

BRIEFING – SWEDISH LAW AND POLICIES ON PROSTITUTION AND TRAFFICKING IN HUMAN BEINGS

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A. Prostitution: Laws & Policies

History

The initiative to criminalize the buyers originally came from the Swedish women's movement, and was carried forward by the women's associations of the political parties. Feminists, including women with experience of prostitution, analyzed women's position in society and how men, through the exercise of power through violence against women ensured that the subordinate position of women was maintained, including by men using some women and children, mostly girls, for prostitution purposes.

Principles

Swedish prostitution policies are particularly innovative. They rest firmly on human rights principles such as:

- Prostitution is a serious barrier to gender equality.
- Prostitution is a serious problem that is harmful to the prostituted woman or child, but also to society at large.
- Prostitution is male violence against women, especially targeting those who are economically, racially or ethnically marginalized/oppressed.
- Prostitution is incompatible with internationally accepted principles of human rights: the dignity and worth of the human person and the equal rights of men and women.
- Prostitution is a gender-specific crime; the majority of victims are women and girls, although a number of young men and boys also fall victims.
- Women in prostitution are not to be criminalized or subjected to administrative punishments, and have a right to live lives without being subjected to violence through the harm of prostitution.
- To end prostitution, the political, social, legal and economic conditions under which women and girls live must be ameliorated by introducing measures such as poverty reduction, sustainable development, measures that promote gender equality and counteract male violence against women and girls, as well as social programs focusing specifically on women and girls.
- Eliminating the demand is the root cause of prostitution and a cornerstone of Swedish policies. Males must take responsibility for their own and other's oppressive sexual behaviour and change it.
- Prostitution and trafficking in human beings for sexual purposes are seen as issues that cannot, and should not be separated; both are harmful practices and intrinsically linked.
- All forms of legal or policy measures that legalize different prostitution activities, such as brothels, or that decriminalize the perpetrators of the prostitution industry, including pimps, traffickers, brothel owners, and

buyers, are threats to gender equality and the rights of women and girls to live lives free of male violence.

- The legalization of prostitution will inevitably normalize an extreme form of sexual discrimination and violence and strengthen male domination of all female human beings.

See also: Government Bill- Kvinnofrid (prop. 1997/98:55 - the Violence Against Women Act).

Online at: <http://www.sweden.gov.se/sb/d/108/a/2266> (Swedish)

Legislation that prohibits the purchase of a sexual service

On January 1, 1999, as the first country in the world, Sweden passed legislation that prohibits the purchase of a sexual service.

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 six months [*maximum one year from July 1, 2011*]. What is stated in the first paragraph also applies if the payment has been promised or made by someone else. (*Swedish Penal Code, Chapter 6: Sexual Crimes, section 11*).

The offence comprises all forms of sexual services, whether they are purchased on the street, in brothels, or in other similar circumstances. Attempts to buy a sexual service are also punishable.

The law applies to Swedish peace keepers stationed abroad, and has been implemented a number of times against military personnel exploiting women through prostitution in countries involved in armed conflict such as Kosovo.

The positive direct and normative effects of this legislation have inspired other countries in the European Union and beyond to implement similar laws e.g. England, Wales and Northern Ireland (2010), Norway and Iceland (2009), South Africa (2007), and South Korea (2003) with similar positive results.

See also: Ekberg, Gunilla S., "The Swedish Law that Prohibits the Purchase of Sexual Services: Best Practices for Prevention of Prostitution and Trafficking in Human Beings" (2004) 10 *Violence Against Women* 1187 (Sage Publications). Online at: <http://vaw.sagepub.com/cgi/reprint/10/10/1187>

Evaluation of the offence – Special Inquiry report July 2, 2010

In 2008, the government appointed a Special Inquiry led by Chancellor of Justice Anna Skarhed to evaluate the implementation of the offence and its effects. The starting point for the evaluation was that the purchase of a sexual service remains criminalized. The commission consulted with women and men in prostitution, women and men who have left prostitution, police, social workers, civil society, public authorities and other key stakeholders. The Committee report [*Förbud mot köp av sexuell tjänst. En utvärdering 1999-2008*, SOU 2010:49] was presented to the government on July 2, 2010.

Conclusions - effects:

1. The number of persons exploited in street prostitution has halved since 1999.
2. The neighbouring countries, Denmark and Norway have three times as many individuals (read women) in street prostitution.
3. The concern that prostitution should move to other arenas has not been fulfilled.
4. Prostitution through the Internet has increased in Sweden as it has in other countries. This is not due to the law but due to the development generally of online technology.
5. The number of individuals that are sold via Internet web pages/ads are much larger in similar neighbouring countries such as Denmark and Norway.
6. There is no evidence of an increase of indoor prostitution.
7. Despite a significant increase in prostitution in the neighbouring countries during the past 10 years, there is no evidence of a similar increase in Sweden. It is reasonable to believe that this is due to the criminalization of the purchase of a sexual service in Sweden.
8. The prohibition has deterred the establishment of organized crime networks/groups in Sweden. As earlier has been concluded by the National Police, the law functions as a barrier against the establishment of traffickers and pimps in Sweden.
9. The law has strong support in Sweden among the public, and the law has led to significant positive change in attitudes. Hence, the law has normative effects as well as a direct effect on the reduction of crime.
10. The prohibition acts as a deterrent for the buyers of a sexual service. Persons with experience in prostitution, as well as the police, and social workers conclude that the buyers are becoming more careful and the demand has decreased considerably since the prohibition came into force.
11. Only 7.8% of Swedish men have bought someone for prostitution purposes - compared to 13.6% before the law came into force (study 2008).
12. Despite misgivings that it would be more difficult to reach women in prostitution, that prostitution would "go underground", and that the conditions of prostituted individuals would worsen, there is no evidence that the prohibition has had negative effects for individuals exploited in prostitution.
13. The enforcement of the law works generally very well, and police and prosecutors do not see any administrative or difficulties to enforce the law.

14. Good enforcement depends on resources available, and what priorities are made by the justice system.

Committee proposals

1. Continue to prevent and combat prostitution and trafficking in human beings for sexual purposes.

2. Those who are exploited in prostitution should be given adequate support and assistance, those who risk being prostituted should be given support and assistance, and measures to deter buyers of sexual services should be developed further.

3. Creation of a national centre for the prevention and combat of prostitution and trafficking in human beings responsible for coordination, research and other matters.

4. The maximum sentence for the purchase of a sexual service should be increased to one year in prison. This will allow the police to arrest the perpetrators, and allows other police methods to be used that will facilitate the investigation of responsible networks.

5. Ensure that women in prostitution are seen as plaintiffs in cases of the purchase of a sexual service allowing them to receive compensation or start civil suits.

6. The possibility to charge Swedish citizens and residents that purchase a sexual service outside the country will be investigated further.

Online at: <http://www.regeringen.se/sb/d/12634/a/149142> (Swedish)

<http://www.regeringen.se/sb/d/13358/a/149231> (Summary in English)

See also: Ekberg, Gunilla S. and Wahlberg, K, "The Swedish Approach: A European Union Country Shows How to Effectively Fight Sex Trafficking" (2011) 2:2 Solutions Journal.

Online at: <http://www.thesolutionsjournal.com/node/895>

Amended offence that prohibits the purchase of a sexual service July 1, 2011

On July 1, 2011, amendments to the offence in the Penal Code (Chapter 6: Sexual Crimes, section 11) that prohibits the purchase of a sexual service, approved by the Parliament on May 12, 2011, come into force. The amendments set out in the Government Bill [*Skärpt straff för köp av sexuell tjänst*, Prop. 2010/11:77] include an increase in the maximum sentence from six months to one year in prison.

The government bill underlines that the aims of the legislation is to protect both individual and societal interests, and hence, that the offence is a crime both towards the affected individuals and public order. The government bill also clarifies that, whether a person who provided a sexual service should be treated

as a complainant or as a witness is an issue that must be examined and determined in each individual case.

Online at: <http://www.sweden.gov.se/sb/d/13654/a/162562>

Men who purchase a sexual service

These men represent all ages, however, the majority of the buyers are between 30 and 55 years of age.

All income classes and all ethnic backgrounds are represented.

They have been, or are married or cohabiting, and they often have children.

Men who have or have had many sexual partners are the most common buyers, effectively dispelling the myth that the buyer is a lonely, sexually unattractive man with no other option for his sexual outlet than to buy prostituted women.

International studies about the prostitution behaviour of men (e.g. UK and Scotland) conclude that the majority of men who have purchased a sexual service suggest that the most effective deterrents are:

1. Legislation;
2. "Public shaming" through e.g. newspapers, public billboards or posters.

Since the legislation coming into force in 1999-October 2011, 4117 men have been apprehended; many more have been dissuaded from purchasing someone through the direct or indirect invention by the police.

BRÅ*	99	00	01	02	03	04	05	06	07	08	09	10	Jan-Oct 11	TOTAL
Purchase of a sexual service	94	92	86	110	300	156	460	163	189	187	352	1277	651	4117

* The Council for Crime Prevention (Brottsförebyggande rådet) [<http://www.bra.se>]

Monitoring mechanisms

1. In 1998, Sweden was the first country in Europe to appoint a National Rapporteur on Trafficking in Human Beings following a joint declaration of the European Union in 1997. This declaration recommends all member states to appoint "National Rapporteurs who are to report to governments on the scale, the prevention, and combating of trafficking in women". 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 and within and from Sweden, and publishes annual reports with recommendations. The twelfth report will be released in the fall of 2011.

Online at:

<http://www.polisen.se/sv/Aktuellt/Rapporter-och-publikationer/Rapporter/Manniskohandel-fran-1999/> (Swedish)

1. In 1999, in accordance with the *Anti-Violence against Women Act (Kvinnofrid, Prop. 1997/98:55)*, The National Board of Health and Welfare (NBHW) was charged with the task to gather information on and to monitor the extent and development of prostitution in Sweden, as well as to give support to local

authorities on the development and improvement of measures against prostitution. The NBHW reports annually to the Swedish government. The NBHW has so far released three reports.

Research data

Direct effects

The National Rapporteur on Trafficking in Human Beings has concluded in her five latest annual reports that the provision that prohibits the purchase of a sexual service functions as an “effective barrier to the establishment of traffickers in Sweden”.

According to research by the National Board of Health and Welfare (*Kännedom om prostitution*, 2007), there is clear evidence of a considerable decrease in street prostitution since the law came into force.

Online at: <http://www.socialstyrelsen.se/publikationer2008/2008-126-65>

The National Rapporteur estimates that between 400 and 600 women are trafficked into Sweden every year, mainly from the Eastern European countries such as Estonia and Lithuania, as well as from Russia. This number has remained fairly constant during the past several years.

According to a 2008 joint Nordic research study (NIKK), the situation concerning prostitution and trafficking is different in Sweden than in the other Nordic countries due to the effective implementation of this legislation. There is still trans-national prostitution from several countries, particularly from Eastern Europe. However, “no large groups of foreign women have established themselves in the visible prostitution market, contrary to what is the case in Norway, Finland and Denmark” (NIKK).

Online at: <http://www.nikk.no/English/Subjects/Prostitution/Publications/>

Normative effects

a. *Public support*: Research from 2008 on the attitudes of the Swedish public to the offence show that the law has massive support in Sweden; 71% of the interviewees support it fully (Kuosmanen).

b. *Fewer buyers*: The same study shows that the percentage of Swedish men who have bought one or more individuals for the purpose of prostitution has decreased from 13.6% in 1996 to 7.8% in 2008.

See also: Kuosmanen, Jari, “Attitudes and Perceptions about Legislation Prohibiting the Purchase of Sexual Services in Sweden” 14:2 (2011) *European Journal of Social Work* 247).

Online at: <http://www.tandfonline.com/doi/abs/10.1080/13691451003744341>

Internet prostitution

A 2009 research study (Swedin, C-G and Priebe, G, *Se mig: Unga om sex och internet*, Ungdomsstyrelsen, 2009:9) on youth and Internet use shows that approximately 10% of young people between 16 and 25 have posted sexualized photos of themselves on the Internet. Almost 50% of young women Internet users have had to field requests to send sexualized photos, talk about sex or act

in front of a web camera. Only 13% of young men have had the same experiences.

Online at: http://www.ungdomsstyrelsen.se/ad2/user_documents/Se_mig.pdf (Swedish)

http://www.ungdomsstyrelsen.se/ad2/user_documents/See_me.pdf (Summary in English)

B. Trafficking in Human Beings: Laws and Policy

On July 1, 2002, legislation that imposed criminal liability for trafficking in human beings for sexual purposes entered into force in Sweden.

On July 1, 2004, in order to implement the Palermo Protocol, amendments were made to extend criminalization to all forms of trafficking in persons, including trafficking within national borders and for the purpose of, for example, forced labour or exploitation for removal of organs.

In 2005, the National Rapporteur on Trafficking in Human Beings recommended that the government amend the anti-trafficking legislation. This recommendation was based on interviews of police, prosecutors and other key informants and an analysis of case law, which concluded that the complexity of the legislation lead to recurring misinterpretations by the courts.

In 2006, the government appointed an Expert Commission with the task to develop and strengthen the existing anti-trafficking legislation. The Expert Commission report was approved by the government in April 2008, and amendments to the legislation were made in May 2010 (Lag om ändring i brottsbalken SFS 2010:371):

A person, who in other cases than those referred to Section 1, uses unlawful coercion, deception, exploits someone's vulnerability or by some other improper means recruits, transports, transfers, harbours or receives a person in order that he or she shall be exploited for sexual purposes, the removal of organs, military service, forced labour or other activities in a situation which places that person in distress, shall be convicted of trafficking in human beings and sentenced to a prison term of at least two and at most ten years.

A person who commits an act referred to in first paragraph against a person who is under eighteen years of age shall be convicted of trafficking in human beings even if none of the improper means set out therein have been used.

If an offence referred to in the first and second paragraphs is less serious, the sentence shall be a prison term of at most four years." (Swedish Penal Code, Chapter 4: Crimes against Liberty and Peace, section 1 (a)).

Online at: <http://www.lagboken.se/files/SFS/2010/100371.PDF>

Crime Statistics

Procuring 1999-2010

BRÅ	99	00	01	02	03	04	05	06	07	08	09	10	Jan-Oct 11	Total
Procuring	32	46	43	46	69	98	94	58	65	51	94	120	69	885

Trafficking in human beings for sexual purposes 2003-2011

BRÅ	03	04	05	06	07	08	09	10	Jan-Oct 11	Total
THB-SP*	22	29	44	27	15	15	31	32	30	245

*Adult victims and children under 18 years of age.

Trafficking in human beings for other purposes 2005-2011

BRÅ	05	06	07	08	09	10	Jan-Oct 11	Total
THB-OP	0	11	35	8	28	52	46	180

*Adult victims and children under 18 years of age.

National Action Plan to Prevent and Combat Prostitution and Trafficking in Human Beings for Sexual Purposes

In July 2008, a national action plan for the prevention and combating prostitution and human trafficking for sexual purposes was adopted, covering five priority areas: protection and support for people at risk, prevention, work, higher standards and greater efficiency in the justice system, increased national and international cooperation, and a higher level of knowledge and awareness in general. The National Crime Council evaluated the initiatives under the National Action Plan (2011). Online at:

http://www.bra.se/extra/faq/?module_instance=2&action_question_show.544.0.=1 (Swedish)

Other prevention and protection measures

Time-limited, extendable residence permits, with 30 days reflection period, may be issued to a victim of trafficking in order to conclude a preliminary investigation or the main proceedings in a criminal case. Online at:

<http://www.riksdagen.se/webbnav/index.aspx?nid=37&rm=2009/10&bet=152&typ=prop> (Swedish)

A legal advocate (lawyer) charged with supporting the victim during the judicial process and applying for court-directed compensation, is appointed to all victims of trafficking, who testify against the organizers of the trade.

Online at: <http://www.notisum.se/rnp/sls/lag/19880609.htm> (Swedish)

Victims can, in some cases and in addition to compensation ordered by the court, be eligible for state compensation from the Crime Victim Compensation and

Support Authority (CVCSA), whose main task is to administrate and pay criminal injuries compensation, i.e. compensation from the state to crime victims.

Online at: <http://www.brom.se/default.asp?id=1345>

In 2009, the Ministry of Justice commissioned the CVCSA to carry out a study (Holm, Fanny, *Utbetalning av brottsskadeersättning till offer för människohandel: redovisning av ett regeringsuppdrag*, BROM 2010) on state compensation to victims of trafficking. The objective was to establish routines for payments that ensure that victims of trafficking in human beings for sexual exploitation actually receive the state compensation, preventing seizure by traffickers or others. In its report from February 2010, the CVCSA concluded that in “[l]ittle more than half of the victims in criminal cases leading to convictions for human trafficking claimed damage from the perpetrator” due to fear of the perpetrator.

Online at:

<http://www.brottsoffermyndigheten.se/default.asp?id=3852> (Swedish with summary in English)

An important component of the work to prevent and combat prostitution and trafficking in human beings in Sweden is regular training of law enforcement, prosecutors and judges. In Sweden, the training focuses not only on adequate investigation techniques, and but importantly also on attitudes, and underlying principles for legislation and policies regarding prostitution and trafficking in human beings.

The National Rapporteur has, in her 2011 report on initiatives carried out under the National Action Plan (Wahlberg, K., *Slutredovisning av regeringens uppdrag till Rikspolisstyrelsen att förstärka insatserna mot prostitution och människohandel för sexuella ändamål 2008-2010*, Rikspolisstyrelsen, 2011), concluded that regular training of police and other key public agencies is a core element in the success of the Swedish law enforcement measures to prevent and combat prostitution and trafficking in human beings.

Online at:

<http://www.polisen.se/sv/Aktuellt/Rapporter-och-publikationer/Rapporter/Publicerat---Nationellt/Organiserad-brottslighet/Slutredovisning-prostitution-och-manniskohandel/> (Swedish)

A number of awareness-raising campaigns have been carried out in Sweden and the region that focuses on the prevention of prostitution and trafficking for sexual purposes since the law came into place, including the eight country Nordic-Baltic Campaign against Trafficking in Women (2002-2003) and the four-country (Sweden, Norway, Finland and Russia) Project against Trafficking in Women and Girls in the Barents Region.

Online at: <http://www.norden.org/en/publications/publikationer/2004-715>

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