especially how migration and third-party policies affect sex workers' conditions and move beyond discussions on simplistic models to include the contributions of sex workers and people in the sex trade.

Its conclusions are based on ethnographic research undertaken over a three-year period in the Nordic region (Sweden, Norway, Finland) which included 210 formal interviews with sex workers and people in the sex trade, police, social workers, and policymakers, and in-depth policy and legal analysis.<sup>3</sup> A majority of the 129 persons interviewed who are in the sex trade are cis and trans women. They represent the main regions and countries of origin (Eastern Europe, Russia, Latin America, Nigeria, Thailand and the Nordic countries) and working locations (online/indoor, street, massage parlours, striptease joints/clubs).

3. Niina Vuolajärvi, "Governing in the Name of Caring: Migration, Sex Work and the 'Nordic Model'" (Rutgers University – School of Graduate Studies, 2021), <https://doi.org/10.7282/t3-xmds-zn24>.

# Executive Summary

The research demonstrates a discrepancy between the ideological discourse equating commercial sex with sex trafficking and exploitation and the realities experienced by sex workers and people in the sex trade. Only a small minority of those interviewed – 6 per cent – considered themselves to have been trafficked or forced by someone else to sell sex. Intention to earn money was cited as the single biggest motivator for those engaging in the sex trade and/or migrating for commercial sex irrespective of their interpretation or feelings of the sex trade. Therefore, this study concludes that commercial sex needs to be understood as an income generating activity, a form of informal labour. Consequently, this paper uses the terms sex worker and people in the sex trade to refer to people selling sexual services.

Contrary to the trafficking framework and the Nordic model's discourse of prostitution as violence that pins the problem of exploitation on individual buyers, the study finds that the troubles people encounter in the sex trade are more often related to institutional structures of policing and immigration policies, which, together with the stigma related to sex work, create exploitative conditions and increase the risk of violence.

Despite the explicit aim of the Nordic model to shift attention away from people who sell sex, they are still the main target of policing. Contrary to the general understanding that the selling of sex is not criminalised under the Nordic model, people who sell sex are *de*



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Sex buyer criminalisation has a minor role in the regulation of commercial sex in the area and, instead, it functions as a smokescreen for punitive and racialised policing of people in the sex trade. The policing targets migrants and often leads to evictions and deportations. Even though the Nordic countries have decriminalised the sale of sex, it is still a ground for deportation in their immigration laws.

The Nordic countries also have broad third-party legislation whereby all assistance in the sale of sex is prohibited even if it is not for profit. Landlords, hotel owners, accountants, among others, can be accused of pimping if they are associated with the sale of sex. Third party laws also criminalise people selling sex together. These policing efforts have led to a dire housing situation for migrants which can increase pimping and push people in the sex trade into increasingly dangerous situations.

The findings show that the majority of interviewees—96 per cent—oppose the sex buyer law and support removing criminal penalties related to the sex trade so that sex sale can be organised without punity. Opposition to partial decriminalisation laws which criminalise the buying of sex are overwhelmingly based on the policies' *de facto* criminalisation of sex sale.

Social services were supposed to be the backbone of the Nordic model to which sex buyer law was meant only to be a normative supplement. However, these services have not realised themselves and interviewees pointed to a lack of truly comprehensive or effective support that would help with finding alternative employment to commercial sex. The overwhelming majority of people engaged in commercial sex in the region are migrants without permanent residence permits and are therefore not entitled to state services such as social benefits or public health care. The wide adaptation of the understanding of commercial sex as a form of violence against women in Sweden has led to a very limited or non-existent low-threshold STI testing, health, or legal services which has meant practical exclusion of migrants from service provision.

The main goal of the Nordic model style regulation is the abolition of commercial sex achieved through punitive policing of sex workers and people in the sex trade. People who sell sex and their needs are not centred in policymaking and service provision. The evidence from this study indicates that the Nordic model is not a model to be replicated, but rather a complex and context-specific regulatory apparatus designed to disrupt and get rid of the commercial sex market.

# Key Findings

## 1. MAJORITY OF PEOPLE NOT TRAFFICKED OR FORCED TO THE SEX TRADE

The research demonstrates that there is a discrepancy between the ideological discourse of sex trafficking focusing on exploitation and the realities sex workers and people in the sex trade. Only a small minority of those interviewed – 6 per cent – considered themselves to have been trafficked or forced by someone else to sell sex. For a majority, economic reasons were given as the main motivation for selling sex.

For nationals, selling sex is a way to manage with uncertain life situations, patch the safety nets of the welfare state or finance studies or other life projects. For migrants, a relative lack of opportunity in their home country motivates their migratory projects; many are highly mobile and travel between their place of residence and the Nordic region to sell sex for short periods of time. Sex work was frequently cited as a temporary strategic project to advance one's—or one's family's—life. Hence, the study challenges the victimising and paternalising perspective of trafficking and grounds an understanding of sex work as informal labour, a form of economic agency and survival.

## 2. THE NORDIC MODEL DE FACTO CRIMINALISES THE SALE OF SEX

Contrary to the general characterisation and understanding that it is not criminalised under the Nordic model, the selling of sex is de facto criminalized through the enforcement of immigration, third-party and fiscal policies. Even if the Nordic model policies decriminalise the selling of sex, the countries regulate it through immigration policies. In Sweden and Finland, the selling of sex is grounds for deportation and denial of entry for migrants without

permanent resident permits coming from outside the EU/EEA. Sweden has also deported EU citizens for sex sale. In Norway, provisions in its immigration laws give police authority to question, deport and control migrant sex workers.<sup>4</sup>

Sweden, Norway, and Finland also have comprehensive third-party regulations<sup>5</sup> criminalising all facilitation of the selling of sex, whether it is exploitative or not. Even in a situation where the facilitator is not using coercion, or taking any compensation, assistance is illegal.<sup>6</sup> Regular landlord or hotel owners can be accused of pimping if sex sale is taking place in their premises. In Sweden and Norway, the police use third-party laws to evict sex workers and people in the sex trade from their apartments.

### 3. THE NORDIC MODEL DOESN'T PROTECT PEOPLE IN THE SEX TRADE

Lina, a Latin American trans woman, detailed how the de facto criminalisation of sellers of sex affect people like her:

This is a contradictory law. They kind of let you work but they control you – in the end, they force you not to work. [...] They say you can work, but you cannot work in an apartment because then the owner is a criminal, you cannot work in a hotel because then the hotel is criminal. [...] Here, you cannot call the police if you are in trouble, if somebody is violent, robbing you or something. [...] Maybe if you are foreign, the police will put you out of the country.

The above quote is demonstrative of the findings of this study. The main reasons interviewees gave for opposing the criminalisation of sex buying were safety-driven, because it pushed the sex into the realm of illegality, allowing workers to be denied access to social and legal protections, and making their work more dangerous. They wanted to be able to sell sex safely, free from harassment from the police, and without being treated as criminals or otherwise stigmatised.

4. Synnøve Økland Jahnsen and May-Len Skilbrei, "Norway," in *Assessing Prostitution Policies in Europe* (London: Routledge, Taylor & Francis Group, 2018).
5. I use the term third party to refer to people who in some way organize or facilitate commercial sex, people who are the "third parties" (in relation to the seller and the buyer).
6. Jahnsen and Skilbrei, "Norway"; Petra Östergren, "Sweden," in *Assessing Prostitution Policies in Europe* (London & New York: Routledge, 2018); Niina Vuolajärvi et al., "Finland," in *Assessing Prostitution Policies in Europe* (London: Routledge, 2018), 199–212.

### 3a. Safety and health risks

Sex buyer criminalisation hampers sex workers' safety practices and makes client screening difficult. On the streets, clients hurry negotiations, they want to move the transaction further away from the street, or in general clients avoid public locations, such as hotels, which are safer for people who sell sex than going to premises selected by the client. A migrant sex worker in Sweden described the situation:

Because clients want to go further and further from the streets and do it in their houses, it takes me six hours to make here on the streets what I could do in other places [countries] in one hour. It flips the power position; I have to focus on making them feel safe.

In Sweden and Norway, people in the sex trade have reported being targets of police harassment, aggressive policing, and a general breakdown in relations with the police. Interviewees reported invasive surveillance and questioning of people in the sex trade, and interference with and exposure to hotels and booking companies.

Forty-year-old Freija, who had started to sell sex at the age of 18 for survival and whose experiences in the sex trade had been traumatic, talked about her disappointment with the law:

Politicians promised the moon and the stars when they introduced the Sex Purchase Act. [...] The law was supposed to protect women and target clients and pimps. But the reality is not like that. Many experience that the police hunt them on the street. Again, it is the women who become the vulnerable party.



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Reluctance to turn to police is a significant problem. People in the sex trade said that a result of the de facto criminalisation of people who sell sex was that they were afraid to contact the police when they were a victim of crime.

Sex buyer criminalisation weakens sex workers' bargaining position with clients, forces them to loosen their safety measures, exposing them to violence, and drives them to operate at unknown locations, often increasing time spent sourcing and with clients.

### 3b. Social disenfranchisement

Although there were explicit calls for the criminalisation policies of the original Swedish Sex Purchase Act to be paired with social investment, when the law was introduced in 1999, the Swedish state did not direct any extra funding to the social services directed to people in the sex trade. Instead, Sweden invested in law enforcement, knowledge production, and normative change around commercial sex.<sup>7</sup> In other words, the "model" has had an extensive focus on policing rather than developing specialised social services for people in the sex trade.

7. Between 1999 and 2010 Sweden has directed 9.3 million EUR (77 million SEK) to the police for the enforcement of the law and 2.4 million EUR (20 million SEK) to the National Board of Health and Welfare to develop work on violence against women (to which commercial sex is included) and to monitor the development of commercial sex in Sweden. The efforts of the National Board of Health and Welfare have focused on knowledge production and competence building among officials and people working in health and social service through guidance manuals and trainings. Ola Florin, "A Particular Kind of Violence: Swedish Social Policy Puzzles of a Multipurpose Criminal Law," *Sexuality Research and Social Policy* 9, no. 3 (September 2012): 269–78, <https://doi.org/10.1007/s13178-012-0086-1>; Government of Sweden, "Regeringens Proposition 1997/98:55 Kvinnofrid," 1998, <https://www.regeringen.se/contentassets/1733625e719c43b28f073fa9cdec90f2/kvinnofrid-prop.-19979855>; Anna Skarhed, *Förbud mot köp av sexuell tjänst: en utvärdering 1999 - 2008; betänkande* (Stockholm: Fritzes, 2010).

The wide adaptation of the understanding of commercial sex as a form of violence against women in Sweden contributes to the subsequent lack of harm-reduction<sup>8</sup> services in Sweden. There is very limited or non-existent low-threshold STI testing, health, or legal services available and none of the state providers market their services in languages other than Swedish, despite a majority of sex workers in the region being migrants.

Prioritising therapeutic support at the cost of harm reduction services also means that people in the sex trade have a hard time accessing specialised health and legal services and find themselves without support when victims of crime.

The overwhelming majority of people engaged in commercial sex in the region are migrants without permanent residence permits and are therefore not entitled to the state services such as social benefits or public health care. One Swedish social worker describes the divide between nationals and foreigners in terms of their access to Swedish state services:

If [a national] wants help, she could get it immediately: a place to stay, food, help with her drug abuse—everything within the health care. There's a lot more possibilities. We have nothing for the other ones [foreigners]. If they are lucky, we can provide them with a ticket back to Romania, so it's not easy, it's not easy for them.

Language barriers together with lack of low threshold services enhance the exclusion of migrants from support services in Sweden. Moreover, in all three countries, people in the sex trade pointed to a lack of truly comprehensive or effective support that would help with finding alternative employment to commercial sex.

### 3c. Increased Stigma

Stigma is one of the main catalysts of violence and exclusion for sex workers and people in the sex trade. This study demonstrates how the wide adaptation of the understanding of commercial sex as a form of violence in Swedish society contributes to heightened experiences of stigma, marginalization, and discrimination. In Sweden and Norway, where the full criminalization of sex buying is enforced, sex workers and people in the sex trade report more

8. Low-threshold services refers to accessible, user-centred services that do not require appointments or identification.

exclusion and victimization than in Finland, the stigma being most extreme in Sweden.

There is strong consensus in Sweden that commercial sex constitutes exploitation and a hindrance to gender equality, and that discouraging men's demand should be at the centre of prostitution policies. This normative transformation is present in the national opinion surveys done before and after the Sex Purchase Act was adopted. In 1996, 32 per cent of Swedes supported criminalising the act of buying, in 2012 this percentage was 65 per cent. A similar rise in negative attitudes can be seen in relation to the sale of sex. In 1996, 30 per cent of Swedes believed that selling sexual services should be criminalised, whereas in 2012, 52 per cent believed it should be prohibited by law. Moreover, Sweden's normative campaigns against commercial sex have increased the view of sex workers as victims and mentally damaged. According to the studies, 82 per cent believe that sex work is harmful for persons who engage in.<sup>9</sup>

In other words, even if the law and discourses related to commercial sex as violence created a new stigmatised group – sex buyers – it did not shift stigma away from people in the sex trade but rather increased it.

### 3d. Economic marginalisation

In Sweden and Norway, income from the commercial sex is taxable, but because it is not recognised as "legitimate" work there are no official directives from tax authorities on tax preparation. Interviewees reported being investigated by tax officials and subsequently being taxed heavily.

Also, due to the broad pimping definition, sex workers report an inability to open bank accounts and hiring accountants. Ambiguous taxation arrangements and exclusion from fiscal policies penalises sex workers and reinforces their marginalisation, as it is hard to organise sex work legally.

9. Jari Kuosmanen, "Attitudes and Perceptions about Legislation Prohibiting the Purchase of Sexual Services in Sweden," *European Journal of Social Work* 14, no. 2 (June 2011): 247–63, <https://doi.org/10.1080/13691451003744341>; Carl Göran Svedin et al., *Prostitution i Sverige. kartläggning och utvärdering av prostitutionsgruppernas insatser samt erfarenheter och attityder i befolkningen* (Linköping: Linköping University Electronic Press, 2012), <http://urn.kb.se/resolve?urn=urn:nbn:se:liu:diva-75383> Fulltext från Linköping University Electronic Press.

## 4. MIGRANTS ARE HARMED DISPROPORTIONATELY

### 4a. Racialized profiling and targeting of migrant sex workers

The policing of commercial sex in the Nordic region focuses on migrants, especially on people of colour. Most of the (white passing) nationals had never had any contact with the police, whereas among migrants of colour, especially Nigerians, these experiences were frequent.

Even though Sweden, Norway and Finland decriminalise selling of sex, in practice they criminalise it for migrants as the selling of sex is grounds for deportation and denial of entry for people coming outside the EU/ETA. During client investigations and other policing of commercial sex, the police deport people who sell sex. Because of the threat of deportation, foreigners feared contact with the police even if they were legally in the country. As a Nigerian sex worker with a residence-permit in Spain stated:

Here we have the fear of the police. I have pressure. If you are walking on the streets here, sometimes they control you, check your ID. Okay, you are from Spain. They say that you have to go to the ticket office. You have to go back to where you came from. You have to go back to Spain or Italy or wherever you came from. They will ban that person to not to come here for four to five years. That's a reason why we're afraid.

Sex workers can also be denied entry at the border or harassed with sexually charged questioning or strip searches. This together with policing that target migrants who sell sex has led to a bifurcated regulation of domestic and foreign sex workers and creates "double" markets where migrants work in more informal and precarious conditions.

Racialised policing becomes evident, for example, in the Finnish deportation statistics from 2012-2014 based on suspicion of selling sex. Although Russians outnumber Nigerians in the clubs and on the street scene, 70 per cent of deportations were Nigerians living in another EU country, as compared to 30 per cent of Russians on a tourist visa who are "equally deportable" third-country nationals.

## 4b. Deportation as an abolitionist tool

In the Nordic countries, the protection of victims of trafficking (VoT) is tied to the criminal process and cooperation with law enforcement. In case they do not cooperate, or the police do not have enough evidence to pursue the investigation, they will not be offered protection and can be deported.

In Sweden, victims of trafficking are not entitled to a permanent residence permit. Upon termination of the investigation the victim is automatically repatriated. In Finland and Norway, victims of trafficking are eligible for permanent residence, but permits are not automatic; specific vulnerabilities need to be identified and formal application through the asylum process may be required.<sup>10</sup>

The Swedish officials see deporting migrants who engage in commercial sex—regardless of whether they are victims of trafficking—as a “concrete crime prevention measure.”<sup>11</sup> Politicians have argued that granting a permanent residence permit for trafficking victims could incentivise irregular migration and therefore contribute to trafficking rather than reducing it.<sup>12</sup>

The police force in Sweden echoes these rationales when discussing the deportation of migrants who sell sex. A senior male police officer in Stockholm who works on prostitution and trafficking on a state-level in Sweden, also legitimised deportations with prevention of trafficking and prostitution: “Unfortunately, it [deportation] prevents it [human trafficking/prostitution] also a bit. Because human trafficking cases take so long, sometimes we have to use the Aliens Act.”

10. Anette Brunovskis, “Special Rights within Universal Welfare: Assistance to Trafficking Victims in Norway,” *Journal of Comparative Social Work* 11, no. 1 (January 4, 2016), <http://journal.uia.no/index.php/JCSW/article/view/359>; Venla Roth, *Defining Human Trafficking and Identifying Its Victims: A Study on the Impact and Future Challenges of International, European and Finnish Legal Responses to Prostitution-Related Trafficking in Human Beings* (Leiden ; Boston: Martinus Nijhoff Publishers, 2012).
11. Parliamentary Ombudsman, “Justitieombudsmännens Ämbetsberättelse 2013/14:JO1.” (Vällingby: Elanders, 2013), 356, <https://data.riksdagen.se/fil/7A1FBF14-36D0-4EA3-B27F-6F0E602A6B44>.
12. Yvonne Svanström, “From Contested to Consensus: Swedish Politics on Prostitution and Trafficking,” in *Feminism, Prostitution and the State: The Politics of Neo-Abolitionism*, ed. Ellis Ward and Gillian Wylie (London ; New York, NY: Routledge, Taylor & Francis Group, 2017), 38..

## 5. THIRD-PARTY REGULATION HARMS SEX WORKERS AND PEOPLE IN THE SEX TRADE

The police use third party law to initiate forced evictions of people who sell sex by threatening the landlord or hotel owner with pimping charges. Third party laws also prevent sex workers from working together or helping each other in their business, as well as providing mutual protection. As a police officer in Sweden explained:

If you rent out to a prostitute you can be accused of procuring. What we do is that we leave a note to the landlord saying what kind of activity takes place in their apartment and what had happened [why the police have been there]. We also mention in the note that if we come up one more time, if it happens again, they will be interrogated about procuring. In this case, the landlords will kick out the women.

Sex workers also reported that people can use sex workers' fear of eviction and deportation as a tool for blackmail. A Latin American escort explained the situation in Sweden:

The person responsible for the building contacted me, told me, 'You're living in my building.' He said to me that I had to deliver a service to him for free otherwise he was going to report me.

The police in Sweden and Norway have developed cooperation with hotels and short-term apartment rental companies to detect commercial sex on their premises, extending policing to third parties. A Swedish police officer explained:

We have produced e-learning tools for the hotels, they could train their staff. So, they call us or otherwise sometimes they throw them [women] out, because we can't always come, so then they throw them out.

In Sweden and Norway, these actions have resulted in a dire housing situation for sex workers, but especially migrants. Lack of access to formal housing has meant that many are forced to turn to more informal and exploitative arrangements where those who rent the premises know that the apartment is used to sell sex and hence also ask more money for it. In other words, the active enforcement of the pimping law and shutting down formal rental opportunities can actually increase pimping and push people into, rather than steer them away from, exploitative arrangements.

# Conclusions

This study challenges the idea of the sex buyer law as a model that would focus on punishing the sex buyers and traffickers and protecting people in the sex trade and that could be transferred to other countries and contexts. One of the most significant findings to emerge from this study is that sex buyer criminalisation has a minor role in the regulation of commercial sex in the area.

Abolition of commercial sex through disrupting the market has become the primary goal of policing - and this policing takes place primarily through sex workers and people in the sex trade and increases their vulnerability to violence and exploitation.

The study demonstrates that we need a more nuanced understanding of the regulation of sex trade, especially how migration and third-party policies affect sex workers' conditions and move beyond discussions on simplistic models. The study indicates that to reduce exploitation in the sex trade and to form successful policies, policy-makers need to distance themselves from ideological stances related to commercial sex and centre the diverse experiences and needs of sex workers and people in the sex trade in the design of policies and services.

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# Key recommendations

The study demonstrates that we need a more nuanced understanding of the regulation of commercial sex, especially how migration and third-party policies affect sex workers' conditions and move beyond discussions on simplistic models to include the contributions of sex workers and people in the sex trade.

To counter the harms of the Nordic model and the harms in the sex trade in general, the policy recommendations drawn from this work are:

1

**Removal of criminal penalties related to consensual commercial sex is the first step to protect the safety, integrity and rights of people in the sex trade:**

- Decriminalise the selling and buying of sex in order to truly put the safety of people in the sex trade first.
- Removal of criminal prohibitions on non-exploitative third parties.

2

**Reform immigration policies:**

- Removing selling sex as a ground for deportation and refusal of entry.
- Unconditional protection for victims of trafficking. It is essential to remove the victim of trafficking status from criminal prosecution and guaranteeing a residence permit for victims.

- Create legal pathways of migration and access to formal labour markets for migrants to reduce exploitation and provide access to other forms of livelihood.

## 3

### **Centring sex workers and people in the sex trade in policymaking and service design/production:**

- Inclusion of people in the sex trade into the policymaking and service design/provision;
- Low-threshold health, legal, and social services prioritising harm-reduction;
- Education and training programs for employment outside of commercial sex that pays a living wage;
- Inclusive services which represent the people using the services—their diverse experiences, motivations for being in the sex trade, languages, ethnicities/races, genders and sexualities;
- Prioritising funding of organisations that centre people with lived experience of the sex trade and are led by /employ them.

## 4

### **Recognising sex work as economic activity. The findings of this study show that where selling of sex is not recognised as a form of labour, people who sell sex have hard time organising their life without punity.**

- Sex workers need to be able to register as individual entrepreneurs if they so wish and giving clear guidance on payment of taxes.
- There should, however, be no obligation for registration as for many selling sex is a temporary strategy of survival.

## About the Author

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