



The Swedish Approach to Prostitution and Trafficking in Human Beings Through a Gender Equality Lens

Gunilla S. Ekberg

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G. S. Ekberg (✉)

Institute for Feminism & Human Rights, Stockholm, Sweden

e-mail: gsekberg@feminismandhumanrights.org

Abstract

In January 2019, it is twenty years since the law that prohibits the purchase of sexual services came into force in Sweden. The introduction of this legislation was the conclusion of many years of struggle by the Swedish feminist movement to integrate a feminist analysis into the legal and policy framework on prostitution and trafficking in human beings for sexual purposes and ultimately to visibilize and denounce the behavior of men, who purchase and sexually abuse women and girls through prostitution. The chapter provides an overview of the current legal, policy, and strategical framework on prostitution and human trafficking for the purpose of sexual exploitation in Sweden, while giving insights into the current jurisprudence, and historic events. It also aims to give an understanding about what a gender equality approach entails, and counteracts some of the criticism that has been directed toward Sweden by pro-prostitution advocacy groups since the introduction of the legal and policy actions to discourage the demand.

Keywords

Gender equality · Feminism · Prostitution · Male violence against women · Trafficking in human beings · Law reform · Discrimination against women and girls · Prostitution users · Demand · Sexual services · Pro-violation advocacy · Human rights · Criminal offence

Introduction

This chapter describes the development in Sweden toward a gender equality-based approach to prostitution and trafficking in human beings for sexual purposes, and provides a comprehensive overview of the legal, policy, and strategical framework with a focus on measures that aim to discourage the demand. Part one of the chapter presents the offence that prohibits the purchase of a sexual service, discusses core aspects of the definition of the offence, and gives examples of the relevant jurisprudence. Part two discusses the importance of situating the struggle to eliminate prostitution and trafficking in human beings for sexual purposes in a feminist analysis. The third part of the chapter explores the current situation in Sweden, twenty years after the introduction of the prohibition on the purchase of a sexual service and provides core data on its implementation. The fourth part of the chapter presents and refutes some of the criticism that has been directed toward the Swedish approach by pro-violation groups. Finally, the chapter presents the key features that guarantee that a gender equality-based approach to prostitution and trafficking in human beings for sexual purposes can be sustained over time.

In May 1998, the Members of the Swedish Parliament voted to pass a Government Bill, the Anti-Violence Act – “Kvinnofrid,” which included a large number of measures in law and policy to prevent and eliminate violence against women (Government Bill 1997/98:55).

The Government Bill was a core part, long in coming, of the ongoing work toward gender equality in Sweden and, in many ways, the peak of over twenty years

of feminist advocacy by the Swedish women's movement to end oppression of women in the private and public spheres. This activism was reflected in the Government Bill:

Male violence against women is not compatible with the efforts towards a gender equal society and must be tackled in all ways possible.

In addition to new offences that criminalized male violence against women in intimate relationships, a stronger rape offence, and more effective legislation against sexual harassment at work, the majority of the Members of Parliament also voted to adopt a number of comprehensive measures to prevent and eliminate prostitution (Protokoll 1997/98:114). As was explained in the Government Bill:

In such a [gender equal] society, it is also against human dignity, and unacceptable for men to obtain casual sexual relations with women for compensation. (Government Bill 1997/98:55 at 22)

As a result, on 1 January 1999, the law that prohibits the purchase of sexual services came into force (Lag 1998). The law, which was integrated into the Penal Code in 2011 as an offence under its chapter on sexual crimes, is phrased in simple, but unambiguous terms. It states that:

A person who, in other cases than previously stated in this chapter, obtains a casual sexual relation in exchange for payment shall be sentenced for the purchase of a sexual service to a fine or imprisonment for at the most one year.

What is stated in the first paragraph also applies if the payment has been promised or made by someone else (Penal Code, chapter 6, section 11).

Definition

In 2004, the Government explained that a “casual sexual relation” means “intercourse and other forms of sexual relations” (Government Bill 2004/05:45). This was further clarified in a court case from 2012, involving a 41-year-old man. The accused had unbuttoned his trousers and started to touch a prostituted woman when the police approached his car and arrested him. His action was considered a “casual sexual relation,” and he was convicted for the offence of the purchase of a sexual service (Stockholms tingsrätt 2012a at 3).

Sites of Application

The offence applies to all forms of sexual services, whether they are purchased in street prostitution, in apartment brothels, in a hotel or a massage parlor, in the home of the prostitution user, or in other similar circumstances.

Attempts to Purchase a Sexual Service

Importantly for the successful enforcement of the legislation, the courts agreed that attempts to purchase a sexual service are also punishable under the criminal law provision, and have convicted such prostitution users for the purchase of a sexual service. For a prostitution user to be considered responsible for an attempt, he must have initiated the commission of the crime, and there must be a danger that the crime would be completed (Hovrätten över Skåne och Blekinge 2002, 2000 at 4).

In a 2012 case, the Stockholm District Court provided one example of what is considered an attempt to purchase a sexual service:

Both police witnesses declared that XX [name redacted] told the female police officer that he wanted to have sex, and then asked her how much it would cost. No circumstances have emerged that give reason to question the reliability of this information. It is, thus, confirmed that XX attempted to buy a sexual service. . . . XX will therefore be sentenced in accordance with the charge. (Stockholms tingsrätt 2012b at 3)

Another example in the jurisprudence of attempts that have been successfully prosecuted is when a prostitution user paid for a sexual service but had not yet initiated the casual sexual relation (e.g., Solna tingsrätt 2012 at 3). The same year five more men, who attempted to purchase a sexual service in similar circumstances, were convicted in different courts across the country.

Aiding and Abetting

Since 2004, the offence also criminalizes the act when a third person or group of individuals purchase a sexual service for someone else. This situation can, for example, occur when a sexual service is offered as a gift to a future groom in the context of a stag party or when corporations offer a sexual service as a business benefit for male business associates. So far, no businesses have been implicated in such action, which is not a guarantee that these situations do not occur.

The courts have convicted several individuals for the crime of aiding and abetting a purchase of a sexual service. A typical situation is when a friend ordered (with the knowledge and agreement of the prostitution user), booked, requested delivery, or picked up and transported a prostituted woman to the main perpetrator for the purpose of exploitation in prostitution or accompanied the main perpetrator to the location of the prostituted woman. In several of these cases, the argument of the aider and abettor is that the main perpetrator either was “too shy,” did not speak the language understood by the prostituted woman, or that he did not know how to gain access to women in prostitution. So far, the courts have not considered such actions as aggravating circumstances. As a result, the penalty has been negligible; usually set at the lowest level of day fines. One example on point is a case determined in 2011, where a man living in the Swedish northern border town of Haparanda requested that a male friend travel to the town of Keminmaa in Finland, a well-known prostitution location, “to pick up and bring back a woman.”

The lower court convicted the male friend of procuring because he had benefitted economically by ensuring that another person could have a casual sexual relation, but suspended the sentence with a fine (Haparanda Tingsrätt 2011 at 6). The male friend appealed the decision. The Appeals Court for Northern Norrland struck down the verdict for procuring, but concluded that:

[t]he retrieval and transport of the woman to XX's home contributed significantly to the commission of the crime. Therefore, this act is not a minor infraction. Consequently, XX cannot escape responsibility for aiding and abetting the purchase of a sexual service. The penalty for [the male friend] should be determined to a low number of day fines. (Hovrätten för övre Norrland 2011 at 6)

Penalties for the Purchase of a Sexual Service

The courts pronounced early on about the penal value for the purchase of a sexual service, taking into consideration “the harm, the indignity and the danger that was caused by the act when assessing the penal value for an offence” (Penal Code, chapter 29, section 1).

In 2001, the Supreme Court of Sweden upheld the decision of the Court of Appeal for Skåne and Blekinge, in a case from 1999, that the minimum level of fines for a regular purchase of a sexual service should be set at fifty day fines (Högsta domstolen 2001 at 2). The number of day fines indicate the seriousness of the crime, and their size is adapted to the financial situation of the offender.

This case involved a man in his early thirties, who paid SEK 300 for a blow job, which the prostituted woman had to perform while in his car (Malmö tingsrätt 2000 at 2). The decision by the Supreme Court, which was precedent setting, has been criticized, in particular by Swedish feminists, as being regressive and underplaying the seriousness of the harm to the prostituted woman. The decision, they argue, is based on outdated attitudes, where the prostituted woman, not the man that purchased and sexually exploited her, is apportioned the blame.

In its judgment, the Appeals Court first discusses the penal value of the offence, noting that the law makers intended it to be “lower than the penal value for the offence seduction of youth,” which at the time was at the most six months in prison, and that the age and other circumstances of the victim could be considered. The Court of Appeal concluded that the penal value should generally remain the same for all breaches, and that this would include attempts to purchase a sexual service (Hovrätten över Skåne och Blekinge 2000 at 4).

The Court of Appeal supported the conclusion of the lower court that:

[i]t is in the nature of the law [that prohibits the purchase of a sexual service] that consent is a prerequisite for the existence of the crime. There is no indication in the law, as it is in the law against female genital mutilation, that consent does not free the perpetrator from responsibility. The way which the prohibition is formulated leads [the court to] believe that the act is not to be seen as a crime against the person, but rather as a crime against public order. (Malmö tingsrätt 2000 at 4)

The assessment that the offence should be regarded as a crime against public order led the Court to conclude that there was no reason to further delve into the social situation of the prostituted woman, or to find out whether the perpetrator was aware of her circumstances.

The Court determined that it was “obvious that the punishment for a breach of the law in question normally should be fines,” that the penal value should be at the lower end of the penal scale, but somewhat higher than the lowest number of day fines, i.e., to be set at fifty day fines (Hovrätten över Skåne och Blekinge 2000 at 5). The Supreme Court upheld unanimously these findings, and noted that the punishment was well-balanced (Högsta domstolen 2000 at 2).

These pronouncements stand in stark contrast to the principled statement about the inherent subordination of women in prostitution by prostitution users set out in the 1998 Government Bill, and supported by the Swedish Parliament, that:

... it is not reasonable to also criminalize the individual that in most cases is the weaker part, who is exploited by others, who want to satisfy their own sexual drive. (Government Bill 1997/98:55 at 104)

In 2008, in a decision by the Court of Appeal in Western Sweden, the discussion about the appropriate penal value was further developed. The Court concluded that a purchase of a sexual service, which takes place in the context of organized prostitution (in this case, in connection with gross procuring involving four accused) is to be considered aggravated, and, hence, the offender should be sentenced to a conditional sentence and fines.

She found herself in an unknown place in a strange country, whose language she did not understand. Both men were older than her and completely unknown to her. ... [S]he found herself at such a disadvantage to the two men that it must have appeared as virtually impossible for her to refuse intercourse with the second man, or to influence the situation in general. Her situation was used by XX and XY. The circumstances are, thus, so aggravated that the punishment cannot be set at a fine. (Hovrätten i västra Sverige 2008 at 9–10)

This latter decision by the Court of Appeal has not been applied consistently to later cases with similar or same circumstances. As the Chancellor of Justice noted in her 2010 Commission of Inquiry report from the review of the effects of the ban on the purchase of a sexual service, which proposed an increase of the maximum prison sentence from six months to a year:

The current penalty level for certain purchases of sexual services does not stand in proportion to the seriousness of the crime. (Commission of Inquiry 2010 at 241)

In July 2011, through a Government Bill, the maximum prison sentence for a purchase of a sexual service was increased from six months to one year based on the recognition that:

[i]n our society, prostitution is an unacceptable phenomenon, which results in harm both to the individual and to society at large. Therefore, to prevent and combat prostitution is of

urgent societal importance. In this work, the offence that prohibits the purchase of a sexual service is an important instrument. (Government Bill 2010/11:77 at 6)

Despite this unequivocal direction from the Government, framed in established feminist and human rights principles, the courts have yet to sentence a prostitution user under the offence that prohibits the purchase of a sexual service to serve time in prison.

Gender Equality Is a Core Element in the Struggle to Eliminate Prostitution and Trafficking in Human Beings in Sweden

Since the beginning of the twentieth century, the international community has developed international treaties and policy agreements to prevent and combat prostitution and trafficking in human beings (e.g., through the League of Nations, the United Nations, the Council of Europe, and the European Union).

Many of the earlier international treaties, and importantly, the United Nations Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW), firmly establish that prostitution and trafficking in human beings for the purpose of sexual exploitation are not just crimes against the victims, whose dignity, rights, lives and opportunities are affected, but also deeply affront efforts to create societies where women are not discriminated against, and where they can participate in all areas, at the minimum on equal terms with men (CEDAW articles 2 and 6 and General Recommendation No. 35).

The development of the Swedish approach came about as a result of the efforts of a strong feminist movement to end all forms of male violence against women and girls with the recognition that the acceptance of prostitution activities in a society subordinates the position of all women, and creates barriers to their ability to engage in the democratic process as full citizens.

Early on, feminists, whether members of the autonomous women's anti-violence movement or active in the political parties supporting this reform, recognized that for this cultural shift to be sustainable, it was and still is not sufficient, albeit necessary, to solely focus on actions that involved criminal law reform.

As a result, Sweden was the first country to fully integrate a comprehensive gender equality and human rights approach, in popular terms today named the Nordic Model, into the work against prostitution and trafficking in human beings for sexual purposes.

In Sweden, it is understood that any society that claims to defend principles of legal, political, economic, and social equality for women and girls must reject the idea that women and children, mostly girls, are commodities that can be bought, sold, and sexually exploited by men.

To do otherwise is to allow that a separate class of ...women and girls, who are economically and racially marginalized, is excluded from these measures, as well as from the universal protection of human dignity enshrined in the body of international human rights instruments developed during the past 50 years. (Ekberg 2004 at 1188)

Implementation of the Swedish Approach to Prevent and Combat Prostitution and Trafficking in Human Beings

The successful introduction and twenty years of enforcement of the offence that prohibits the purchase of a sexual service has been accepted as the ultimate proof that a cultural shift in patriarchal societies is possible, with long-reaching effects on the debate about criminal law reform in many countries around the world. However, the work to prevent and eliminate prostitution and trafficking in human beings for sexual purposes in Sweden involves so much more than just the proper enforcement of a Penal Code provision, albeit a radical application of criminal law.

Background

To ensure effective, long-term progress toward substantive gender equality in Sweden, informed by the obligations under the Convention for the Elimination of All Forms of Discrimination of Women, early on, the Minister for Gender Equality was charged with the coordination of gender mainstreaming measures into all government ministries and political areas.

Substantive gender equality in this context means that:

[t]he identification . . . of power differences between men and women in society is required, no matter their backgrounds, that the discriminatory effects and impact of these power differences should be determined, and that the goal should be to transform these conditions, rather than solely secure equal rights.

It also means that women have a right to differential treatment when a law, policy, strategy or action that on its face is gender neutral, has a disproportional and disadvantageous impact on women. (Ekberg 2016)

In the early 2000s, this responsibility was expanded to also include the coordination and oversight of the development of the Swedish approach to prevent and eliminate prostitution and trafficking in human beings. The Swedish Government appointed a special advisor on prostitution and trafficking in human beings based in the Government Division for Gender Equality. The advisor was charged with the task to develop and coordinate a multitude of actions within the Government ministries, but also with the responsible statutory agencies, including the National Police Authority, and with specialized social services agencies, women's equality-seeking associations, and other civil society and human rights organizations, and to oversee their implementation.

Hence, between 1999 and 2007, concerted work was carried out to implement not just the legislation but also a large number of actions across all policy areas to ensure systemic, normative, and practical changes aiming toward a gender equal society of substance where “[n]o woman or girl is for sale, and no man or boy buy another person for sexual purposes” (Winberg 2002). Politically, the work to prevent and eliminate prostitution and trafficking in human beings for sexual purposes was, and

still is, twenty years later, part of the overall actions, through laws, policies, strategies, and concrete measures to ensure and mainstream substantive gender equality in Sweden.

What Is the Situation in Sweden Today, Twenty Years After the Introduction of the Prohibition on the Purchase of a Sexual Service?

Today, twenty years after the watershed moment in May 1998 when the Swedish parliament overwhelmingly voted to criminalize those who purchase sexual services, the approach is generally working well.

Who Are the Men that Purchase Sexual Services?

The characteristics of the men and boys that encourage and sustain prostitution activities in Sweden through their purchases or attempts to purchase sexual services in Sweden have mostly remained the same over time, with some changes to their age span and ethnic backgrounds, reflecting changes over time in demographics in Sweden as a whole. Law enforcement agencies make no difference based on social, economic, or professional status in how they investigate and pursue men that purchase a sexual service. Hence, since 1999, men from all economic, social, and ethnic backgrounds have been apprehended, fined (if they plead guilty), prosecuted (if they do not), and convicted.

A long list of men in high-status professions have broken the law by purchasing and sexually exploiting mostly girls and women, but also young men and boys. This list includes a number of judges at all court levels, of which one was a Supreme Court judge at the time of his arrest. Others include a chief prosecutor, several soccer, ice hockey, and other sports stars, parliamentarians from all parties, priests, other men in clerical positions, medical doctors, teachers and school leaders, police officers and at least one high-ranking police chief, and a number of business executives including several leaders of transnational companies. And then, there are all the other men, who purchased a sexual service, who are from working and lower middleclass backgrounds with “regular jobs”, the unemployed, and those men that are on short visits from other countries, often for work purposes, and the newly arrived (National Rapporteur 2018 at 9).

The men – heterosexual and gay – are married with or without children, newly married, about to be married, cohabiting with a woman or with a man, divorced, about to be divorced, widowed, or single. Many of these boys and men find inspiration to purchase and sexually exploit women and girls through their regular use of pornography (Unizon 2016).

Research shows that a majority of the Swedish men, who have purchased or attempted to purchase sexual services, have done so on one to three occasions, whereas ten percent of the prostitution users have purchased a sexual service on

more than ten occasions, most often in connection with job-related travels (Svedin et al. 2012 at 5).

A large number of men stated that their latest purchase of a sexual service took place outside Sweden, and Swedish men are still regular sex tourists on industrialized prostitution markets in countries such as Thailand, and in cities in Europe where prostitution activities are tolerated or legalized, and the behaviors of prostitution users are encouraged (Sweden's Fair Travel Network 2018). Since 1999, more than 7500 men and boys have been reported for having purchased a sexual service from an adult, mostly women, and another 1700 men and boys having purchased a sexual act from a child under 18 years of age (Brå 2018). Many more have been cautioned and reminded that it is, in fact, illegal to purchase sexual acts in Sweden.

Data on the number of reported offences under the Penal Code, chapter 6, sections 11 and 9

Year	# of reported offences – purchase of a sexual service (section 11)	# of reported offences – purchase of a sexual act from a child under 18 years of age (section 9)
1999–2017	7622 ^a	1691 ^b
2017	563	96
2016	603	191
2015	523	134
2014	607	98
2013	544	150
2012	551	103
2011	765	131
2010	1277	233
2009	352	150
1999–2008	1837	405

Datasource: The Swedish Crime Prevention Council, Brå

^a All reported offences between 1999 and 2017 were perpetrated by men or boys.

^b The offence prohibiting the purchase of a sexual act from a child under 18 years of age was introduced in 2005 (Government Bill 2004/05:45 at 90).

The Offence that Prohibits the Purchase of a Sexual Service as a Deterrent

The 2010 review noted that the prohibition of the purchase of a sexual service acts as a deterrent for prostitution users. Individuals with experience in prostitution as well as the police and social workers conclude that prostitution users are more cautious, and that the demand has decreased considerably since the legislation came into force in 1999 (Commission of Inquiry 2010). These findings are consistent with a recent study of prostitution users in Belgium, who reported that the most effective deterrents would be legislation, information about their prostitution behaviour reaching partners, and the publication of this information on, e.g., social media (Ekberg and Werkman 2016).

Survivors and Victims of Prostitution and Trafficking in Human Beings for Sexual Purposes

In 1918, after the determined lobbying over several decades by the Feminist movement of the time, the Swedish parliament voted to repeal legislation that regulated women in prostitution and allowed municipalities to administrate prostitution activities. Since then, victims of prostitution and trafficking in human beings for sexual purposes have not been criminalized, except through the use of vagrancy laws, which were repealed in the early 1960s. These laws, although frequently applied to women in prostitution, did not specifically target these women, but applied to everyone, who loitered from place to place without “earning an honest living” or who led a life which was a danger to public safety, order, or morality (Svanström 2006).

In 1995, a Government-appointed investigator produced a report in which she proposed that both prostitution users and women in prostitution should be criminalized – women, she suggested, because an offence would function as a deterrent for them to enter into prostitution and make it easier to exit once engaged (Commission of Inquiry 1995 at 30). The latter proposal was soundly rejected during the public consultation, as lacking understanding that sanctions would impede rather than support prostituted women from exiting prostitution (Government Bill 97/98:55 at 101).

Today, and although not conclusive across the country, there are strong indication that the Swedish approach has affected the number of women exploited in street prostitution. The ten year review concluded that the number of victims of prostitution and trafficking in human beings had remained stable since the introduction of the law that prohibits the purchase of sexual services (Commission of Inquiry 2010 at 35). A recent analysis by the Stockholm Regional Police Prostitution Team (SRPPT) also shows a clear decrease during the past four years. Most of the prostituted women are not residents of Sweden, with the majority being citizens of Romania, one of the poorest Member States of the European Union, and Nigeria.

Number of women in street prostitution in Stockholm 2014–2017

Year	# of individuals per year	Approx. # of individuals per evening
2017	66	14
2016	85	14
2015	97	14
2014	112	15

Data source: National Rapporteur on Trafficking in Human Beings (2018 at 20)

Since the mid-1970s, exit services are available for victims of prostitution and human trafficking for sexual purposes in Sweden. Today, these services include sheltered accommodations, financial assistance, interpretation and psychosocial support, and specialized victim services with street-based and online outreach programs. Victims of prostitution and trafficking in human beings are also given access to court appointed lawyers, who support victims that decide to testify against the

facilitators of prostitution activities and traffickers. Third country victims can obtain temporary residence permits during investigations and judicial processes, and criminal injuries compensation is available to all victims through a dedicated statutory agency.

Capacity Within the Justice System to Investigate and Prosecute Prostitution and Human Trafficking Offences

The efforts of the justice system aim to prosecute the full chain of preparators – traffickers, pimps, and organized crime networks – with an explicit focus on the men that attempt to or purchase sexual services from adults and/or sexual acts from children under the age of 18. Since the reorganization of the police authority in 2015, six of the seven police regions have appointed specialized investigative anti-trafficking teams, with all police officers across the authority required to take part in thematic capacity building courses (National Rapporteur 2018 at 59).

In 2018, the Prosecution Authority consolidated the three existing international prosecution chambers into a National Unit Against International and Organized Crime. The National Unit is responsible for the prosecution of cross-border criminality and national organized crimes, which includes the prohibition on the purchase of a sexual service/sexual act from a child under 18 years of age when linked to human trafficking.

Data on the number of reported offences under the Penal Code, chapter 6, section 12, and chapter 4, section 1a

Year	# of reported procuring offences	# reported offences involving trafficking in human beings for sexual purposes
1999–2017	1534	531
2017	136	82
2016	102	81
2015	82	58
2014	109	31
2013	108	40
2012	95	21
2011	86	35
2010	120	32
2009	94	31
1999–2008	602	152

Data source: The Swedish Crime Prevention Council, Brå

Over the years, the legal framework that concerns prostitution and trafficking in human beings has been strengthened several times to respond better to the criminal intentions and violent actions of the men, who purchase sexual services, and to reflect the increase in “know-how” about the situation of and impact on victims. Hence, the maximum sentence for someone, who purchases a sexual service for

themselves or for someone else, was increased to one year in 2011, a reform that allows the arrest of the prostitution user and the search of his mobile phone.

In July 2018, the maximum sentence for aggravated procuring was extended to ten years in prison to reflect the seriousness of the crime when a perpetrator “make[s] a profit by ruthlessly exploiting another person, often women and sometimes children,” and offences in relation to trafficking in human beings were further strengthened (Government Bill 2017/18:123 at 13).

Today, prosecutors not only charge prostitution users under the offence that prohibits the purchase of sexual services, but also actively pursue prosecution for related crimes. An analysis by the SRPPT in 2017 concluded that 13 percent of the 144 arrested prostitution users had committed other crimes in connection with the purchase of a sexual service such as common assault, rape, unlawful threats, sexual harassment, and taking offensive and intrusive photos of women in prostitution. Of these men, 16 percent had prior convictions for a number of serious crimes including theft, assault, drug offences, fraud, drunk driving, and purchases of a sexual act from a child (National Rapporteur 2018 at 24).

A case from 2016 illustrates well this troubling development. A 21-year-old man contacted and paid for a sexual service from a young woman from Poland, who had stayed two days in a hotel in southern Sweden, during which she earned the equivalent of €1,300 from prostitution activities. During the sexual act, the man received a mobile phone call. Afterwards, when the prostituted woman escorted him to the door, another man known to the first man entered the room, dragged her to the bed and started to strangle her, while demanding to know where her money was stashed. The two men realized that the money was locked in the room safe, and demanded that the woman provide the code. When she refused, the man again proceeded to strangle her. Eventually, the men stole her money and left, and the woman asked the hotel reception staff to call the police. The court of first instance in Malmö convicted one of the men for the purchase of a sexual service, and for robbery to one year and nine months in prison. The second man was convicted of robbery and drug dealing to two years and three months in prison. Both men were required to pay damages to the woman of €4,500 jointly to compensate for the harm she suffered. The judge underlined that:

[t]he crime she suffered involved a very serious violation of her personal integrity. She was attacked by two people when she sold sexual services, with one of the perpetrators having sexual intercourse with her as part of the criminal plan. (Malmö tingsrätt 2016 at 20)

The Purchase of Sexual Services in Another Country Is Still Not Prohibited

Not all calls for the continuing consolidation of the Swedish approach are heard or acted upon. In 2009, when the purchase of a sexual service was criminalized in Norway, the Norwegian parliament agreed – after pressures from women’s

organizations and the trade unions – that the legislation also should apply to prostitution users residing in Norway, who purchase sexual services outside the country.

Although this aspect of the offence is rarely applied (Svendsen 2011), it is clear from a 2014 evaluation of the effects of the Norwegian legislation on men's attitudes that it, in fact, establishes a positive norm for men to abstain from purchasing sexual acts, and that "for a prostitution buyer, who gets caught, a purchase of a sexual service is seen as an enormous loss of status" (Rasmussen et al. 2014 at 13 and 66). Under the current Swedish offence, a Swedish court is only competent to sentence a person residing in Sweden for the purchase of a sexual service, which he committed in another country, when the act is also a criminal offence in that country. Women's organizations have pressured the government to make similar changes to the Swedish offence since the Norwegian law reform in 2009. They argue that:

[e]ven if the law has had positive effects in Sweden, we know that Swedes still purchase sex [sic] abroad. . . . Something seems to happen with the understanding of gender equality when we [sic] travel away from Sweden. (Sveriges Kvinnolobby 2014)

In October 2014, the newly elected Social Democrat/Green Party government coalition made a commitment in its Statement of Government Policies to criminalize the purchase of a sexual service by a Swedish resident outside Sweden, whether or not this country has a similar criminal law provision, and to allow prosecution of these crimes in Sweden (Regeringsförklaringen 2014 at 9). In June 2015, the Minister of Justice commissioned an earlier appointed sole investigator sitting as a Commission of Inquiry (Commission of Inquiry 2014) to consider whether individuals, who purchase sexual services outside Sweden, could and should be prosecuted in Swedish courts (Press release 2015). An interim report was presented in June 2016, in which the investigator concluded that the offence should not be exempted from the requirement of dual criminality set out in chapter 2 of the Penal Code (Commission of Inquiry 2016 at 106). To the exasperation of the women's organizations, the Government later retracted its commitment citing the lack of support in the Parliament. In particular, the four parties in the conservative alliance let it be known that they intended to vote down the amendment citing problems of implementation as a reason (Aftonbladet 2018a). Although more urgent than ever (Sweden's Fair Travel Network 2018), there is no indication from the Government that the offence would be amended in the near future to allow international application.

In January 2015, the Minister of Justice commissioned an inquiry into a strong criminal law protection in cases of trafficking in human beings and the purchase of a sexual act from a child, with a sole investigator appointed in 2014 to consider whether individuals who purchase sexual services outside Sweden could and should be prosecuted in Swedish courts (Press release 2015). Although more urgent than ever (Sweden's Fair Travel Network 2018), there is no indication from the government that the offence would be amended to allow international application.

Criticism of the Swedish Approach

The cultural shift to ensure a feminist application of laws, policies, and strategies to prostitution and trafficking in human beings for sexual purposes still draws, after twenty years of implementation, the attention of governments, parliamentarians, and advocacy groups around the world. Much of this attention is positive – over the years, many human rights advocates, politicians, law enforcement and media representatives from all corners of the world have visited Sweden to study, in situ, the impact and effectiveness of the Swedish approach. Swedish officials and community organization representatives have also travelled extensively around the world to present the results of the implementation of the legal and policy framework aimed to eliminate the demand.

But this approach has also drawn the ire of activists and academics within Sweden and across the globe that lobby for the legalization or decriminalization of prostitution activities in their own countries. A critical examination of the contemporary debate and initiatives to prevent and combat prostitution and human trafficking internationally shows a widening gap between recognized universal human rights norms and the approaches taken by certain countries, and supported by some international human rights bodies and organizations and national advocacy groups.

National Debate

This development is also reflected in the national debate about the effects and impact of the gender equality-based approach to prostitution and trafficking in human beings in Sweden. Since the beginning of the 2000s, a small number of “pro-sex work” advocates have taken active part in the media debate to denounce the Swedish approach.

One organization that has lobbied actively and consistently over the past two decades for the repeal of the offence that prohibits the purchase of a sexual service is the sex-worker organization, Rose Alliance. Rose Alliance was founded in 2003 “. . . as a reaction to the law that prohibits the purchase of sexual services” with the purpose, according to one of its cofounders, to become a strong lobby organization. She did, however, later underline in an interview that this purpose was never attained, due to “insufficient resources” (Skarsgård 2013).

The objective of Rose Alliance rests on six principles; two of which are directly relevant to their advocacy work. Firstly, members believe that “sex work is work and should be governed by and protected by the same labour laws as other work.” The organization is also “against all criminalisation of sexual services for compensation that takes place between consenting adults as well as being against criminalisation of third parties” (Rose Alliance undated). Their representatives are vocal on the international arena, mostly through their membership in the Edinburgh-based Global Network of Sex Work Projects (NSWP), through research reports based on their analysis of the impact of the Swedish approach, and through their participation in

public fora in some of the countries that have followed in or debate whether to follow in the footsteps of Sweden.

However, their impact in Sweden has been limited. There are several reasons for why their arguments have not taken hold in the Swedish debate. In 2013, it was revealed by a journalist in one of the Swedish web based dailies that the then-leader of Rose Alliance had been a member of the board of one of the few strip clubs still in existence in Sweden, responsible for the management of its work schedule, raising doubts about her integrity as an advocate for the well-being of “sex workers” (Skarsgård 2013). A significant reason for why the arguments by advocacy groups such as Rose Alliance have never taken hold in Sweden also lies in the considerable public support for the offence that prohibits the purchase of a sexual service, and the underlying principles of gender equality and human rights (Kuosmanen 2011 at 252–254).

International Debate

Other pro-prostitution advocacy groups, including several of the most respected international human rights organizations such as Amnesty International, have higher ambitions. Through their lobbying efforts on the international arena, these organizations with allies have attempted to modify the interpretation of core international agreements that pertain to prostitution and the trafficking in human beings for sexual purposes, e.g., article 6 of the CEDAW. This article recognizes that prostitution and trafficking are forms of discrimination of women, and makes it mandatory for United Nations Member States to “take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.”

In 2016, after a membership consultation process, Amnesty International published a policy paper discussing its organizational standpoint on the obligations of states to respect and protect sex workers. In the policy paper, the organization argues not only for the importance of states to “[r]epeal existing laws and refrain from introducing new laws that criminalize or penalize directly or in practice the consensual exchange of sexual services between adults for remuneration,” but also to repeal those [laws] “which make the buying of sex from consenting adults or the organization of sex work (such as prohibitions on renting premises for sex work) a criminal offence” (Amnesty International Policy 2016a at 2 and 13).

As a result, this otherwise respected and most outspoken of the many international human rights organizations voted to reject the “Nordic Model,” aka the Swedish approach for the prevention and combat of prostitution and trafficking in human beings.

Notably, Amnesty International not only rejects outright the comprehensive work done in Sweden over twenty years to prevent and counteract prostitution and trafficking in human beings for sexual purposes. The human rights organization also disputes the multisource, verified evidence widely available that supports the positive individual and societal impacts of the Swedish approach, especially in

relation to the offence that criminalizes the purchase of a sexual service (Amnesty International Policy 2016a at 13).

In its May 2016 international policy on sex worker rights, the organization outlines several reasons for why its membership firmly rejected a gender equality-based, human rights approach to prostitution and trafficking in human beings for sexual purposes, in favour of a sex work-focused approach.

The organization argues that laws that prohibits the purchase of a sexual service “can harm sex workers,” because “sex workers have to take more risks to protect buyers from detection by the police.” This argument has been soundly refuted by women and men with experience in prostitution in Sweden and in other countries, but also by the 2010 Commission of Inquiry, and in a recent European Commission report on the gender dimension of trafficking in human beings (Walby 2016 at 134).

Amnesty International goes on to state (without providing any robust evidence) that “sex workers,” who operate under a Nordic Model regime “can also face difficulties in securing accommodation as their landlords can be prosecuted for letting premises to them. This can lead to forced evictions of sex workers from their homes” (Amnesty International Q&A 2016b). This is a common criticism directed against the Swedish approach, which has been disproved by Swedish prostitution survivor groups, and repeatedly by law enforcement agencies in Sweden that, by law, may not target or otherwise criminalize women or others in prostitution.

In fact, the human rights organization aims higher than just to reject the Swedish approach; it throws its considerable ethical and political weight, with some limited reservations, behind arguments put forward by pro-violation advocacy groups that promote the legalization or decriminalization of prostitution activities:

Amnesty is not opposed to legalization per se; but governments must make sure the system respects the human rights of sex workers. . . . There is no reliable evidence to suggest that decriminalization of sex work would encourage human trafficking. (Amnesty International Q&A 2016b at points 8 and 9)

However, despite these efforts to undermine the Swedish approach, their success has been limited. The gender equality-based approach to the prevention and elimination of prostitution and trafficking in human beings for sexual purposes has clearly stood the test of time, and is increasingly being adopted internationally.

What Are the Key Features that Guarantee that a Gender Equality-Based Approach to Prostitution and Trafficking in Human Beings Can Be Sustained Over Time?

The Engagement of a Committed Women’s Movement

The late 1960s and early 1970s represented a profound political transformation for women in Sweden with the rise of the autonomous women’s liberation movement. Increasingly, women became engaged in mainstream politics in order to gain

political power to affect substantive long-term positive changes to the conditions of and opportunities for women and girls.

Notably, women with experience in prostitution and survivors of other forms of male violence were closely involved in the advocacy to criminalize those men, who purchase sexual services, leading up to the positive decision in the parliament in 1998, and are still active advocates. Women with experience in prostitution participated shoulder by shoulder with other women to push the political agenda-of-the-day to include actions that were based on the understanding that prostitution is a serious violation of women's human rights, is male violence against women, and is an affront to the work to guarantee substantive gender equality in Sweden.

At the time, survivors (with some pertinent exceptions) were not speaking out publicly about their individual experiences in the prostitution industry. There were a couple of reasons for this silence. Despite a general understanding in Swedish society that the majority of women and girls, who are drawn into prostitution by pimps and prostitution users are from marginalized groups and often have experienced other sex-specific forms of male violence, societal attitudes toward these women were often negative. Notably, women with experience in prostitution could risk discrimination in, e.g., employment, education, and intimate relationships, or suffer retaliatory violence at the hands of pimps, traffickers, or prostitution users for speaking out, especially when they attempted to move away from the prostitution industry. It was also evident to the women's movement that relying heavily on survivor testimony as the clinching method to convince policy makers and the public to change attitudes and reform laws and policies on prostitution and human trafficking would not be a sound or long-term, sustainable political strategy.

It was recognized that prostitution is not just about the individual experiences of women of sexualized harm by men, who have the power to sell, control, purchase, and sexually exploit individual women. The women's movement recognized that a systemic, political analysis of male violence as a barrier to the full participation of women and girls in society was necessary to create substantive change. Hence, to be effective, this struggle required the use of political methods and strategies that strike directly against the systemic oppression of all women and girls.

Today, some of these discriminatory attitudes still remain in Swedish society. However, due to the feminist efforts to visibilize the culpability of, and hold accountable, the perpetrators, while uncovering the multiple harms done to victims, more women, who have experience in prostitution, are speaking out publicly. Many of these women cite the inspiration drawn from the emergence of the #metoo movement against sexual violence and sexual harassment, which spread through social media across the world in 2017. As one of the founding members of the network #intedinhora [#notyourwhore] stated recently:

My work in #notyourwhore is not about helping young women leave prostitution. My work in #notyourwhore is about working for political measures and structural changes so that no one ever will have to end up in prostitution. I do this together with hundreds of other competent, brave, strong and fantastic people with experience of prostitution and other forms of commercial sexual exploitation. (Aftonbladet 2018b)

A Strong Political Vision

The development toward a new “gender-equal” society – or, in radical feminist terms, a society where the oppression of women and girls by individual men and men as a class is eliminated – involved imagining the kind of society women as individuals and as a class wanted to live in, and to formulate concrete political goals. By necessity, one of the most urgent objectives was and is to create a society where women and girls could live full lives free from male violence, including being free from prostitution.

Clearly Formulated Ideological Principles

A political vision and its implementation are only as strong as their underlying ideology. As was done early on in Sweden, core principles of feminism and human rights were identified and agreed upon, and the ideological base for how to reach the political objectives was identified. Women gathered and developed strategies based on these principles that would bring maximum benefit to women in prostitution and to society at large, with a focus on holding perpetrators accountable.

Political Priority and Will for Action

Core to the consistent implementation and amelioration of the Swedish approach since 1999 has been the engagement of successive governments to make the implementation of the approach an absolute political priority, with key individuals in the government, statutory agencies, in academia and in civil society, and, in particular in the women’s movement expressing a strong will to act to make this approach work and be sustainable long-term.

The Removal of Market Incentives

The Swedish approach also involves the rejection of measures that fuels the demand by allowing the existence and growth of a local prostitution industry, where men, unhindered, demand and purchase sexual acts, and where those that are exploited in prostitution are seen as “willing participants.” There is a consensus that such reactionary measures create serious obstacles to the advancement of a society free of discrimination in which men and women are treated as equals with equal opportunities and responsibilities (Government Communication 2003). These strategies, in combination with a robust public debate, have resulted in that Sweden, today, stands in the forefront of a revolutionary law and policy reform project to prevent and counteract prostitution and trafficking in human beings, firmly rooted in feminist and international human rights principles, which has inspired law makers and civil society representatives in a number of countries around the world.

The approach holds strong public support in Sweden, and has brought about significant positive changes in attitudes, showing, as was one of the original objectives, that the approach has normative as well as direct effects on the reduction of the demand. The positive direct, indirect and normative effects of the Swedish approach have inspired other countries in the European Union and beyond to develop similar approaches such as Israel (2018), the Republic of Ireland (2016), France (2016),

Northern Ireland and Canada (2014), and Norway and Iceland (2009). Consultations on whether to pass legislation that fully prohibits the purchase of a sexual act or sexual service are under way in, e.g., South Africa, England and Wales, Scotland, and Finland.

A Strong and Gender Equality-Based Coordination Mechanism

The long-term sustainability, quality, and effectiveness of a comprehensive approach to prevent and counteract prostitution and trafficking in human beings is strongly dependent on it being grounded in substantive gender equality principles to eliminate all forms of discrimination against women and girls. In concrete terms, this means that responsible government agencies incorporate such principles in their implementation of all actions, and that the implementation is closely coordinated and monitored for accountability.

In July 2008, under a new conservative government alliance, the responsibility for the coordination of national measures to prevent and combat prostitution and all forms of human trafficking was moved from the Minister of Gender Equality, to a regional public authority, the Stockholm County Administration Board (Government Communication 2008 at 27). Although all statutory agencies in Sweden are required to mainstream gender equality throughout all actions, the move resulted in a loss of the necessary gender equality expertise, with a direct and negative impact on the quality and impact of the coordination measures. In January 2018, under the Social Democrat/Green Party government, to enhance long-term efficiency, and to counteract fragmentation, the responsibility for the coordination was transferred to a newly specialized public authority for gender equality, the Gender Equality Agency, with the overarching objective to “contribute to the strategic, coherent and long-term governance and effective implementation of the national gender equality policies and strategies” (Government Communication 2016 at 97).

Ongoing Independent Monitoring

Finally, consistent, independent monitoring and evaluation of the impact, benefits, and drawbacks is core to the successful and sustainable retention of a gender equality-based approach to prostitution and trafficking in human beings for sexual purpose. To ensure its gradual improvement, and the adaptation of legislation, policies, strategies, and interventions to changing “market” trends, the cooperation between state agencies and feminist and human rights community organizations is necessary.

Regular assessment and annual publication of evidence-based data is also important in the light of the controversy that this approach still can raise. Sweden was the first country in the European Union to appoint an independent National Rapporteur on Trafficking in Human Beings following a joint declaration, The Hague Ministerial Declaration, of the European Union in 1997. The National Rapporteur investigates, monitors, and analyzes the character, state, and scale of prostitution and trafficking in human beings for all forms of exploitation to, within, and from Sweden. The National Rapporteur was given the authority and resources to request information and to collect nonidentifiable, sex-disaggregated data from public

authorities and representatives of community organizations on different aspects of the Swedish approach. Importantly, the results are published in annual reports that also include recommendations to the government, statutory agencies, and to civil society, often proposing radical changes to the current system (National Rapporteur 2018).

Conclusion

The Swedish approach to the prevention and elimination of prostitution and trafficking in human beings for sexual purposes, and its effects are very different than the image that the national and international pro-violation advocates promote. The Swedish approach rests on solid political ground. Its radicality is guaranteed by the ongoing engagement of a strong feminist movement. The commitment of individual politicians, political parties, and a responsible government are core to its sustainability. Importantly, an ongoing and healthy public debate in media and local communities is core to its success. Key actors in the justice system have set aside their earlier reservations about the functionality of the legislation, and, through education and hands-on learning, have increased their understanding of the harm of prostitution. Today, law enforcement agencies and the prosecution services focus their interventions on ensuring accountability of the chain of perpetrators – prostitution users, pimps, and traffickers – no matter their social status and background.

The Swedish approach to prevent and eliminate prostitution and trafficking in human beings for sexual purpose may not be flawless, but it is slowly fulfilling the political vision of its initiators – that no woman and girl, man and boy should be subjected to sexual exploitation and human trafficking.

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