



Final Report of the International Comparative Study of Prostitution Policy: Austria and the Netherlands

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Publisher:

Platform31 Postbox 30833

2500 GV Den Haag

Den Haag, July 2013

Cover photo: Metje Blaak

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Appendix 3: The Swedish Sex Purchase Act: Claimed Success and Documented Effects¹²⁵

By Susanne Dodillet¹²⁶ and Petra Östergren¹²⁷

Introduction

Sweden's criminalization of the purchase of sexual services in 1999 is said to be a unique measure: to only punish those who buy sexual services, not those who sell them. However this alleged uniqueness is questionable, and for several reasons. There are a number of other laws and regulations against prostitution, which effectively make Swedish prostitution policy similar to those countries in the world that attempt to reduce or eradicate prostitution with legislative means. Another reason the claim to uniqueness is doubtful is that one must examine more than the wording of a law or policy model ("it is only those who buy sex who are being punished") when analyzing it – one has to consider the actual consequences. For instance, a law against the purchase of the services offered in massage therapy, psychotherapy or sexual health counseling would obviously not only punish the buyers, but also carry negative consequences for those who offer the services. Therefore, to only focus on one of several prostitution laws, ignore its consequences and call this a "unique" policy model is not in concordance with a comprehensive view of prostitution policy.

109

But there are some aspects of the Sex Purchase Act that can be said to be unique. One such aspect is the way it has been justified by policymakers.

The Sex Purchase Act was introduced by feminist policymakers who argued that prostitution is a form of male violence against women, that it is physically and psychologically damaging to sell sex and that there are no women who sell sex voluntarily. Furthermore, it was claimed that if one wants to achieve a gender-equal society, then prostitution must cease to exist – not only for the above-mentioned reasons, but also because all women in society are harmed as long as men think they can "buy women's bodies".¹²⁸ If the ban would have adverse effects for individual women who sell sex, or if it violates their right to self-determination would not matter. The gender-equal symbolic value of the Sex Purchase Act is more important.¹²⁹ This radical feminist-inspired view of prostitution has existed in the West since the 1970s, but has not been applied at state level before. In Sweden, it was first embraced by the Social Democratic government in 1998, and later by the Liberal Alliance Government in 2006.

125 The research for this report has been part of the *International Comparative Study of Prostitution Policy in The Netherlands, Austria and Sweden* (principal researcher: Hendrik Wagenaar), funded by the Nicis Institute, the cities of Rotterdam, The Hague, Utrecht and Vienna, and Leiden University. The conclusions and opinions that are expressed in this report do not necessarily represent those of the principal researchers in the larger project or its funding partners. The authors of this Appendix wish to thank Ola Florin, Hendrik Wagenaar and Ronald Weitzer for valuable comments, and extend a special thank to Michael Goodyear for his extensive comments on the text, legal translations from Swedish to English, editing and review of sources. Any remaining mistakes are the sole responsibility of the authors.

126 University of Göteborg.

127 University of Malmö.

128 Östergren 2006. & Dodillet 2009. & Proposition 1997/98:55, p 20 ff & p 104.

129 Östergren 2006, p 64. & Altstadt 2006.

Another unique aspect of the Sex Purchase Act is how persistently the ban, or the “Swedish model”, has been marketed. One of the stated aims from the very outset was to export it to other countries.¹³⁰ Both governments, authorities, political actors and Non Governmental Organizations (NGOs) have devoted time and money to market it internationally. Pamphlets, websites, articles, books and movies have been produced and lobby activities have been conducted towards the European Union (EU) and the rest of the world with the help of this material and via workshops, seminars and debates.¹³¹ Countries considering changes in their prostitution laws, have subsequently turned to Sweden for inspiration.

At the core of the marketing campaign has been the stated success of the Sex Purchase Act. It is said to have reduced prostitution and trafficking for sexual purposes, to have had a deterrent effect on clients, and to have changed societal attitudes towards prostitution – all this without having any negative consequences. Most recently these claims were stated in the 2010 official evaluation of the Sex Purchase Act, and repeated by Minister of Justice Beatrice Ask in an article for CNN.¹³² The problem with these claims is that if they are carefully investigated they do not appear to be supported by the available facts or research. As soon as the official evaluation was published, it was also criticized from several directions.¹³³ In the consultation process following the publication of the evaluation, the critique was especially harsh from those referral bodies who conduct prostitution research, and those working with health and discrimination issues (when law amendments are proposed in an official inquiry the report is circulated for consultation before it undergoes further preparation).¹³⁴ The criticism has primarily been focused on the evaluation’s lack of scientific rigor: it did not have an objective starting point, since the terms of reference given were that the purchase of sex must continue to be illegal; there was not a satisfying definition of prostitution; it did not take into account ideology, method, sources and possible confounding factors; there were inconsistencies, contradictions, haphazard referencing, irrelevant or flawed comparisons and conclusions were made without factual backup and were at times of a speculative character.¹³⁵

110

In this report we will focus on the conflict between the stated success of the ban and the lack of data that can back up these claims. Because, when reviewing the research and reports available, it becomes clear that the Sex Purchase Act *cannot* be said to have decreased prostitution, trafficking for sexual purposes, or had a deterrent effect on clients to the extent claimed. Nor is it possible to claim that public attitudes towards prostitution have changed significantly in the desired radical feminist direction or that there has been a similar increased support of the ban. We have also found reports of serious adverse effects of the Sex Purchase Act – especially concerning the health and well-being of sex workers – in spite of the fact that the lawmakers stressed that the ban was not to have a detrimental effect on people in prostitution.¹³⁶

130 Proposition 1997/98:55, p 105.

131 The Swedish Institute was given extra funds in the National Action Plan to market the “Swedish view” on prostitution and trafficking. See BRÅ 2010, p 59 for a summary of these activities. & Svenska Institutet 2011.

132 SOU 2010:49. & Ask 2010.

133 Agustín 2010; Agustín & Persson 2010a & 2010b; Dodillet 2010; Berg & Lindberg 2010; Pion & RoseAlliance & Sexarbejdernes InteresseOrganisation 2010; Hagwall & Laakso & Rehbinder & von Schantz & Wagenius 2010.

134 Referral or consultation responses can come from government authorities, local authorities, police, the judicial system, universities, NGO’s, stakeholders and the general public. See “How laws are made”. The critical bodies were: Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights (RFSL), Swedish Association for Sexuality Education (RFSU), The Discrimination Ombudsman, The Department of Social Work at University of Gothenburg, The Faculty of Health and Society at University of Malmö, The Faculty of Law at Lund University, The Faculty of Law at Uppsala University, The Department of Criminology at Stockholm University, The Department of Clinical and Experimental Medicine at Linköping University, The Department of Gender Studies at Södertörn University, National Board of Health and Welfare (Socialstyrelsen). Also the The Swedish Agency for Public Management (Statskontoret), the Government’s survey support and the Swedish Armed Forces criticized the evaluation in the consultation process.

135 Ibid.

136 Proposition 1997/98:55.

The authors of this report have researched different aspects of the Swedish prostitution policy over several years. One of us has also conducted field work among people who sell sex in Sweden.¹³⁷ This particular report is based on research we have conducted in the context of a larger project conducted through the University of Leiden and the University of Sheffield. It is written with an international audience in mind, the reason being that there appears to be a large demand for knowledge regarding the actual effects of the “Swedish model” – knowledge that is based on Swedish research but not filtered through the official discourse. To our understanding, the research presented here has not previously been compiled and translated into English.

We will begin this report by providing an overview of the laws and regulations surrounding prostitution, move on to discuss the documented effects of the Sex Purchase Act and end with a brief conclusion.

Background to the Swedish Sex Purchase Act

The Swedish Sex Purchase Act makes it unlawful to obtain, or attempt to obtain, casual sexual services for compensation. It entered into force in 1999 and when introduced the penalty for infraction was a fine or six months in prison. After a 2010 official evaluation the penalty was increased to twelve months in prison.

The reasons why the Act came into existence in Sweden can be understood on several levels and explained from different perspectives. The dominant understanding is that the Act is a natural consequence of many decades of work towards a gender equal society.¹³⁸ This understanding is often shared by feminists and scholars who also connect prostitution with male domination and violence.¹³⁹ It is believed that no woman can truly consent to selling sex, therefore there is no distinction between free and forced prostitution and prostitution cannot be considered work. Not only do men who buy sex oppress individual women, prostitution is believed to harm all women. Therefore, to allow prostitution is regarded as sending a signal that society finds it acceptable that men buy women’s bodies. Scholars who employ a critical approach to the Act, and do not necessarily view prostitution as oppression and male violence, tend to view the Act as a consequence of specific cultural understandings of sexuality and gender. Here stereotypical notions of gender roles, traditional sexual morality, the existence of a whore stigma and the creation of new sexual deviancies, are important elements of understanding. They also place the emergence and adoption of the Act within other political traditions and changes, such as a Swedish communitarian tradition and the entering into the European Union.¹⁴⁰

111

We would like to briefly discuss some of the more instrumental and historical factors that we believe were fundamental in bringing the Act into the Parliament in the first place, and for it to obtain support. These factors are: a Swedish tradition of anti-prostitution policy; modern anti-prostitution grassroots-movements; the emergence of a radical feminist discourse; a collaboration between party lines among female Members of Parliament and the inclusion of the Act within the omnibus Kvinnofrid (“Peace for Women”) Bill. We will review them in order.

137 Susanne Dodillet holds a PhD in Intellectual History and in her dissertation *Är sex arbete? (Is sex work?)* she compared Swedish and German prostitution policy 1970-2000. The material she analyzed was parliamentary documents and newspaper debates during four decades. See www.susannedodillet.com.

Petra Östergren is a PhD candidate in Social Anthropology. She is also a social commentator and writer. In one of her books, *Porr, horor och feminister (Porn, Whores and Feminists)* from 2006, she analyses the three decade long anti-porn and prostitution movement in Sweden, using a broad spectra of material – not only texts and discussions from parliamentary sources, but also following the grass roots activity that lead up to the current policy. She has also interviewed policymakers and many sex workers. The theme of her current dissertation is the Sex Purchase Act. See www.petraostergren.com.

138 Erikson 2011; Svanström 2004 & 2006.

139 Eduards 2007; Ekberg 2004; Olsson 2006; Waltman 2011.

140 Dodillet 2009; Kulick 2003 & 2005; Östergren 2006; Scholar 2004; Gould 2001 & 2002.

A Swedish tradition of anti-prostitution policy

Sexual relations outside marriage were outlawed in a 1734 law and might be viewed as one of the first bans on prostitution. The 1734 law also contained provisions regarding prostitution, making running a brothel and fornication (*skörlevnad*) illegal. (SOU 1981:71 p 36 f). The system of regulation, where sex workers were subjected to report to the police, medical examinations and lock hospitals for venereal diseases, began in Stockholm in 1859. By 1891 the system was in use in twelve other Swedish towns.¹⁴¹

Although regulation was abolished in 1918, prostitution was still regarded as immoral, and sex workers continued to be controlled. Until 1964 this was through the vagrancy law (*lösdrivarlagen*) designed to prevent "asocial behavior". Those whose way of life threatened conventional morality faced coercion of various kinds, including forced labor.¹⁴² In 1964 the vagrancy law was replaced by the law on antisocial behaviour aimed at controlling street prostitution. This law was not used after 1969, and was dropped completely in 1981. However, the repeal of the law did not mean that prostitution activity was decriminalized or considered acceptable.

At the end of the 1930's the law against procuring had been strengthened so that other third party activity became illegal, such as pimping. And throughout the century there were no public call for decriminalization of prostitution. When a Member of Parliament (MP) motioned in the early 1970's to have the state create safer work conditions for sex workers, he was met with ridicule in media and Parliament. His reasoning was regarded incomprehensible. Only four other Parliamentarians voted in favour of his motion.¹⁴³ Sex workers attempted to organize in the mid 1970's in order to change social attitudes and the legal system, but since their work was actively opposed by a budding anti-prostitution movement and lacked public support they soon disbanded.¹⁴⁴

Modern anti-prostitution grassroots-movements

The first modern anti-porn and -prostitution grass root movement emerged during the mid 1970's. It gathered some fifty different left wing and feminist organizations, but Christian groups also took part. This wave had two defining rhetorical features – it was clearly anti-capitalist, typical of its times, and it had a strong aim to safeguard "good" values in heterosexual relationships, i.e. intimacy, love and equality.¹⁴⁵ At the same time, on a municipal and state level two large prostitution projects took place, one state inquiry and one action research in the city of Malmö, both aimed at combating prostitution. Many of the leading figures of these projects shared the above-mentioned ambitions and also played a part in the activism.¹⁴⁶ Since grass root movements and Non Governmental Organizations (NGOs) have great influence on Swedish politics, this had a legal impact: a strengthening of the prostitution law against third party activity (like pandering and procuring) and a new law against sex clubs was introduced.¹⁴⁷

The second movement against commercial sex began in the mid 1980's and was directed more against pornography. Some of the arguments aimed at safeguarding "good" heterosexual relationships continued, but the anti-capitalist rhetoric was largely replaced by a radical feminist critique. Commercial sex was viewed as a result of patriarchy, that is, not solely a product of capitalism and a class divided society. Apart from activists inspired by anglosaxon radical feminism, the prominent figures at this time came from an influential sexual health NGO, as well as female politicians from the Social Democrats, the Left and the Center party. The movement resulted

141 Lundquist 1982; Svanström 2006a.

142 Söderblom 1992; Svanström 2006b.

143 Sjöholm 1972 & 1973; Dodillet 2009, p 52 f.

144 Östergren 2006, p 161 f.

145 Östergren 2006 p 39.

146 Dodillet 2009 p 95f, Östergren 2006 p 164, 269f.

147 Östergren 2006 p 39f.

in stronger censorship laws against “violent” pornography, but it was also instrumental in laying the ideological groundwork for future political work against prostitution – and for the Sex Purchase Act.¹⁴⁸

The emergence of a broader radical feminist discourse

The 1990’s did not see any similar grassroots movements. Instead the work against commercial sex moved “indoors” to NGOs and the Parliament. One of the most influential NGOs, and the largest feminist organization at the time, was the National Shelters Movement (ROKS). It had a well-defined radical feminist understanding of commercial sex, where prostitution was placed at par with male violence. The NGO, sponsored by state funds, acted as a lobby group, arranging well attended conferences with prominent Anglo-Saxon radical feminists as speakers, participated in media and wrote motions for MP’s from all different parties.¹⁴⁹ At the same time, an overall feminist identity politics gained ground in the media, academia and politics. This was also reflected in the parliamentary work against prostitution. From the late 1980’s until the time the Act was introduced in 1998 over forty motions were presented in Parliament, often crossing party lines, calling for a criminalization of clients. The trend was towards using radical feminist reasoning in its arguments, setting class and social welfare rhetoric aside.

Cross party collaboration and the Kvinnofrid bill

The issue of prostitution has predominantly been raised by women, as has the call to criminalize men who buy sex.¹⁵⁰ It was the Women’s Associations within the Center Party and the Liberal Party that first suggested to make the purchase, but not the sale, of sex illegal. This demand was raised during the remit (*remissörfarande*) related to the 1977 Inquiry into prostitution. In 1985 the Women’s Associations of the Social Democrats and the Left followed suit.¹⁵¹ Ten years later, when the next Inquiry into Prostitution¹⁵² proposed to have both sex workers and clients criminalized, forceful critique from the Women’s Associations was voiced. The following year (1996) all Women’s Associations except the Moderates, jointly signed a parliamentary motion to criminalize sex buyers.¹⁵³ It is suggested that the collaboration was made possible since the criminalization was formulated as a women’s issue, and since the politicians could make use of an already established network of collaboration between female MPs.¹⁵⁴

113

As mentioned, the 1995 Investigation into Prostitution which proposed that both parties engaging in prostitution to be criminalized, was thoroughly criticized. The Social Democratic Government held off and did not make a separate law proposal, instead the issue of prostitution was included in the omnibus “Kvinnofrid” Bill (Peace for Women). This was a bill that in most part dealt with domestic violence, rape, sexual harassment and female genital mutilation. The theoretical arguments in the Kvinnofrid bill, connecting prostitution with men’s violence against women is not always consequent upon and do not necessarily mimic a radical feminist analysis.¹⁵⁵ Nevertheless, we suggest that the inclusion of the Sex Purchase Act within the Kvinnofrid bill should be regarded as an important strategy of the lawmakers to create an intuitive association between prostitution and male violence, and hence pave the way for a criminalization.

148 Östergren 2006 p 39f.

149 Dodillet 2009, p 390 f, Östergren 2006 p 40.

150 Gould 2001, Scoular 2004.

151 Erikson 2011, p 138.

152 SOU 1995:15.

153 Segelström et al 1996.

154 Erikson 2011, p 150, Scoular 2004.

155 Kvinnofrid 1997/98:55.

The vote

During the consultation process for the round for the Kvinnofrid bill, most authorities, such as the The National Board of Health and Welfare, the National Police and the Attorney General opposed the proposal to introduce a sex-purchase law. But due to complex lobby work performed by the Women's Associations within their parties, the Social Democrats, the Left, the Green and the Center party were at this stage all in favor of the Act. This meant that regardless of respondents' criticism or the opposition parties, the bill would pass in parliament. Together the proponents of the Act had a parliamentary majority.

The bill passed on June 4, 1998 by 181 to 92 in a 349-member chamber. 13 MPs abstained and 63 were absent. As expected, the parties that voted in favor of the Act were the Social Democrats, the Left, the Green and the Center party. The Christian Democrats felt that both buyers and sellers should be criminalized and therefore abstained. The Moderates and a majority of the Liberal Party were against any kind of criminalization and therefore voted against the Sex Purchase Act.

Swedish prostitution policy

The "Swedish model" consists of several laws and regulations. The three main laws that criminalize or prevent prostitution involving adults are those addressing pandering, the forfeiture of rental apartments and rooms used for prostitution, and the purchase of sex.

114

The Pandering law prohibiting pimping or procuring (2005:90) provides for a fine and up to four years imprisonment, or eight years if the crime is serious. Pandering is when a person promotes or improperly financially exploits a person's engagement in casual sexual relations in return for payment. Serious crime is defined as large-scale activity, involving significant financial gain or involving ruthless exploitation of another person.¹⁵⁶

To prevent the use of apartments and rooms for prostitution and pandering there are several provisions for criminal sanctions and confiscation. These include the Penal Code Chapter 6 § 12.2, the Land Code (1970:994) Chapter 12. § 42.1.9 and the Condominium Act (1991:614) Chapter 7. § 18.8 (2003:31). These provisions also mean that a landlord or tenant is required to terminate the tenancy if premises are used for prostitution and tenant-owners are required to move out of an apartment used for prostitution.

The overall implications of these laws is that no one can operate a brothel, rent an apartment, room or hotel room, assist with finding clients, act as a security guard or allow advertising for sex workers. This in turn implies that sex workers can not work together, recommend customers to each other, advertise, work from property they rent or own or even cohabit with a partner (since that partner is likely to share part of any income derived from sex work). In addition, the law against pandering makes it difficult for the authorities to utilise harm reduction strategies. For instance distribution of condoms, although perfectly legal under the Social Services and Communicable Diseases Acts respectively, might be perceived by non-legal experts as encouraging prostitution.

The best known law, the Sex Purchase law (2005:90), entered into force in 1999 and makes it unlawful to obtain, or attempt to obtain, casual sexual services for compensation.¹⁵⁷ "Compensation" does not necessarily need to be monetary, but might include alcohol, drugs, meals or gifts that have been agreed upon on in advance. It is also illegal to have sex with a person who receives any consideration from a third party. The penalty for infrac-

¹⁵⁶ Penal Code: Chapter 12 § 12.

¹⁵⁷ Penal Code: Chapter 11.

tion is a fine or one year in prison. In this context, it is important to point out that Sweden did not decriminalize the sale of sexual services in 1999, as sometimes claimed in the international media. Neither the sale nor purchase of sexual services per se was a criminal offence prior to the passing of this Act, although repressive legislation against vagrancy and STIs were used against persons who sold sex during a large part of the 20th century.

The Trafficking law 2002 (2002: 436)¹⁵⁸ provides that any person, who by means of coercion or other improper means takes part in the cross-border process of recruitment, transportation, transfer, harboring or reception of a person for the purpose of sexual exploitation, may be sentenced to between two to ten years of imprisonment (§ 1a). If the victim is under the age of 18, evidence of coercion or other improper means is not required to obtain a conviction (§ 1a). In 2004 the wording of the Act was amended (2004:406) to make it more closely resemble the Palermo protocol. The legislation was also expanded to include trafficking for forced labor and removal of organs, as well as trafficking within a country. According to this wording a trafficker must be shown to have control over the victim in order to obtain conviction. In 2010 the wording was amended a second time (2010:371), because the 2004 version was deemed to "impede it from being implemented in an effective way."¹⁵⁹ Very few people had been convicted because it was difficult for prosecutors to prove that the trafficker controlled the victim. Consequently this requirement was removed.

There are two laws governing prostitution and young people. Under the Seduction of Youth law (1984:399)¹⁶⁰ it is unlawful to promise or give consideration for casual sexual intercourse with someone under the age of eighteen. The penalty is imprisonment not exceeding two years. An attempt to perform such an act is also punishable, and consent is irrelevant. Sexual conduct with a child under 15 is prohibited under § 10.

The Care of Young Persons Act (LVU; 1990:52) gives society the right to force the placement of a young person into care if they put their health or development at risk by substance use, criminal activity or "socially destructive behavior" (§ 3). This means a youth behaving in a way that deviates from society's basic norms, such as involvement in prostitution or working in a sex club. In normal cases this law applies only to those under eighteen, but "socially destructive behavior" may apply to persons under 21 years.

115

The Aliens Act (2005:716) contains provisions which, inter alia, relate to the right of aliens to enter, reside and work in Sweden. Foreigners who have residence permits may be refused entry if it can be assumed that the person will commit a crime or that he or she will not support themselves "by honest means" during their stay (Chapter 8 § 2.2). This includes engaging in prostitution.

The ban on public pornographic performances in the Public Order Act (1993:1617); Chapter 2 § 14 makes it illegal to show "real" sex on stage (as long as they are not artistic performances in a theater). Striptease shows are allowed in sex clubs, but touching is not allowed between dancers and customers, and alcohol may not be served in the room. The ban was introduced with the aim to combat prostitution and was mainly directed against the so-called sex club activity.

Besides these laws there are also rules and practices for tax purposes that affect the ability of people to support themselves in prostitution. All income is taxable, even prostitution earnings, but the tax office does not accept "prostitution" or "sex work" as a business if a person wishes to register a company (and because of the Pandering law they cannot be employees). This has the consequence that the person selling sex either needs to register a company as a different form of business or sell sexual favors illegally on the black market, in the informal economy. Those who choose the former could pay taxes and receive social insurance benefits but it becomes difficult for sex workers to deduct their business expenses. Sex workers who instead choose to sell sex on the

158 Penal Code, Chapter 4 § 1, 1a, 2, 4, 10.

159 SOU 2008:41, p 22.

160 Penal Code, Chapter 6 § 9.

black market may not qualify for social insurance, can not claim deductions for their expenses and could face arbitrary tax assessments if the Treasury made its own estimate of the income sex workers earned over a period of years, forcing them to pay large sums of tax retrospectively.¹⁶¹

When the Sex Purchase Act was proposed, it was stressed that social measures were to be the primary tool used in the attempt to reduce prostitution.¹⁶² Such measures are governed by key legislation in the social services and health care sectors, such as the Social Services Act (2001:453) and the Health and Medical Service Act (1982:763), but neither contains specific provisions on people who sell sex. In relation to social assistance, the social services agencies have specialized services for people involved in prostitution in the three major cities: the Prostitution Unit in Stockholm, the Prostitution Group in Gothenburg and the Prostitution Knowledge Center in Malmö. Since there are no guidelines provided to govern this activity, nor any earmarked public funds, this has resulted in differing approaches. In Stockholm, for example, the focus is on getting people to stop selling sex with the help of therapy, while in Malmö it includes a harm reduction perspective.¹⁶³

Finally we must consider the National Action Plan Against Prostitution and Human Trafficking for Sexual Purposes (here the National Action Plan). This contains 36 measures to be implemented over the 2008-2011 time period and the Government set aside 213 million kronor to finance this. The action plan includes greater protection and support for people at risk, more emphasis on preventive work, higher standards and greater efficiency in the justice system, increased national and international cooperation, and a higher level of knowledge and awareness. The ideological basis of all these measures is radical feminist and the objective is to reduce prostitution.¹⁶⁴

Our material

In order to assess the validity of the claims that the Sex Purchase Act has been a success, we have mainly used material from authorities that have been responsible for reporting on prostitution and evaluating the policy. These are: the National Board of Health and Welfare, a government agency under the Ministry of Health and Social Affairs, that has conducted three reports;¹⁶⁵ the National Council for Crime Prevention, a council that functions as the government's body of expertise within the judicial system, from which we looked at four reports;¹⁶⁶ the National Police Board and its 11 annual reports on trafficking, one early evaluation of the ban and one local report on prostitution;¹⁶⁷ the previously mentioned 2010 official evaluation of the Sex Purchase Act and the response from 52 referral bodies.¹⁶⁸ These authorities have in their turn collected information from police, social workers, NGOs, academic research and some interviews with people with experience of prostitution. Some of the authorities have conducted their own surveys.

We have also consulted the findings from the official inquiry into prostitution that was published in 1995,¹⁶⁹ the special inquiry made by the Norwegian Ministry of Justice in 2004 "Purchasing sexual services in Sweden and the Netherlands",¹⁷⁰ the 2008 research project "Prostitution in the Nordic Countries", which was carried out on

161 Östergren 2003a. & Östergren 2003b.

162 Proposition 1997/98:55.

163 National Board of Health and Welfare 2004, p 13. & Sirling 2009, p 333.

164 Regeringens skrivelse 2007/08:167, Justitiedepartementet 2008, Ministry of Education and Research 2008.

165 See Socialstyrelsen and National Board of Health and Welfare in the bibliography. Two of the reports are available in English.

166 See BRÅ and National Council for Crime Prevention in the bibliography. Some of the reports are available in English.

167 See Rikskriminalpolisen, Rikspolisstyrelsen, National Criminal Police, National Police Board and SamO-Kut Nord 2008 in the bibliography. Some of the reports are available in English.

168 SOU 2010:49.

169 SOU 1995:15.

170 Norwegian Ministry of Justice 2004.

behalf of the Nordic Council of Ministers for Gender Equality by the Nordic Gender Institute (NIKK),¹⁷¹ the 2008 survey “See me” by the National Board for Youth Affairs;¹⁷² a 2010 report by the Prostitution Knowledge Center in Malmö¹⁷³ and; the 2011 report by the Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights (RFSL).¹⁷⁴ The material has been supplemented with our previous research and examples from current debates in the media and the Internet as well as statements by sex workers.

Prevalence

In order to assess whether or not prostitution has decreased since the introduction of the Sex Purchase Act in 1999 one needs to know how prevalent prostitution was before the law was passed. The most frequently used figures indicate that there were about 650 women in street-based prostitution in the three largest cities, Stockholm, Malmö and Gothenburg, and it is estimated that two to three times as many sold sex indoors. This is said to make the total number of sex workers working before the new law between 1,850 – 2,500, but sometimes the number 3,000 is used.¹⁷⁵

There are several uncertainties here. The sources do not state if the number 650 is an exact headcount on the street on any given day, or if it is an annual estimate on how many women sell sex during a year – and if so, if these women sold sex full time or part time, for what duration, reasons and under what conditions. We also do not know who made the “twice or three times as many indoors” estimate – and on what grounds. Another uncertainty is that men and transgender persons selling sex are not accounted for. Given these uncertainties, one could conclude that comparing statistics before and after the Sex Purchase Act is simply not feasible. There are problems with the figures from after the introduction of the ban as well. The report by the Norwegian Ministry of Justice talks about a “general problem” with statistics from Sweden since they are “highly uncertain”. They refer to their own investigations but also an early report where the police responsible for the figures admit that the method of measuring is “rough” and does not give an accurate figure, it just “indicates where things are going”.¹⁷⁶ When Charlotta Holmström accounts for all the information available on the Swedish figures in the NIKK research report, she notes that a close reading of the material available regarding the scope and existence of prostitution shows knowledge gaps, and that research highlighting the extent of the phenomena is limited.¹⁷⁷

117

Having said this, there is still a general consensus that street prostitution declined by about half after the introduction of the Sex Purchase Act. The question is whether or not this decline was a direct result of the Act or not.

The estimated number of street workers in the three largest cities in 2007 was 300, with 200 in Stockholm, 30 in Gothenburg and 70 in Malmö.¹⁷⁸

As far as we can tell, these figures suffer from the above-mentioned uncertainties, but some other scientific concerns have been raised during the consultation process following the 2010 official evaluation as well. In its response the Department of Criminology at Stockholm University states that such marked changes in activities (50 percent decline) are rarely seen in the criminological literature. This raises a question of whether the reported changes are “too good”, and this observation would need to be discussed if the figures are used to

171 Holmström & Skilbrei 2008.

172 See the National Board of Youth Affairs 2008 & Ungdomsstyrelsen 2008.

173 Malmö Stad Kompetenscenter prostitution 2010.

174 RFSL 2011.

175 SOU 1995:15. Although, ‘two to three times’ would be 1,950 – 2,600.

176 Norwegian Ministry of Justice 2004, p 9.

177 NIKK 2008, p 17. & Holmström 2008, p 303.

178 Holmström 2008, p 306.

exemplify the success of the ban. Secondly, the effects of the ban vary largely between the three cities, which also needs to be discussed. And thirdly, a longer time series before the introduction of the ban would have been needed since the 1998 figures might have been an exception, an “outlier”.¹⁷⁹ Others have pointed out that the estimated numbers of street workers have been declining since the late 1970’s, suggesting that any observed decline since the Act – if there is one – is part of a much longer trend.¹⁸⁰ Furthermore, this trend is not a specifically Swedish phenomenon, as Holmström points out in the NIKK report, but an international one.¹⁸¹ Another question is how stable this development is. In its 2007 report into prostitution, the National Board of Health and Welfare writes:¹⁸²

The overall picture emerging from the interviews is that the sex trade virtually disappeared from the street during a brief period immediately after the law went into effect. It later returned, albeit to a lesser extent. For instance, representatives of the Stockholm Prostitution Centre say that prostitution initially vanished from the streets when the law was passed, only to later return at about half the former extent. Now about two thirds of street prostitution is back, compared to the situation before the law against purchasing sexual services went into effect.

The National Board of Health and Welfare

There are also some more specific objections to the relationship between the ban and its effects on street based prostitution. According to social workers interviewed by the National Council for Crime Prevention it has become more difficult to count the number of sex workers, since they have moved to side streets and cover a larger area than before.¹⁸³ Also, several sources report that the numbers on the streets have fluctuated, and some of the authorities claim that the fluctuation (and therefore any claimed decrease) is dependent more on the extent of police surveillance and enforcement rather than the law. The Council writes:¹⁸⁴

118

A rather extensive disruptive activity has been targeted at street prostitution in large city areas. Traffic controls have been a part of these disruptions. For community police and traffic police the motive for these activities has primarily been to guarantee nighttime peace for the residents, while for those working against prostitution it has been a way to combat the prostitution problem. This means other laws are being used in order to combat the problem that the new law is designed to counter, which might mean that the new law in itself is not an efficient measure to counter prostitution.

The National Council for Crime Prevention

So how about the effect on prostitution overall, outdoor and indoor? It has been stated that one problem in assessing the effect on indoor prostitution is that the more “up-market” the prostitution, the less reliable data there is.¹⁸⁵ The official Swedish evaluation, while claiming that prostitution overall has decreased, is paradoxically also of this opinion:¹⁸⁶

When it comes to indoor prostitution in which contact is made at restaurants, hotels, sex clubs or massage parlors, the available information on the extent to which this occurs is limited. We have not been able to find any in-depth studies of these forms of prostitution in the past decade.

The 2010 official evaluation

179 Kriminologiska institutionen vid Stockholms universitet 2010.

180 Holmström 2008, p 306. & Institutionen för socialt arbete vid Göteborgs universitet 2010.

181 Holmström 2008, p 321.

182 National Board of Health and Welfare 2008, p 33.

183 BRÅ 2000, p 20.

184 BRÅ 2000, p 48. Also see Norwegian Ministry of Justice 2004, p 22, 23. & Swedish National Council for Crime Prevention 2008, p 124.

185 National Board of Health and Welfare 2004, p 8.

186 SOU 2010:49b, p 19.

Still, the authorities and reports conclude that only because there are less people selling sex on the streets, this does not mean that prostitution overall has been reduced. The general estimate in the reports we have looked at is that sex workers have begun using other means to find clients, and vice versa. Sex workers give out their mobile phone number to clients on the street or they make contact via the Internet (due to the ban against procuring, advertising on the Internet has to be done via a server in another country). It is also believed that sex workers and clients more frequently make contact in bars, restaurants and hotels.¹⁸⁷

This shift from street to indoor is believed not to be necessarily a result of the Sex Purchase Act, but part of the general trend of decreasing street-based prostitution. The Board of Health and Welfare writes that prostitution has developed along with society in that new technology is being used, and that buyers and sellers of sexual services now make contact with each other by multifarious means.¹⁸⁸

When it comes to the Internet, there have been some attempts to count the number of sex workers advertising there. Depending on the sources, the estimated figures are 300-500 people.¹⁸⁹ The count of the Internet figures is not standardized either, nor is much information gathered in order to know for what duration, under what circumstances and for what reasons people sell sex, etc. But the Prostitution Knowledge Center in Malmö, that seems to be the only body that measures internet advertising on a regular basis, reports that there has been a noticeable increase in the Öresund area during 2009 and the official evaluation claims that “when it comes to youth being exploited in prostitution, the Internet is a new arena that has increased with avalanche proportions”.¹⁹⁰ Also, accordingly to the Malmö Knowledge Center, the changing technology has resulted in the “hidden” (indoor) prostitution now making up four-fifths (80%) of the overall prostitution prevalence, compared to two-thirds (67%) before the ban was introduced.¹⁹¹ This would leave us with a similar total number of people involved in prostitution as before the ban, or about 1,500 people.

In short, due to the methodological problems, there is no way of knowing for certain what has happened after the introduction of the Sex Purchase Act. In its 2007 report the National Board of Health and Welfare summarized the situation in the following manner:¹⁹²

It is also difficult to discern any clear trend of development: has the extent of prostitution increased or decreased? We cannot give any unambiguous answer to that question. At most, we can discern that street prostitution is slowly returning, after swiftly disappearing in the wake of the law against purchasing sexual services. But as said, that refers to street prostitution, which is the most obvious manifestation. With regard to increases and decreases in other areas of prostitution – the “hidden prostitution” – we are even less able to make any statements.

The National Board of Health and Welfare

The conclusion is that the official claims regarding the “success” of the ban cannot be substantiated given the data problems described above.

119

187 Holmström 2008, p 307. Also see SOU 2010:49b; Socialstyrelsen 2000 & 2004; Rikskriminalpolisen 1999, p 26, 28 & 29; National Board of Health and Welfare 2008, p. 47.

188 The National Board of Health and Welfare 2008, p 63.

189 Holmström 2008. & Malmö Stad Kompetenscenter prostitution 2010. & National Board of Health and Welfare 2008.

190 Malmö Stad Kompetenscenter Prostitution (not dated), p 3; SOU 2010:49a, p 112.

191 As reported in BRÅ 2000, p 20.

192 National Board of Health and Welfare 2008, p 63.

Trafficking for sexual purposes

It is often claimed that Sweden has done exceptionally well when it comes to reducing trafficking for sexual purposes, and that this is due to the Sex Purchase Act. But the trafficking numbers available out of Sweden are, if possible, even more vague and contradictory. According to The National Council for Crime Prevention, the Sex Purchase Act can both be a hindrance to traffickers, but also a tool to improve market conditions, due to the higher prices for sex that the ban creates. On the one hand it can reduce the number of women used in trafficking – but also provide a reasonably good profit for those traffickers that have the capacity to provide sexual services without being caught by the authorities. This in turn makes Sweden an attractive country for the more sophisticated criminal.¹⁹³ These contradictions can be noted in other documents. In the official evaluation it is stated:¹⁹⁴

According to the Swedish Police, it is clear that the ban on the purchase of sexual services acts as a barrier to human traffickers and procurers who are considering establishing themselves in Sweden.

The 2010 official evaluation

But in a press release only a few months before the evaluation was published, the same police authority stated:¹⁹⁵

Serious organized crime, including prostitution and trafficking, has increased in strength, power and complexity during the past decade. It constitutes a serious social problem in Sweden and organized crime makes large amounts of money from the exploitation and trafficking of people under slave-like conditions.

National Police Board press release March 2010

120

If we look at the number of people involved in trafficking for sexual purposes the discrepancies and uncertainties continues. In its reports from 2002 to 2006 the National Police Board estimated the actual victims of trafficking to be 400-600 women. But since 2007 they have not published any numbers on women at all (and not given a reason why). It is also difficult to get hold of a comprehensive list of reported and convicted crimes against trafficking for sexual purposes, despite the many reports the police produce. One has to search in different documents to find all the data. When compiled they look like this:

Number of people reported and convicted for trafficking for sexual purposes:

Year	Reported	Convicted
2003	21	2
2004	29	0
2005	44	7
2006	26	11
2007	15	2
2008	15	0
2009	31	0
2010	31	?

193 BRÅ 2008, p 87.

194 SOU 2010:49b, p 9.

195 Rikspolisstyrelsen 2010b.

Judging from this, trafficking for sexual purposes does not seem to be a big issue in Sweden, there are few reported cases and even fewer convictions (also, the numbers fluctuate from year to year, rather than showing a steady decrease). The general trend as stated in the 1993 National Inquiry into Prostitution seems to be correct: Sweden has never been a country with much trafficking.¹⁹⁶ But on the other hand, in its annual reports the National Police Board criticizes the courts for not convicting more people for trafficking. As the national rapporteur on trafficking, the Board is obliged to annually describe the development of this crime. In the 2006 report the authority introduced a new term: "trafficking-like" prostitution. There was never a clear definition of the term, but the new category allowed the Board to describe more cases in its reports. "Trafficking-like" prostitution is also used in the official evaluation, where it is described as "foreign women who during a temporary visit to Sweden, offer sexual services".¹⁹⁷ What this shows is that the definition of trafficking by Sweden and by rapporteurs from other countries might differ considerably, which might cause even greater difficulties in comparing the extent of this crime between countries.

The many discrepancies and ambiguities in the annual reports from the National Police Board will not be discussed further here, but it should be noted that Malmö University criticizes the official evaluation for not presenting evidence that backs up its claim that the ban has deterred traffickers from establishing themselves in Sweden.¹⁹⁸ And in investigating the relationship between the Sex Purchase Act and the prevalence of prostitution, the Board of Health and Welfare has the following to say:¹⁹⁹

We have determined in previous reports [1, 2] that prostitution is a multifaceted phenomenon that is affected by several interacting factors. No causal connections can be proven between legislation and changes in prostitution. It is also difficult to identify the impacts of legislation because social processes are affected by several complex and situational factors.

The Board of Health and Welfare

121

Does the law deter buyers?

The conclusion in most reports and research is that the Sex Purchase Act does not deter clients. In client interviews made by the Board of Health and Welfare, most men state that the ban has not changed anything for them, but describe it as a "punch in the air".²⁰⁰ Anneli Sirling from the NIKK research project interviewed social workers who said that according to the clients they been in contact with, criminalization has not been an important topic to discuss and has not been seen as a problem. The decision whether to purchase sex or not was linked to other issues than to the fact that it was illegal.²⁰¹ Sirling and others also show that for many men the ban is of no concern at all, since they mostly buy sex abroad.²⁰² Clients interviewed in research projects by the Prostitution Knowledge Center in Malmö and RFSL, the Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights, express a similar sentiment: the ban does not affect their behavior.²⁰³ And people who sell sex express the same conclusion: the ban does not deter their clients.²⁰⁴ Even the official evaluation, that on one hand claims that the law deters clients, refers to "many police" who believe that the punishment clients risks is not particularly discouraging.²⁰⁵

196 SOU 1995:15, p 100.

197 SOU 2010:49, p 201.

198 Institutionen för Hälsa och samhälle vid Malmö högskola 2010.

199 The National Board of Health and Welfare 2008, p 46.

200 Socialstyrelsen 2000, p 42 f.

201 Sirling 2008, p 346. & Kuosmanen 2008, p 372.

202 Siring 2008, p 345 f.

203 Malmö Stad Kompetenscenter prostitution 2010, p 86. & RFSL 2011, p 194.

204 Malmö Stad Kompetenscenter prostitution 2010, p 50 ff. See also statements by sex workers, for instance in the blogs "Greta Garbo...en glädjeflicka", "Frida", "Secretary academy", "Isabella Lund" & "Njutning till salu" and the interview in Sveriges Radio P3 2008.

205 SOU 2010:49a, p 197.

If we look at additional surveys, we find similar results. The Swedish National Radio did a survey in the spring of 2009 in order to investigate the effectiveness of the ban. The Sex Purchase Act was up for evaluation and the radio wanted to know if it deterred men or not. Nineteen local radio stations placed a fake advertisement on the Internet, pretending to be a local woman selling sex who could be contacted via e-mail or mobile phone. The stations were inundated with answers. In less than a week they got over one thousand unique replies, equally distributed over the country. The radio reporters rang some of the men and found that the ban did not scare them off. Many compared the illegal nature of buying sex with speeding; it is illegal to drive a car too fast as well, and one might or not get caught doing it – but it was still worth it. When the National Radio contacted the coordinator for the National Action Plan to get a comment, the coordinator said that their findings did not surprise him:²⁰⁶

This is nothing that surprises me. I think this just confirms what we say all the time. We know that there is a great demand. It is also something we tried to point out – it is not just a big city phenomenon. (...) there is a constant stream of sex buyers in the street environment as well, so I think it sounds like what is going on in reality, nothing else.

Patrik Cederlöf, coordinator for the National Action Plan

In spite of this data, the official evaluation claims that the Sex Purchase Act deters clients, referring to one of the studies within the NIKK research project.²⁰⁷

122 It was a questionnaire survey about Swedish men's and women's experiences of and attitudes towards prostitution that formed the basis of Jari Kuosmanen's 2008 NIKK study, and contained questions intended to determine whether the ban had affected the pattern of actions of prospective sex buyers. Kuosmanen writes that the men who stated that they had bought sex were fewer in his study (8%) than in a study done in 1996 (13.6%), and that several of those questioned in his survey stated that the ban had affected their actions, making them give up or cut back on buying sex. But (and this is not translated in the English summary of the official evaluation), Kuosmanen himself hedges the results, one reason being the low response rate. Out of the 2,500 surveys that were sent out, only 45.5 percent responded, slightly less men than women, and young men especially were underrepresented. He also poses the question as to whether the result represents a real decrease, or something else. Finally he discusses the willingness to answer questions about purchasing sex in 2008, given that it has become a criminal act. He concludes that in order to know if there is an actual reduction in the number of clients, more population-based surveys are required.²⁰⁸

The criminologists at Stockholm University write in their response to the official evaluation that figures from surveys do not tell us anything about what is going on in reality, as opposed to what people say. They also show why the above-mentioned figures cannot be correct. If the responses are to be considered representative, then all men who answered "yes" to having ever purchased sex in 1996 should have also been represented in the 2008 survey (with the exception of the twelve oldest age groups) and would still have answered "yes" if they were answering truthfully. Even if no one bought sex after the Sex Purchase Act came into force, such a major decrease in the prevalence of buying sex amongst men simply cannot be achieved in that time.²⁰⁹ The National Council for Crime Prevention is also among those who discuss the possible deterrent effect of the Sex Purchase Act. In an early report they state that it is not known if the new ban has deterred buyers in the hidden indoor prostitution market.²¹⁰

206 Sveriges Radio P1 2009.

207 SOU 2010:49b, p 9.

208 Kuosmanen 2008, p 377 f. See also Kuosmanen 2010.

209 Kriminologiska institutionen vid Stockholms universitet 2010.

210 BRÅ 2000, p 49.

As with the figures from trafficking it is difficult to find all the numbers on convicted and prosecuted clients in one document. But going through the different reports we were able to compile these figures.

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Prosecuted	94	92	86	110	300	156	460	163	189	187	352	1251
Pleaded guilty	5	7	18	22	52	26	47	88	51	48		
Sentenced	6	18	30	20	30	27	56	38	39	25		
Total	11	25	48	44	82	53	103	126	92	76		

In the top row of the chart are the numbers of people prosecuted from 1999 – 2010. In the second row are the figures on how many of those charged that pleaded guilty when confronted by the police (and in that way avoided a trial), and the third row shows how many men were sentenced to fines (as yet, no one has been sentenced to imprisonment).

The figures on how many pleaded guilty, and how many were sentenced in the years 2009 and 2010 have not yet been published, but as the table shows 352 people were prosecuted in 2009, and 1,252 in 2010 – an increase of over three hundred percent. These numbers cannot be interpreted as a huge increase in men buying sex, but should be understood in the light of The National Action Plan from 2008 where police resources were considerably increased. In their response the criminologists from Stockholm University discuss this relationship:²¹¹

The purchase of sexual services is a typical surveillance crime. If resources are allocated, more crimes can be detected and penalized. According to police officers interviewed in the evaluation, the number of reported crimes could be “multiplied if this crime was a priority in everyday operations” (p. 217). With this reasoning, one can get the kind of criminality one desires (Christie 2004). The police activity itself produces more and more crimes, which in turn can justify why more resources are needed to combat sex purchase via policing.

123

The Department of Criminology at Stockholm University

Has the law changed attitudes?

According to the official evaluation there has been an increased public support for the ban, and the Sex Purchase Act has influenced public opinion concerning prostitution. Swedes are to a larger extent viewing it as an undesirable phenomenon, it reads, and given that the support for criminalization is greatest among young people, it is expected that this normative effect will last. These statements are backed up by results from four population-based opinion polls conducted before and after the law.²¹² Two of them have already been mentioned; the 1996 study and the Kuosmanen study from 2008. The other two were made by SIFO, the Swedish branch of TNS Custom Market Research. The polls show that in 1996, 67 percent felt that buying sex should not be considered a criminal act, whereas in 1999, 76 percent said that it was right to ban the purchase of sexual services. Support for criminalization was almost equally strong in the two latest surveys: 76 percent in 2002 and 71 percent in 2008. In the latest conducted surveys, women were more in favor than men (81 in 1999, 83 in 2002 and 79 percent in 2008) and the support for the ban decreased most amongst males (70 in 1999, 69 in 2002 and 60 percent in 2008).²¹³

211 Kriminologiska institutionen vid Stockholms universitet 2010.

212 SOU 2010:49b, p 9.

213 As summarized by Kuosmanen 2008, p 362.

But one must ask what people are in favor of. Because, as Kuosmanen points out, the respondents not only wish to criminalize the buyer – they want the seller to be criminalized as well. In the 1999 SIFO poll, 71 percent wanted the sale of sex to be illegal (78 percent of the women and 64 percent of the men). In Kuosmanen's 2008 survey, 59 percent thought the sale of sex should be criminalized (66 percent women and 49 percent men). Kuosmanen therefore concludes that "most people seem to perceive prostitution as a general problem, and not first and foremost as an expression of gender inequality."²¹⁴

A similar problem with the "educational" or normative aspect of the legislation can be detected in the NIKK study conducted by Sirling. In her interviews with authorities responsible for applying the law she found that police perceived it as a kind of "humanistic" law, not a ban aimed at improving gender relationships. Accordingly to her, this indicates that the authorities do not interpret the sex industry as a gender equality problem even if they, at a rhetorical level, describe all women as victims based on the radical feminist interpretation.²¹⁵ Therefore, the question that could be posed is whether the ban educates the general public in the desired normative direction. We will return to this issue, but first look at the claim regarding young people and attitudes, and that their support of the ban is the greatest and the normative effect therefore is expected to last.

In 2009 the Board for Youth Affairs sent out a questionnaire where 1.7 percent of the respondents, which would extrapolate to 20,000 girls and boys, stated that they had taken money for sex. But also, more than one out of ten would consider taking payment for sex, and four out of ten felt that it is acceptable to have sex for money if both parties are willing. Perhaps more significant is that 11.4 percent stated that they knew someone who had received payment for sex.²¹⁶ Therefore the proportion who actually sold sex may be closer to 10 percent than 2 percent. In relation to the claims made by the official evaluation, several of the respondents point out that these figures must be interpreted as a liberal attitude to prostitution, not the other way around.²¹⁷

124

In order to further discuss possible changes in the general attitude towards prostitution and the Sex Purchase Act, it might be helpful to mention the public views as expressed in the media.

In 1998, the year the ban was passed in the parliament, there were only three public figures who opposed the law on the grounds that prostitution is a multifaceted phenomenon and that sex workers should be entitled the same rights as other citizens.²¹⁸ In 2011 the critics have proliferated to such a degree that they are difficult to keep track of. Prominent social commentators, as well as young bloggers write columns and articles against the ban and in favor of a more nuanced understanding of prostitution. Feminist and queer activists and academics, as well as artists, speak out against the way sex workers are treated in Sweden and the way prostitution is perceived.²¹⁹ Even sex workers are increasingly less stereotypically portrayed in media and in research, and they themselves have begun to voice their own opinions and relate their experiences and opinions on blogs, in books, article and to organize in forums like Rose Alliance.²²⁰

214 Kuosmanen 2008, p 367.

215 Siring 2008, p 354.

216 Ungdomstyrelsen 2006, p 113, 154.

217 RFSL 2010; Institutionen för klinisk och experimentell medicin vid Linköpings universitet 2010.

218 These were Alexander Bard, Don Kulick and Petra Östergen. Gould 2001 pp 445 ff.

219 See for example statements made by Laura Agustín, Carl-Erland Andersson, Alexander Bard, Magnus Betnér, Jesper Brygemark, Ulrika Dahl, Niklas Dougherty, Cordelia Edvardsson, Rolf Hillegren, Staffan Heimersson, Ida Kock, Johan Lundberg, Lotta Lundberg, Sakine Madon, Liza Magnusson, Paulina Neuding, Johan Nordansjö, Carl Johan Rehn binder, Louise Persson, Mårten Schultz, Nathan Shachar, Oscar Swartz, Jan Söderqvist, Alice Teodorescu, Dick Wase, Charlotte Wiberg, Malin Westberg and blogs like "Röd Libertarian", "Reformera sexköpslagen", "Kamferdroppar", "Strötankar i samtidens liberala utmarker" and "Loke – kultur & politik".

220 See for example the work and statements by Lillian Andersson, Liw Enqvist, Johannes Eriksson, Pye Jakobson, Linnea Edwardsdotter, Ingegärd Granath, Christina Persson and Rosinha Sambo, and the blogs "Greta Garbo...en glädjeflicka", "Frida", "Isabella Lund", "Njutning till salu" and the discussion forum "Secretary Academy".

The nature of the political opposition to the ban has also changed. The National Inquiry into Prostitution from 1995, where the Sex Purchase Act was first proposed (along with a ban on the sale of sexual services), drew a lot of criticism from the respondents. More argued against banning the purchase of sex than in favor of it, on the basis that prostitution would be driven underground and make social measurements more difficult. It was also questioned whether a ban would actually deter clients.²²¹ This opposition soon subsided, and when the political parties who once voted against the ban in parliament won office, they embraced the radical feminist rhetoric as well as the quest to eliminate prostitution via criminalization rather than by social interventions alone. But in the last years we have seen a new kind of opposition being raised by parliamentarians from left, center and right.²²² Some argue that prostitution is neither intrinsically bad, nor an expression of patriarchy and male violence. One high profile Member of Parliament, Fredrick Federley, even introduced motions to have the ban abolished.²²³ The political parties' youth wings have conducted lively discussions in a similar fashion, and politicians from youth parties and the municipalities have openly opposed the law.²²⁴ Moreover, politically influential NGO's like RFSL and the Swedish Association for Sexuality Education (RFSU) question the understanding of sex workers as female, victims and oppressed, and advocate that the Sex Purchase Act should be abolished. A non-judgemental and harm-reduction approach is increasingly prevalent in the work and writings by social workers and social authorities.²²⁵

This attitude seems to correspond to the mood of the general public, at least as it is manifested in the media and on the Internet. Every week there are several articles on different aspects of prostitution, and many are published in internet editions where readers can comment. The majority of these comments seem to express a multifaceted understanding of sex work and advocate a decriminalization of prostitution. When Federley moved to have the Sex Purchase Law abolished, he was interviewed in one of the evening papers.²²⁶ A survey was conducted on the paper's internet edition, asking people if they agreed that the ban should be abolished. Out of 57,336 answers, 63.2 percent agreed and answered yes, 24.3 percent answered no and the remaining 12.5 percent said no, but the ban should be made more extensive.²²⁷ When the Minister of Justice, Beatrice Ask, argued for higher penalties more than a year later, 88 percent did *not* agree with her.²²⁸ Newsmill, a much-read on-line debating forum, routinely lets their readers express their feelings ("mill") on the topics of the articles. As we write this article, 49 articles have been posted on the topic of the Sex Purchase Act where 13,855 people have voted on the question "How do you feel about: The Sex Purchase Act", out of whom 81 percent are "angry" with the ban, 12 percent are "happy" with it, 4 percent are "bored" and 1 percent are "curious".²²⁹

One should also consider the response to the official evaluation. As mentioned earlier, severe criticism was voiced regarding the lack of scientific rigor, but many were also critical of the way in which prostitution was described. In its response the Board for Health and Welfare says that it wishes to draw attention to the fact that people who sell sex constitute a "heterogeneous category".²³⁰ The Criminology Department at Stockholm University think that the view of prostitution expressed by the evaluation is "obsolete".²³¹ RFSL are among those that criticize the evaluation for its hetero-normative perspective, ignoring data that show that more men than

221 Dodillet 2009, p 381 ff.

222 These are Maria Abrahamsson, Marianne Berg, Fredrick Federley, and Camilla Lindberg.

223 Motion 2009/10:Ju276. & Motion 2010/11:Ju249.

224 See the youth wings for the Centre Party, The Liberal Party and the Conservatives. See for instance politicians like Per Hagwall, Helena von Schantz, Tobias Schelin, Erik Svansbro, Hanna Wagenius, and Filip Wästerberg. See also Sveriges Radio Radio Sweden 2009.

225 See for instance in the reports conducted by The Board of Health and Wellbeing and their educational material (Socialstyrelsen 2011) and reports from the Malmö Knowledge Center.

226 "Låt folk få köpa sex!" 2009.

227 <http://www.aftonbladet.se/debatt/article12035042.ab>

228 <http://www.expressen.se/nyheter/1.2307402/darfor-vill-ask-skarpa-maxstraff-for-sexkop>

229 <http://www.newsmill.se/millord/Sexkopslagen>

230 Socialstyrelsen 2010, p. 3

231 Kriminologiska institutionen vid Stockholms universitet 2010.

women have experience of selling sex. The organization also criticizes the absence of a distinction between trafficking, on the one hand, and paid sex between consenting adults, on the other.²³² The Swedish Association for Sexuality Education (RFSU) recognizes there are people who are damaged by prostitution, but it also recognizes that there are those who state that they have freely chosen to sell sex.²³³ The Equality Ombudsman thinks that the emphasis on prostitution where women sell sex to men leads to an excessively narrow understanding of the phenomena and should be complemented with a multifaceted analysis.²³⁴ Sociologists from Gothenburg University think that the victim discourse in the evaluation ignores the autonomy and right to self-determination for sex workers. They also point out that this discourse is not consistent with the aim of contemporary social work.²³⁵

In other words it is problematic to approach people who sell sex with too strongly preconceived notions and definitions regarding their status as victims. This is not consistent with the ambition of empowerment that contemporary social work perceives as an important platform for its work. To unilaterally proclaim someone as an exploited victim or needy belongs to the so called paternalistic tradition where the experts have power to define the clients.

Department of Social Work, University of Gothenburg

Unintended effects

There are several reported unintended, negative effects of the Sex Purchase Act, concerning both sex workers and their clients. The effects have been reported in academic papers and research, the documents which form the basis for this report, as well as numerous articles in the media. Sex workers have also spoken on these matters in media, on internet forums, on their blogs and in their books.²³⁶ Most tend to be critical of the ban, but here are some who say that it is positive since it "protects" the woman but criminalizes the customer, and that it might be an incentive to leave prostitution.²³⁷

126

When it comes to clients, it seems they are less willing to assist as witnesses in cases in which profiteers who exploit the sexual labor of others are prosecuted, since they now find themselves guilty of a crime. Clients are exposed to blackmail and robbery, and the stigma associated with buying sex means people often have to leave their jobs and positions, even on a mere suspicion.²³⁸

The most common and perhaps most serious complaint regarding sex workers themselves is that they experienced an increased stigmatization after the introduction of the Sex Purchase Act. Some also state that the ban is a violation of their human rights, and many say that they don't feel fairly or respectfully treated: they are not regarded as fully worthy members of society. Sex workers object to the fact that they were not consulted in the making of the law. Since sex workers feel they are not able to influence their legal or societal situation, they feel

232 RFSL 2010.

233 RFSU 2010.

234 Diskrimineringsombudsmannen 2010.

235 Institutionen för socialt arbete vid Göteborgs universitet 2010, p 2.

236 This summary is based on: Holm 2005; Institutionen för Hälsa och samhälle vid Malmö högskola 2010; Jakobson 2009; Lundström 2010; Lizdek & Rödström & Steko 2008; Malmö Stad Kompetenscenter prostitution 2010 p 12, 41, 50 ff & 67; National Board of Health and Welfare 2004, p 3, 32ff & 77; National Board of Health and Welfare 2008, p. 46 ff; National Council for Crime Prevention 2008, p 21 & 47; National Criminal Police 2002; Norwegian Ministry of Justice 2004, p 12 ff, 19, 20, 52 & 53; Öster 2004; Östergren 2003a&b & 2006; RFSL 2011, p 162, 164, 166, 176; Rikskriminalpolisen 1999, p 14, 26ff; Rikskriminalpolisen 2000, p 21, Rikskriminalpolisen 2002, p 16 & 21; Rikspolisstyrelsen 2000; SamO-Kut Nord 2008, page 9; Socialstyrelsen 2000, p 33 & 43. See also the blogs: "Greta Garbo... en glädjeflicka", "Frida", "Secretary academy", "Isabella Lund" & "Njutning till salu".

237 RFSL 2011, p 164. & National Board of Health and Welfare 2008, p 48.

238 See for instance the "Littorin case", when the Minister of Employment resigned after he had been accused of buying sex, "Billström appointed employment minister" 2010; "Reinfeldt plays down Littorin 'crime' rumours" 2010; "Littorin denies buying sex: lawyer" 2010; "Littorin affair hits voter confidence in Reinfeldt" 2010; "Littorin: I wanted to protect my family" 2010; "Aftonbladet libelled Littorin: ex-watchdog" 2010. Regarding blackmail, see for instance "Man utpressade sexköpare" 2010; "Utpressarliga slår till mot sexköpare" 2010. & "Sexköpare lurad av utpressare" 2010.

powerless. And since the ban builds on the idea that women who sell sex are victims, weak and exploited, many claim that the law propagates stereotypical notions about sex workers.

The National Board of Health and Welfare report that due to the ban sex workers feel less trust in social authorities, police and the legal system, and half of the respondents in the RFSL study say that the current legislation prevents people seeking help.²³⁹ Instead of the police being a source of protection, sex workers feel hunted by them, and are subjected to invasive searches and questioning. There is also a problem in that they are in an unclear legal position – they can be made to testify in a trial but they neither enjoy the rights of the accused nor of the victim. Some report that there is an increased dependency on third parties. Now that it is difficult to make direct contact with clients, sellers must rely on agents/pimps/helpers to find clients.

Reports also conclude that since street-based prostitution has decreased, sex workers experience higher levels of vulnerability in their contact with clients. This is explained in the following way: When clients are fewer on the streets, the clients have higher negotiating powers, which erodes the sellers' bargaining power. This means that sex workers might not be able to demand safer sex practices, that they take greater risks and accept lower prices. Some refer to the ban as a class-law, since there often are no other venues accessible than the street for those who sell sex in order to support a drug habit. And since clients on the streets are fewer and potentially more dangerous, there are more negative consequences for those already marginalized. This seems to differ between the cities. In an ongoing study at Gothenburg University the situations is described as follows:²⁴⁰

One social worker says, for instance, that she can see how some women take greater risks, get into cars where there is more than one man and accept lower prices. Whereas people in Stockholm say that the demand is always greater than the supply on the street, the people in Malmö say that the clients are so few that women have to accept those they would have refused earlier, in order to make enough money for drugs.

Department of Social Work, University of Gothenburg

127

But there are other problems with the current situation for street workers as well. When the negotiating has to be done in a more rapid way (due to the clients' fear of being caught) it increases the risk of the sex worker making a faulty assessment of the client. And when clients are more stressed and frightened of being exposed, it is also more difficult for the seller to assess whether the client might be dangerous. On top of this, services have to be carried out in even more hidden, and therefore more unprotected, areas. There has not been any specific research done on levels of violence, but several sex workers express fear of increased violence, as well as an actual increase. This situation is summarized by one of the informants in the Norwegian Inquiry:²⁴¹

The Swedish street prostitutes experience a tougher time. They are more frequently exposed to dangerous clients, while the serious clients are afraid of being arrested. Prohibition will never be able to stop the purchase and sale of sex. It could only make conditions worse for the prostitutes. They have less time to assess the client as the deal takes place very hurriedly due to fear on the part of the client. They (the prostitutes) are exposed to violence and sexually transmitted diseases. If the client demands unprotected sex, many of the prostitutes cannot afford to say no. Harassment by the police has increased and the clients no longer provide tip-offs about pimps, for fear of being arrested themselves. The social workers working on the streets have problems reaching them. They (the prostitutes) use pimps for protection.

The Norwegian Ministry of Justice

239 National Board of Health and Welfare 2008, p 12. & RFSU 2010.

240 Institutionen för socialt arbete vid Göteborgs universitet 2010.

241 The Norwegian Ministry of Justice 2004, p 19.

These kind of negative effects were also reported in the official evaluation. Seven women who answered a brief survey (conducted by e-mail) and who describe themselves as having chosen to sell sex, state that the criminalization has intensified the social stigma of selling sex, that they feel hunted by the police and that they resent being treated as incapacitated persons whose actions are tolerated, but whose wishes and choices are not respected. The evaluation comments on these findings in the following manner:²⁴²

For people who are still being exploited in prostitution, the above negative effects of the ban that they describe must be viewed as positive from the perspective that the purpose of the law is indeed to combat prostitution.

The 2010 official evaluation

This conclusion was sharply objected to by the respondents that work against discrimination, and for sexual health. The Discrimination Ombudsman called it “remarkable” since lawmakers’ motive in criminalizing only the client was to not additionally stigmatize an already vulnerable group.²⁴³ But the Ombudsman’s office went even further in its criticism. Since sex workers had not been given enough opportunity to participate in the official evaluation and influence the definition of their own needs and their situation, it claimed that the evaluation contributed to their disempowerment. A fear raised by the Ombudsman was that the increased stigma would lead to worse prospects for health promotion and HIV-preventive work. It referred to UNAIDS, the Joint United Nations Programme on HIV/AIDS, that discourages criminalization for this reason: social stigma might influence the contact with social authorities, the health care system and the judicial system.

RFSL also referred to UNAIDS and expressed its great concern for the Swedish situation: the organization has knowledge of several instances where HIV-preventive measurements aimed at clients were stopped with reference to the ban. It further believes that the point of view expressed by the evaluation, that “increased stigmatization is positive” is an almost counteractive attitude to harm reduction. For example, sex workers with whom the RFSL has been in contact have reported that stigma prevents them talking about their prostitution experiences when testing for HIV/STI. To strengthen the stigma will lessen the chances to reach people who sell sex and to conduct harm reduction measures, concludes RFSL. The organization also points out that HIV-preventive needs are greater amongst men who sell sex to men and transgender people, but that the official evaluation almost totally ignores this population. Studies done by RFSL showed that 38.5 percent of the men who sell sex never tested for STIs.²⁴⁴

It is therefore possible that yet another negative consequence of the ban is an increased level of STI and HIV amongst sex workers and their clients. The Board of Health and Welfare, which also expresses concern about the consequences of an increased stigma, writes in its response that according to the 2010 Swedish UNAIDS report that only 18.5 per cent of drug-using sex workers used a condom during their most recent intercourse.²⁴⁵

Conclusion

We believe that one has to look at several factors to understand the discrepancy between the stated success of the Sex Purchase Act and its documented effects. While there are some police, social workers and former sex workers who claim that the ban has indeed helped reduce prostitution and trafficking and deterred clients without any adverse effects, the reports and documents that have a scientific rather than ideological base do not support these success claims. Hence, as we and others have written elsewhere, we believe that it is in the ideological and cultural domains that the creation of the “unique” Sex Purchase Act and the above mention

242 SOU 2010:49b, p 34.

243 Diskrimineringsombudsmannen 2010.

244 RFSL 2010.

245 Socialstyrelsen 2010.

discrepancy must be found. It has to do with a desire to create and uphold a national identity of being the moral consciousness in the world; with notions of “good” and “bad” sexuality; with the whore stigma; with creating new forms of sexual deviancy; with a communitarian, rather than liberal, political culture, and perhaps above all: a stereotypical and uninformed understanding of prostitution.²⁴⁶

Our stance when it comes to policy regarding prostitution is that it has to be based on knowledge rather than ideology. We also believe that when policy is developed, the actors at the heart of this policy must be adequately consulted and duly respected. In our opinion, this has not been the case with regards to “the Swedish model”.

²⁴⁶ Dodillet 2009, Kulick 2005, Gould 2001, Östergren 2006.

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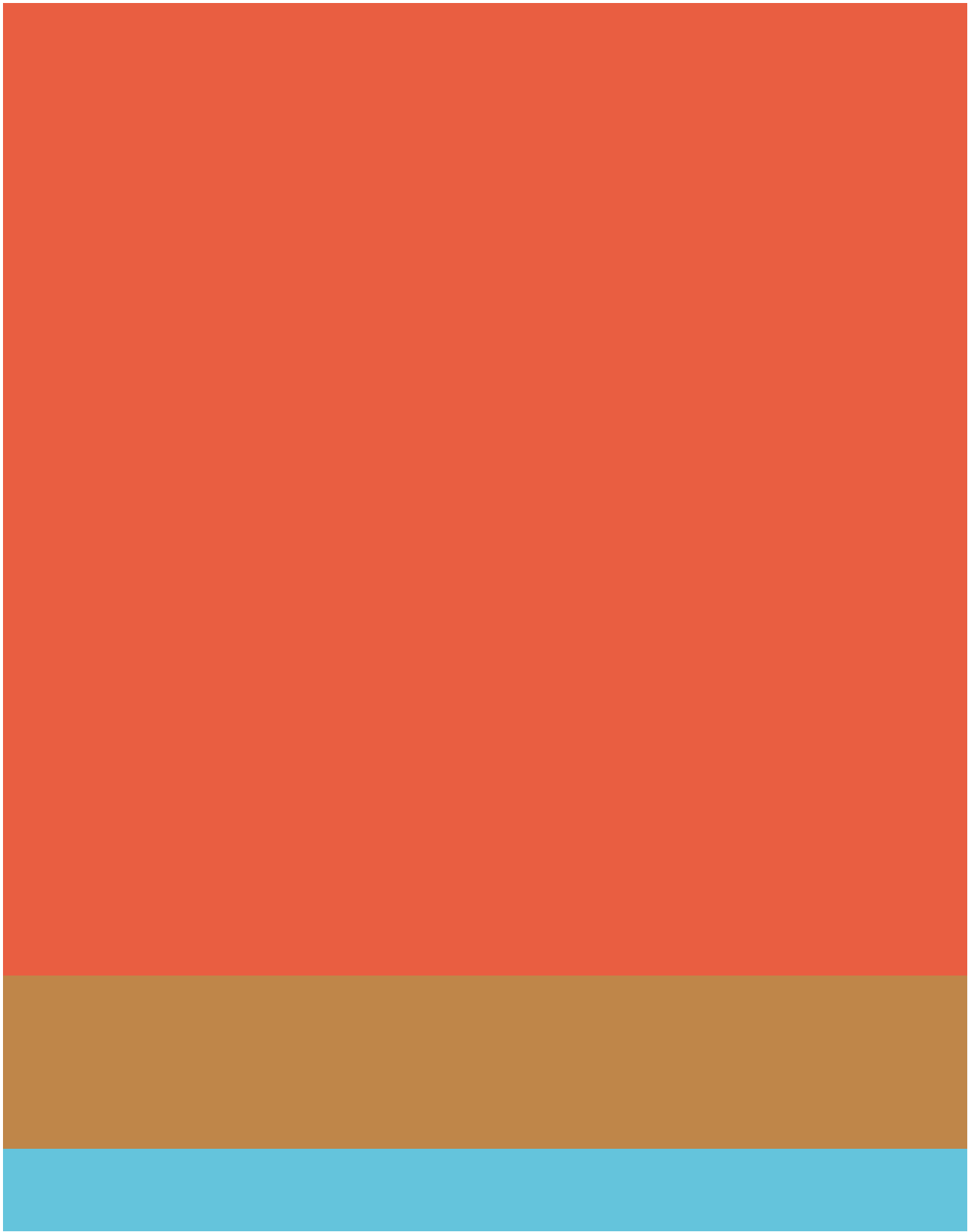
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