

THE BAN ON PURCHASING SEX IN SWEDEN: THE SO-CALLED 'SWEDISH MODEL'

by Bob Wallace, Principal Policy Officer, Office of the PLA

Prostitution and human trafficking for sexual purposes represent a serious obstacle to both social equality and gender equality. It is unacceptable that people – mostly women and children – are being purchased and exploited like merchandise. Victims of human trafficking and prostitution lose power over their lives and their bodies. They are robbed of the chance to enjoy their human rights.

Nyamko Sabuni

Swedish Minister for Integration and Gender Equality¹

Now it actually says, in the context of the law, it says that no prostitution is prostitution out of free will. It means that everybody is a victim. If you scream and shout that you're not a victim you are suffering from a false consciousness. And if you try to convince them that you're not even suffering from a false consciousness, they will say: "Well you're not representative".

Pye Jacobsson

Swedish sex worker and activist²

The law in Sweden and its rationale

Since 1999, there has been a prohibition on the purchase of sexual services in Sweden. Buying sex in Sweden is a criminal offence. Obtaining casual sexual relations in exchange for payment is forbidden, on penalty of a fine or up to six months imprisonment. Conversely, the selling of sexual services is not an offence. The law is targeted at the demand for prostitution (the clients) without focusing on the supply (the sex workers). The theory is that if the demand for prostitution is cut, so too are avenues for sex work. The ultimate aim is to eradicate demand for prostitution and thereby eradicate prostitution. This is commonly referred to as the 'Swedish model' in debates. The law is popular in Sweden – polls have shown that it is supported by about 80 per cent of the population³. Although, only a fifth of those surveyed believe that the law has been effective in reducing demand.⁴

The law is grounded in the radical feminist perspective where prostitution is a form of male violence against women and children. Sex workers are "prostituted women" and victims of men who are not clients but at best criminal exploiters and abusers of women and at worst are rapists. Men do not purchase sex, instead they purchase women to sexually exploit. Prostitution is seen as a barrier to gender equality, and

¹ Cited in, Government Offices of Sweden, *Against prostitution and human trafficking for sexual purposes*.

² Pye Jacobsson, Sweden: "We want to save you. And if you don't appreciate it, we will punish you" – www.swannet.org/node/1512

³ Gunilla Ekberg, *The Swedish Law That Prohibits the Purchase of A Sexual Service: Best Practices for Prevention of Prostitution and Trafficking in Human Beings*, p. 14.

⁴ Tom Sullivan, "Sweden revisits prostitution law", *The Christian Science Monitor*, June 2009 – www.csmonitor.com

therefore not only harmful to individuals but to society at large.⁵ It normalises that it is acceptable for men to buy and sexually exploit all women.⁶ Probably the most prominent international advocate of the Swedish model is Gunilla Ekberg, Co-Executive Director, Coalition Against Trafficking in Women and former Special Advisor to the Swedish Government. She has explained the genesis of the Swedish law:

The initiative to criminalize the prostitution buyers originally came from the Swedish women's movement. Feminists analyzed women's position in society and how men, through the exercise of violence against women ensured that the subordinate position of women was maintained, including by men using some women and girls for prostitution purposes. In agreement with other feminists worldwide, they concluded that prostitution was another patriarchal tool of oppression that has deleterious effects on the women and girls, who are induced and kept in prostitution, as well as an extreme form of male violence used to control female human beings as a class. Since the beginning of the 1980s, Swedish feminists have consistently argued that men who buy prostituted women should be criminalized, and that the women and girls in prostitution should be seen as victims of male violence who have a right of assistance to escape prostitution.⁷

Ekberg has previously said that: "My whole life has been about ending male violence against women".⁸ That Ekberg could claim that her entire life has been dedicated to this cause indicates a peculiar zealotry. Her extremist, one-dimensional views are evident from this statement, describing clients of sex workers as sexual predators and rapists:

In prostitution, men use women's and girls' bodies, vaginas, anuses, mouths for their sexual pleasures and as vessels of ejaculation, over and over and over again. Prostitution is not sexual liberation; it is humiliation, it is torture, it is rape, it is sexual exploitation and should be named as such. Consequently, males who use women and girls in prostitution are sexual predators and rapists.⁹

All sex workers are seen through the prism of passive victimhood and the proponents of the Swedish model deny that any person could ever freely choose to work in the sex industry. Ekberg argues that it is impossible to separate choice from patriarchal power structures. The dominant position of men in society means that for women freedom of choice is illusory because it is not possible to choose from equal alternatives. This is especially the case for women living in poverty.¹⁰ Anna Skarhed, Chancellor of Justice, who conducted an evaluation of the Swedish law for the government, *Prohibition on the purchase of sexual services: An evaluation 1999-2008* (the Skarhed Report), released in July 2010, has said that issues of voluntariness are irrelevant. She has stated that, "based on a gender equality and

⁵ Gunilla Ekberg, "Update on Swedish Model of Sex Industry Reform", *Debate*, Issue 3, September 2008, p. 25.

⁶ Gunilla Ekberg, cited in "Abolishing Prostitution: The Swedish Solution, An Interview with Gunilla Ekberg", *Rain and Thunder: A Radical Feminist Journal of Discussion and Activism*, Issue 41, Winter Solstice 2008.

⁷ Gunilla Ekberg, *The Swedish Law That Prohibits the Purchase of A Sexual Service: Best Practices for Prevention of Prostitution and Trafficking in Human Beings*, p. 4.

⁸ Gunilla Ekberg, cited in "Abolishing Prostitution: The Swedish Solution, An Interview with Gunilla Ekberg", *Rain and Thunder: A Radical Feminist Journal of Discussion and Activism*, Issue 41, Winter Solstice 2008.

⁹ Gunilla Ekberg, Statement at the Seminar on the Effects of Legalisation of Prostitution Activities in Stockholm, November 2002, cited on ProCon.org – www.prostitution.procon.org/viewanswers.asp?questionID=000102

¹⁰ Gunilla Ekberg, cited in "Abolishing Prostitution: The Swedish Solution, An Interview with Gunilla Ekberg", *Rain and Thunder: A Radical Feminist Journal of Discussion and Activism*, Issue 41, Winter Solstice 2008.

human rights perspective ... the distinction between voluntary and non-voluntary prostitution is not relevant".¹¹

Laws which in any way give legitimacy to the sex industry by legalising or decriminalising prostitution are decried as legitimating violence and abuse of women by males and entrenching patriarchy. Ekberg has stated that:

... we must understand all forms of legal or policy measures that legalise different prostitution activities, such as brothels, or that decriminalise the perpetrators of the prostitution industry, including pimps, traffickers, brothel owners, and buyers, as some of the most serious present-day threats to gender equality and the rights of women and girls to live lives free of male violence. We must understand that the legalisation of prostitution will inevitably normalise an extreme form of sexual discrimination and violence and strengthen male domination of all female human beings.¹²

The reason that so much is heard about the Swedish model internationally is that the Swedish Government is particularly eager to promote it to other countries as the panacea to prostitution and to urge its adoption. Ekberg has said that one of her functions as Special Advisor to the Swedish Government was to export the Swedish model to other countries by influencing their members of parliament and their feminist lobby to campaign for change.¹³ The export of Sweden's policies has had some success. In 2009, both Norway and Iceland adopted a similar law. Ekberg has said that: "For me, personally, I cried when the law was passed by the parliament in Norway. So much hard work. We all really felt like we had made enormous political change that day".¹⁴ Policies regarding prostitution in England and Wales have clearly been influenced by the Swedish model. Following a review of the legal framework for prostitution, in January 2006, the Government published a Coordinated Prostitution Strategy, which whilst rejecting a specific offence of paying for sex, "support[s] the principles of the Swedish model – focusing on the areas of prostitution where exploitation and violence are commonplace and where the existence of a sex trade is a nuisance for local communities"¹⁵

In January 2008, a number of UK Government Ministers visited Sweden on a fact finding mission as part of a six month review exploring what more could be done in respect of tackling demand for prostitution.¹⁶ The review rejected decriminalisation or a licensing system on the basis that it would not reduce overall demand for prostitution.¹⁷ The review concluded that the Swedish model was superior because it sent an appropriate message about paying for sex but conceded that it was not practical because of the sheer number of women selling sex in the United Kingdom and the lack of public support for the measure.¹⁸ It recommended that, rather than

¹¹ Summary (in English), p. 31.

¹² Gunilla Ekberg, "Update on Swedish Model of Sex Industry Reform", *Debate*, Issue 3, September 2008, p. 26.

¹³ Gunilla Ekberg, cited in "Abolishing Prostitution: The Swedish Solution, An Interview with Gunilla Ekberg", *Rain and Thunder: A Radical Feminist Journal of Discussion and Activism*, Issue 41, Winter Solstice 2008.

¹⁴ Gunilla Ekberg, cited in "Abolishing Prostitution: The Swedish Solution, An Interview with Gunilla Ekberg", *Rain and Thunder: A Radical Feminist Journal of Discussion and Activism*, Issue 41, Winter Solstice 2008.

¹⁵ UK Home Office, "Tackling demand for prostitution review begins with Sweden visit", *Media Release*, 10 January 2008.

¹⁶ UK Home Office, "Tackling demand for prostitution review begins with Sweden visit", *Media Release*, 10 January 2008.

¹⁷ UK Home Office, *Tackling the Demand for Prostitution: A Review*, November 2008, p. 12.

¹⁸ UK Home Office, *Tackling the Demand for Prostitution: A Review*, November 2008, p. 13.

criminalising all buyers of sex, those people paying for sex with a person who is being controlled for someone else's gain (such as a pimp or a trafficker) should be criminalised. Moreover, the offence should be one of strict liability so that it would be irrelevant whether the purchaser of sex knew if the woman was being controlled or not.¹⁹ According to the review, such a measure would have a positive impact on reducing demand for prostitution:

Under the new offence it will be irrelevant whether the sex buyer knew that the prostitute was controlled or not. It is argued that those who pay for sex will know that they could be paying for sex with a person who is controlled, and therefore they will think twice about what they are doing and their attitude towards those selling sex. This will also help to achieve the goal of reducing the size of the 'sex market' by sending a clear message that those who pay for sex should consider the potential implications of their actions.²⁰

The UK Government has accepted this recommendation and put relevant legislation in place so that on 1 April 2010 it became a strict liability offence to pay for sex with someone who has been forced, threatened, exploited or otherwise coerced or deceived into providing prostitution by someone else who has engaged in such conduct for gain. On the day the legislation took effect, Metropolitan Police raided a London brothel and arrested three men on suspicion of paying for the sexual services of a prostitute subjected to force.²¹ The influence of radical feminist perspectives is evident from this quote from Detective Inspector Kevin Hyland, who does not even refer to 'forced' women:

Men who visit brothels and pay for sex are exploiting vulnerable women and plying a trade of abuse. The new legislation, enforceable from today, means that people who pay for sex in brothels can be arrested and appear before the courts, which we hope will act as a deterrent to others.²²

In Australia, probably the most high profile advocate of the Swedish model is Professor Sheila Jeffreys, public officer of the Coalition Against Trafficking in Women Australia (CATWA). In her book, *The Idea of Prostitution*, she argued that "prostitution is a form of male sexual violence against women, consistent in its effects upon the abused woman with other forms of violence, particularly child abuse ...".²³ Jeffreys contends that clients of sex workers (or in her terminology 'prostituted women') are more accurately described as 'batterers', 'rapists', and 'prostitution abusers'. In the same book, Jeffreys made the quite startling claim that: "The act which men commonly perform on prostituted women is penis-in-vagina sexual intercourse. There is nothing 'natural' about that act".²⁴ This is consistent with, "her firm belief that men maintain power over women by the act of sexual intercourse, and that heterosexuality is therefore bad for women".²⁵ In 1979, she stated that feminists who sleep with men are enemy collaborationists and to her sexuality is the basis of oppression of women by men.²⁶ Consistent with this belief, Jeffreys has described marriage as a form of prostitution, whereby women guarantee men sex in return for

¹⁹ UK Home Office, *Tackling the Demand for Prostitution: A Review*, November 2008, p. 14.

²⁰ UK Home Office, *Tackling the Demand for Prostitution: A Review*, November 2008, p. 15.

²¹ "Brothel' arrests under new laws", *BBC News*, 1 April 2010 – www.newsvote.bbc.co.uk

²² cited in "Brothel' arrests under new laws", *BBC News*, 1 April 2010 –

www.newsvote.bbc.co.uk

²³ Sheila Jeffreys, cited in a book review by Dr Jody Hanson,

www.scarletalliance.org.au/Reviews/hanson98/

²⁴ Sheila Jeffreys, cited in a book review by Dr Jody Hanson,

www.scarletalliance.org.au/Reviews/hanson98/

²⁵ Julie Bindel, "Marriage is a form of prostitution", *The Guardian*, 12 November 2008.

²⁶ Julie Bindel, "The ugly side of beauty", *The Guardian*, 2 July 2005.

subsistence.²⁷ Even in today's society, in which women are better educated and hold professional employment, Jeffreys contends that, "the right of men to women's bodies for sexual use has not gone but remains an assumption at the basis of heterosexual relationships".²⁸ In essence, Jeffreys regards every married woman as a prostitute. In 1973, Jeffreys decided to abandon both her heterosexuality and femininity. She has said:

I gave up beauty practices, supported by the strength of thousands of heterosexual and lesbian women around me who were also rejecting them. I stopped dying my hair 'mid-golden sable' and cut it short. I stopped wearing make-up. I stopped wearing high heels and, eventually, gave up skirts. I stopped shaving my armpits and legs.²⁹

To Jeffreys, prostitution is a harmful cultural practice and those states that have legalised or decriminalised frameworks for prostitution are entrenching patriarchy.³⁰ Incidentally, Jeffreys has also argued that western beauty practices such as makeup, high heels, and cosmetic surgery, are harmful cultural practices.³¹

In furtherance of its objective to outlaw sex work, the Christian lobby in Australia has hitched itself to the radical feminist bandwagon (in an unlikely alliance between the right and the left of the political spectrum). Its opposition to the sex industry has traditionally been rooted in moral considerations revolving around the unacceptability of sex outside marriage but has now been broadened to encompass the exploitation and harm of women involved in sex work. In its submission to the Tasmanian Department of Justice, *Review of the Sex Industry Offences Act 2005*, the Australian Christian Lobby argued that:

Prostitution is inherently exploitative ... it is not possible for any legislation that accepts the continued existence of prostitution to protect those involved from exploitation ... the legalisation of certain types of prostitution still sends the message that it is acceptable to use women for sex, meaning that sex workers are still being exploited.³²

The Australian Christian Lobby was also active during the recent Tasmanian election, apparently obtaining an undertaking from the leaders of both the Labor Party and the Liberal Party that they would consider adopting the Swedish model. Leader of the Liberal Party, Will Hodgman MP, agreed that the matter should be considered by a parliamentary committee.³³

A liberal feminist or 'agency' perspective

An opposing view to the radical feminist perspective is the liberal feminist or agency perspective, which sees prostitution as a form of work (sex work). At the core of this approach is agency and freedom of choice and a view that sexual relations between freely consenting adults should not be subject to interference or regulation by the state. Proponents of this view dismiss assertions that sex work can never be truly voluntary and instead argue that sex workers are free, autonomous agents. It is a woman's right to choose what she does with her body, who she wants to have sex

²⁷ Julie Bindel, "Marriage is a form of prostitution", *The Guardian*, 12 November 2008.

²⁸ Sheila Jeffreys, cited in Julie Bindel, "Marriage is a form of prostitution", *The Guardian*, 12 November 2008.

²⁹ Sheila Jeffreys, cited in Julie Bindel, "The ugly side of beauty", *The Guardian*, 2 July 2005.

³⁰ Julie Bindel, "Marriage is a form of prostitution", *The Guardian*, 12 November 2008.

³¹ Shelia Jeffreys: www.ssps.unimelb.edu.au/about/staff/profiles/jeffreys

³² Cited in Tasmanian Department of Justice, *Report on the Review of the Sex Industry Offences Act 2005*, p. 11.

³³ Matthew Denholm, "Christians push sex agenda", *Australian*, 17 February 2010, p. 6.

with, and the form that sex will take. As free agents, they enter into a contract with a client for the supply of a sexual service.

This is a more nuanced perspective than the radical feminist one. It acknowledges that women can be forced into prostitution, it acknowledges that women can be exploited, it acknowledges that violence is an occupational hazard of sex work, and it decries that, but it denies that all acts of prostitution are inherently violent, it denies that every woman that sells sex is a passive, disempowered victim. No reasonable, rational person supports violence against women or non-consensual sexual acts or women being forced into prostitution by a third party. Not only are they abhorrent and abusive but they are a crime. Violence, rape, and coercion are separate to prostitution. They are not part of the contract between the sex worker and the client. For it to be prostitution, the sex worker must have freely consented without the application of duress or coercion and the activities in which they engage should be the result of negotiation and agreement between the sex worker and client. As 'Juliet', a sex worker writing in the *British Medical Journal* has said:

Prostitution is having sex for money, and neither having sex nor getting paid is inherently degrading, abusive, exploitative, or harmful. Yes, there are women working in prostitution who are coerced or drug dependent or homeless or whose backgrounds have otherwise limited their choices – but the problem is coercion, drug dependency, lack of choices, not prostitution itself.³⁴

The problem with the radical feminist perspective of sex work is that it is inherently simplistic and relies on stereotypes. So that sex workers are all from marginalised and impoverished backgrounds, are poorly educated, drug addicted, have been abused as a child, are homeless, have been trafficked or coerced, and generally have no other choice but to prostitute themselves. This not only appeals to, but reinforces, commonly held community prejudices about sex workers. This is clear from the Swedish Government publication, *Against prostitution and human trafficking for sexual purposes*, which states that:

Poverty, gender inequality, lack of respect for human rights, under-education and unemployment are all factors that make it easier to exploit people and lead them into prostitution and the sex trade. Other social problems, substance abuse or health reasons may explain why people end up in prostitution in Sweden.³⁵

Or, as Ekberg has put it:

You have to look at, first of all, who it is, who is used in prostitution, and we do know that the absolute majority of those who are victims of prostitution come from already marginalised backgrounds. They're living in poverty, they come from families where they've been sexually abused by the father or the brother or whoever. They may have drug problems, they often have run away from home if they're young.³⁶

This ignores that there are women (and men) in sex work from a wide variety of backgrounds who have consciously chosen to enter the sex industry after considering a range of options, and who have diverse motivations for selling sex. High earnings (without requiring formal qualifications) in combination with flexible

³⁴ "Juliet", "Prostitution shake-up: one sex worker's view", *British Medical Journal*, 2006, 332.

³⁵ Government Offices of Sweden, *Against prostitution and human trafficking for sexual purposes*.

³⁶ Gunilla Ekberg cited in, "Transcript: Prostitution in WA", *Law Report on ABC Radio National*, 25 September 2007.

working hours are generally cited as the predominant reasons for sex work.³⁷ As Scarlet Alliance, the Australian sex worker organisation has said:

Many sex workers in Australia have described their decision to work as a sex worker as a decision made after considering a range of options. To many, sex work offers greater flexibility of hours and the ability to earn larger amounts of money in a shorter amount of time – allowing single parents and students, for example, to devote extra time to their children or studies without sacrificing their income. However, as sex workers are not an homogenous group, our motivations for entering the industry are diverse and uniquely individual.³⁸

The *Selling Sex in Queensland 2003* report found that about one in four sex worker respondents had completed a university degree.³⁹ Similarly, the June 2009, *Working in Victorian Brothels* report found that, “sex worker respondents to this study revealed high levels of training”.⁴⁰ This would tend to indicate that these individuals were involved in sex work not because of lack of education and other skills, not as a result of not having any alternative employment options but because they had chosen to sell sex. This is given further credence by the finding of the Victorian study that there is a, “prevalent trend which sees sex workers leave and subsequently return to the industry, even after professional qualifications and experience in alternative industries have been obtained”.⁴¹ This certainly does not support the claim of Ekberg that, “99% of the women in prostitution are certainly not willing to be there”.⁴²

There are undoubtedly individuals who are selling sex who are unhappy and would rather not be doing it but the same could be said of any occupation. To some extent, freedom of choice is an illusory concept. If we were truly free, how many of us would be in our current jobs? An annual survey of United States job satisfaction found that only 45 per cent of respondents were happy with their jobs in 2009, down from 49 per cent in the previous year.⁴³ This means that more than one in two workers are unhappy in their job. Why do they turn up to work each day, however reluctantly, even though they have no job satisfaction? Because they have a standard of living to maintain, mouths to feed, and a mortgage or rent and bills to pay. Because despite the drudgery, monotony and unpleasantness of dragging themselves to work each day, the consequences of not working are too awful to contemplate. Why should it be any different for sex workers? As Swedish sex worker and activist, Pye Jacobsson has said:

And the fact of the matter is that most people in the sex industry chose it for whatever reason. It maybe suits their purposes, their way of living, or the money, or for whatever reason. And then you will also get, especially here in Sweden, people will challenge you and say: ‘so what’s a free choice?’ Yeah, but ask someone working as an assistant in a hospital, working with old people, cleaning the faeces the whole day,

³⁷ PLA, *Selling sex in Queensland 2003*, p. 10 and Sharon Pickering, et. al, *Working in Victorian Brothels: An independent report commissioned by Consumer Affairs Victoria into the Victorian brothel sector*, June 2009, p. v.

³⁸ Scarlet Alliance, *the Australian response to “10 Reasons for Not Legalising Prostitution”* – www.scarletalliance.org.au

³⁹ PLA, *Selling sex in Queensland 2003*, p. 10.

⁴⁰ Sharon Pickering, et. al, *Working in Victorian Brothels: An independent report commissioned by Consumer Affairs Victoria into the Victorian brothel sector*, June 2009, p. 2.

⁴¹ Sharon Pickering, et. al, *Working in Victorian Brothels: An independent report commissioned by Consumer Affairs Victoria into the Victorian brothel sector*, June 2009, p. 14.

⁴² Gunilla Ekberg cited in, “Transcript: Prostitution in WA”, *Law Report on ABC Radio National*, 25 September 2007.

⁴³ BBC, *US job satisfaction has hit 22-year low, survey says*, 29 January 2010 – www.news.bbc.co.uk

if that was a free choice. She probably wanted to pay her rent. There are a lot of occupations that we take because we need to survive.⁴⁴

This goes to the inherently condescending and paternalistic (although maternalistic would be more apt) nature of the Swedish model. It tells all women selling sex that they are victims and that they need saving, even if they do not realise or are incapable of realising it. It tells them that there is no way that they could possibly have chosen to be a sex worker or in the terminology of radical feminists, a 'prostituted woman'. The Swedish law fundamentally infantilises women and tells them that they are incapable of making rational choices. It is the state telling those women, we do not actually care what you think, because we know best. In this regard, it is instructive that sex workers or sex worker organisations were not even consulted on the Swedish law.⁴⁵ It would be hard to think of any other area of policy where the major stakeholders, those most affected by the law, were not even consulted. Rather than being supportive of women, some sex workers and commentators have argued that it is oppressive. Petra Ostergren, who describes herself as a writer and social commentator, has said that:

Swedish politicians and feminists are proud of the state's prostitution policy. They insist that it has positive effects. Sex workers are of a different view. Most of the female Swedish sex workers I have interviewed voice a strong critique of their legal and social situation. They feel discriminated against, endangered by the very laws that seek to protect them, and they feel under severe emotional stress as a result of the laws ... Several sex workers say that they feel used by politicians, feminists and the media. They think that sex workers are only listened to and being paid attention to if they say the correct things, i.e. that they find prostitution appalling, that they are victims, that they have stopped selling sex and will never go back, and that they are grateful to the current prostitution policy and to the policy makers. Sex workers feel overlooked in decision-making processes regarding juridical changes etc, something they find undemocratic. They question whether any other social group would have been so consistently excluded from any relevant policy making process ... Sex workers say that contrary to the official belief, they are not the victims of their customers, but victims of the state.⁴⁶

In a similar vein, Liv Jessen, a recipient of the Human Rights Award from Amnesty International for her prostitutes rights work, a social worker, and head of the Pro Centre, a national centre for sex workers in Norway, has written:

We know today that women 'choose' prostitution for a variety of reasons. Some from a more enforced and inferior position than others. Some are extremely unhappy with what they are doing, become deeply troubled, and need years of good support to repair the damage. Some seem to sail through it without a problem. But they all have one thing in common. They all know that society around them condemns them for what they do. They are a pariah race, branded, outcasts and feared. Combating this should be a major challenge for all feminists. Instead, the radical feminists continue to talk about her as a victim. If she defends her participation in prostitution, they say that she is not credible; they talk about a false consciousness syndrome. The only women who are believed and who know what is best for them are the 'repentant sinners', who have been called Survivors. Women in prostitution naturally have different views on the subject of prostitution, but to say that only the ones who agree with us are right, while the prostitutes who think differently are not described human qualities like

⁴⁴ Pye Jacobsson, Sweden: "We want to save you. And if you don't appreciate it, we will punish you" – www.swannet.org/node/1512

⁴⁵ Johannes Eriksson, *The "Swedish model" – arguments, consequences*, Green Ladies' Lunch – Prostitution in Europa, Berlin, 16 March 2005.

⁴⁶ Petra Ostergren, *Sex workers critique of Swedish prostitution policy* – www.petraostergren.com

the right to make their own choices or to be believed, is oppressive and a fundamentalist attitude.⁴⁷

Describing sex workers as “prostituted women”, implying that they have no choice or control over their work, “in itself reinforces the view that a person selling sex is a passive victim”⁴⁸ in need of rescuing. Holding sex workers out as victims is not only inherently disempowering, but reinforces community stereotypes about sex workers being drug dependent and forced into prostitution by ‘pimps’. This only contributes to the further marginalisation and alienation of sex workers from society and to the stigma and discrimination that they experience. The words of sex worker, ‘Juliet’, are again instructive:

... how the world thinks of us is internalised. The constant abuse of prostitutes and street prostitutes in particular contributes to the low self esteem and emotional degradation we have to face not from our clients but from society itself ... those who want to ‘rescue’ us while determinedly ignoring the voice of the sex workers’ rights movement and the complexity of our experiences are part of creating the very problems they say they wish to solve.⁴⁹

Astoundingly, this negative impact of the law is welcomed by the Skarhed Report which refers not even to prostitutes but people “being exploited in prostitution”:

Those individuals who are being exploited in prostitution say that criminalization has strengthened the social stigma associated with selling sex. They describe themselves as having chosen to prostitute themselves and don’t see themselves as being involuntarily exposed to anything. Even if it’s not forbidden to sell sex, they feel hunted by the police. They feel as if they’ve been declared incapable of managing their own affairs in that their actions are tolerated, but their will and choices are not respected. Further, they believe it is possible to distinguish between voluntary and forced prostitution ... **[These] negative effects of the ban that they describe can almost be regarded as positive when viewed from the perspective that the aim of the law is to combat prostitution.**⁵⁰

Those governments that have legalised or decriminalised frameworks for sex work do not necessarily favour prostitution or endorse involvement in it. Sex work is not necessarily viewed as ‘ordinary’ work. That would certainly appear to be the case in Queensland, for example, with the prohibition under s. 229G of the Criminal Code in respect of procuring another person to engage in prostitution (which prevents licensed brothels from advertising for sex workers). Instead, legalisation or decriminalisation is a pragmatic response to centuries of human behaviour, based on the impossibility of stamping out the sex industry. It puts aside moralistic concerns, and in acknowledging the harms that can be associated with sex work, is focused squarely on harm minimisation. The overarching aim is to reduce the risk of harm to sex workers, their clients, and thereby the entire community, for example, by insisting on safer sex practises and by insisting on appropriate workplace health and safety arrangements to reduce the risk of violence to sex workers.

⁴⁷ Liv Jessen, *Prostitution seen as Violence Against Women – a supportive or oppressive view?* - www.bayswan.org/swed/livjessen.html

⁴⁸ Tasmanian Department of Justice, *Report on the Review of the Sex Industry Offences Act 2005*, p. 6.

⁴⁹ ‘Juliet’, “Prostitution shake-up: one sex worker’s view”, *British Medical Journal*, 2006, 332.

⁵⁰ Anna Skarhed, *Prohibition on the purchase of sexual services: An evaluation 1999-2008*, pp. 129-130, cited in, Lo Tekk, *Another one to prostitutes and their best friend, Julie Bindel*, <http://lotekk.wordpress.com/2010/07/13/another-one-to-prostitutes-and-their-best-friend-julie-bindel/> (emphasis added).

The impact of the ‘Swedish model’

The Swedish law prohibiting the purchase of sex is intended to send a message to men that prostitution is inherently degrading, abusive and exploitative of women. The aim is to get men to change their behaviour, so that those men who purchase sex stop and so that other men never purchase sex in the first place. It is intended to have a normative impact. The rationale is, if you can wipe out the demand for prostitution, there will be no basis for supply. In other words, if there are no men purchasing sex, there will be no sellers of it. If there are no clients, there will be no sex workers. As Ekberg describes it:

The ultimate goal of the Law is to protect the women in prostitution by, among other measures, addressing the root cause of prostitution and trafficking: the men who assume the right to purchase female human beings and sexually exploit them. From the Swedish experience, we know that when the buyers risk punishment, the number of men who buy prostituted women decreases, and the local prostitution markets become less lucrative. Traffickers will then choose other and more profitable destinations.⁵¹

According to the Skarhed Report, the law prohibiting the purchase of sexual services has had an impact on demand. Surveys have revealed that the proportion of men who purchase sex has decreased and some men have reported that they have stopped purchasing sex.⁵²

The Swedish model has been hailed as a great success, including by those groups and organisations in this country that agitate for its adoption. Ekberg has claimed that street prostitution has declined, that most purchasers of sex have disappeared, that the law is an effective deterrent to the purchase of sex and the trafficking of women.⁵³ She has said that: “We know that the number of individuals in prostitution has gone down considerably and that Sweden has the lowest number of trafficking in human beings in the European Union”.⁵⁴

The Skarhed Report was somewhat more muted. It said that the ban on purchasing sex was an important instrument to prevent people trafficking and combat prostitution.⁵⁵ Whilst claiming that street prostitution has halved, the best that could be said is that, unlike neighbouring Nordic countries, there has been no increase in prostitution in Sweden.⁵⁶ This should be seen alongside an October 2009 Swedish Government publication, which stated that it is very difficult to monitor the extent of prostitution in Sweden because it is practised discreetly and that existing figures “are very uncertain”.⁵⁷ The Swedish National Board of Health and Welfare was just as circumspect when it said in a 2007 report that, “it is impossible to form a precise

⁵¹ Gunilla Ekberg, *The Swedish Law That Prohibits the Purchase of A Sexual Service: Best Practices for Prevention of Prostitution and Trafficking in Human Beings*, p. 19.

⁵² Anna Skarhed, *Prohibition on the purchase of sexual services: An evaluation 1999-2008*, p. 38 (English Summary).

⁵³ Gunilla Ekberg, *The Swedish Law That Prohibits the Purchase of A Sexual Service: Best Practices for Prevention of Prostitution and Trafficking in Human Beings*, p. 18.

⁵⁴ Gunilla Ekberg, cited in “Abolishing Prostitution: The Swedish Solution, An Interview with Gunilla Ekberg”, *Rain and Thunder: A Radical Feminist Journal of Discussion and Activism*, Issue 41, Winter Solstice 2008.

⁵⁵ Anna Skarhed, *Prohibition on the purchase of sexual services: An evaluation 1999-2008*, pp. 32 and 40 (English Summary).

⁵⁶ Anna Skarhed, *Prohibition on the purchase of sexual services: An evaluation 1999-2008*, pp. 34 and 36 (English Summary).

⁵⁷ Government Offices of Sweden, *Against prostitution and human trafficking for sexual purposes*, p. 5.

picture of prostitution and its extent, regardless of the chosen method".⁵⁸ Similarly, the Swedish Government publication says that Kasja Wahlberg, the national rapporteur at the National Police Board, has acknowledged in her reports that there is, "a general lack of knowledge concerning the extent of trafficking for sexual purposes in Sweden" and once again there are no exact figures.⁵⁹ Given these admissions from the Swedish Government, it is very difficult to see how Ekberg and other proponents of the Swedish model could possibly claim that the law has been successful in reducing the number of women involved in prostitution and the incidence of trafficking.

In terms of effectiveness in reducing demand for prostitution, according to a June 2009 report in *The Christian Science Monitor*: "When Swedish public radio stations posted fake ads for sexual services on websites in May, they were swamped with almost a thousand inquiries".⁶⁰ Ekberg has claimed that the law has not resulted in an increase in the number of Swedish men who travel to other countries to purchase sex.⁶¹ This is disputed by others who argue that there has been a displacement in demand to neighbouring countries, such as Finland and Denmark.⁶²

In order to have a practical impact, in terms of changing the behaviour of individuals, laws need to be enforced. The Skarhed Report refers to the importance of the priority that is given to enforcement and the need to make resources available. It states that:

According to both police officers and prosecutors with whom the Inquiry has spoken, considerably larger numbers of purchasers of sexual services could be prosecuted if priority had been given to this type of crime in day-to-day activities. One reason why priority is not given to sexual purchases offences is the low penal value of this type of offence.⁶³

A perceived lack of enforcement will mean that there is no real deterrence to the purchase of sex. According to Ekberg, between January 1999 and December 2007, 1,648 males were reported for purchasing sex and between 1999 and 2006, more than 500 males have been convicted and fined.⁶⁴ Not a single person has been jailed.⁶⁵ Interestingly, four judges have been arrested and convicted for the purchase of sex.⁶⁶ There are also obvious evidentiary issues with enforcing the law. A client is unlikely to admit to purchasing sex. A sex worker, fearful of losing her client base, is unlikely to admit that she was providing the person with a sexual service. According to the Skarhed Report, in eight out of ten cases which are prosecuted, the offence has been admitted to, highlighting the importance of the client or sex worker making

⁵⁸ Swedish National Board of Health and Welfare, *Prostitution in Sweden 2007*, p. 10.

⁵⁹ Government Offices of Sweden, *Against prostitution and human trafficking for sexual purposes*, pp. 15 and 5.

⁶⁰ Tom Sullivan, "Sweden revisits prostitution law", *The Christian Science Monitor*, 30 June 2009.

⁶¹ Gunilla Ekberg, *The Swedish Law That Prohibits the Purchase of A Sexual Service: Best Practices for Prevention of Prostitution and Trafficking in Human Beings*, p. 11.

⁶² Vincent Clausen, *An assessment of Gunilla Ekberg's account of Swedish prostitution policy*, January 2007, p. 6.

⁶³ Anna Skarhed, *Prohibition on the purchase of sexual services: An evaluation 1999-2008*, p. 39 (English Summary).

⁶⁴ Gunilla Ekberg, "Update on Swedish Model of Sex Industry Reform", *Debate*, Issue 3, September 2008, p. 27.

⁶⁵ Tom Sullivan, "Sweden revisits prostitution law", *The Christian Science Monitor*, 30 June 2009.

⁶⁶ Gunilla Ekberg, "Update on Swedish Model of Sex Industry Reform", *Debate*, Issue 3, September 2008, p. 27.

admissions.⁶⁷ Moreover, proving attempted crimes is so difficult that when it comes to street prostitution, “the police deliberately wait until the sexual act has begun before intervening, and the offence has thus been committed in full”.⁶⁸ All of this indicates that a significant amount of resources would be required for the law to have a deterrent effect. In Australia, many in the community would likely regard prostitution as a victimless crime. Accordingly, it would be difficult to justify committing significant resources to enforcing such a law. This would be doubly the case when it is understood that resources would need to be redirected from areas which would be regarded as much higher priorities by the community.

There seems to be a general consensus that there has been a reduction in street prostitution in Sweden. There was a 30 to 50 per cent reduction in street workers following the introduction of the law.⁶⁹ According to a report by the Swedish National Board of Health and Welfare, *Prostitution in Sweden 2007*, whilst street prostitution declined following the introduction of the ban it gradually returned, although not on the same scale.⁷⁰ The Skarhed Report has said that street prostitution in Sweden has been halved as a direct result of the ban on purchasing sexual services.⁷¹ Whether the reduction can be attributed entirely to the Swedish law is debatable. It has been noted that the law prohibiting the purchase of sex has coincided with the increasing availability of the internet and mobile telephones, which are a less visible form of soliciting than working on the street.⁷² It is worth noting here that in Queensland, the incidence of street prostitution is only very minor. There are not many individuals involved in selling sex on the street. The Crime and Misconduct Commission has said that street prostitution constitutes only about two per cent of the sex industry.⁷³ Accordingly, street prostitution does not tend to be an issue of significant concern in this state.

The Skarhed Report denies that there has been any element of displacement from street work to other avenues of sex work such as the internet. The report claims that the halving of street prostitution has represented, “a real reduction in prostitution”.⁷⁴ According to the report, because there has been “nothing to indicate” a greater increase in internet based prostitution in Sweden than in neighbouring countries, there must have been no shift to the internet by street workers.⁷⁵ The report also claims that there is no, “information that suggests that prostitutes formerly exploited on the streets are now involved in indoor prostitution”.⁷⁶ The report also rejects that

⁶⁷ Anna Skarhed, *Prohibition on the purchase of sexual services: An evaluation 1999-2008*, p. 39 (English Summary).

⁶⁸ Anna Skarhed, *Prohibition on the purchase of sexual services: An evaluation 1999-2008*, p. 40 (English Summary).

⁶⁹ Phil Hubbard, et. al, *Regulation of sex work in Sweden – Working Paper*, p. 41.

⁷⁰ p. 46.

⁷¹ Anna Skarhed, *Prohibition on the purchase of sexual services: An evaluation 1999-2008*, p. 34 (English Summary).

⁷² Norway Ministry of Justice and the Police, *Purchasing Sexual Services in Sweden and the Netherlands*, 2004, p. 11, Vincent Clausen, *An assessment of Gunilla Ekberg’s account of Swedish prostitution policy*, January 2007, p. 5, and Phil Hubbard, et. al, *Regulation of sex work in Sweden – Working Paper*, p. 28.

⁷³ CMC, *Regulating Prostitution*, December 2004, p. xiii.

⁷⁴ Anna Skarhed, *Prohibition on the purchase of sexual services: An evaluation 1999-2008*, pp. 35-36 (English Summary).

⁷⁵ Anna Skarhed, *Prohibition on the purchase of sexual services: An evaluation 1999-2008*, p. 35 (English Summary).

⁷⁶ Anna Skarhed, *Prohibition on the purchase of sexual services: An evaluation 1999-2008*, p. 36 (English Summary).

the ban on the purchase of sexual services has driven prostitution underground.⁷⁷ It should be mentioned that the report has been criticised, especially for its questionable objectivity and lack of an evidence base.⁷⁸ Louise Persson, author of *Klassisk Feminism*, has pointed out that Skarhed had already made up her mind about the effect of the law and went about gathering the evidence to support her case. Persson has quoted Skarhed as saying at the press conference launching the report: "I think that these are quite obvious conclusions. But the important thing for the inquiry has been to try to, so to speak, get the basis for being able to draw them. And this is how we have worked".⁷⁹ Persson has also criticised the inquiry's terms of reference which said that, "the inquiry could not suggest, or point in any direction other than, that buying of sex should be criminalised".⁸⁰

It is interesting that the Skarhed Report can make such sweeping claims about the level of prostitution in Sweden and to deny the possibility of displacement given what has been previously said in other official reports. The 2007 report by the Swedish National Board of Health and Welfare acknowledged that it was not possible to draw any conclusions about the overall level of prostitution in Sweden:

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.⁸¹

A 2004 report by the Norwegian Ministry of Justice and the Police said that it was not possible to conclude what had happened to those women who had left street prostitution:

Irrespective of the reason for the reduction in street prostitution it has not been possible for the working group to find an answer to the question as to what happened to the women who disappeared from the street.⁸²

Contrary to the conclusions of the Skarhed Report, sex workers, support groups, commentators and academics have argued that there has been a spatial displacement of sex work from the street to other sectors (most likely as a result of a combination of the law prohibiting the purchase of sexual services and technological advances such as the internet, email and the affordability of mobile telephones) that has had the effect of driving prostitution underground. According to an academic working paper, *Regulation of sex work in Sweden*:

Reviewing most sources, it appears the most direct impact of the law has been a spatial switching from street to off-street, with much more sex work now occurring in

⁷⁷ Anna Skarhed, *Prohibition on the purchase of sexual services: An evaluation 1999-2008*, pp. 37-38 (English Summary).

⁷⁸ Louise Persson, "Behind the happy face of the Swedish anti-prostitution law", 3 July 2010, cited in, Laura Agustin, *Border Thinking on Migration, Trafficking and Commercial Sex*, www.lauraagustin.com

⁷⁹ Anna Skarhed, quoted in Louise Persson, "Behind the happy face of the Swedish anti-prostitution law", 3 July 2010, cited in, Laura Agustin, *Border Thinking on Migration, Trafficking and Commercial Sex*, www.lauraagustin.com

⁸⁰ Louise Persson, "Behind the happy face of the Swedish anti-prostitution law", 3 July 2010, cited in, Laura Agustin, *Border Thinking on Migration, Trafficking and Commercial Sex*, www.lauraagustin.com

⁸¹ Swedish National Board of Health and Welfare, *Prostitution in Sweden 2007*, p. 63.

⁸² Norwegian Ministry of Justice and the Police, *Purchasing Sexual Services in Sweden and the Netherlands*, p. 52.

hidden sectors which are not monitored by the police ... Widespread claims that the law has resulted in an overall decline in sex work ... are unsubstantiated, and appear to be based on the assumption that a decline in visible street working equates to an overall decline in the sex industry ... In fact, the decline in street work appears to be matched by a rise in Internet working, flat working, bar work and work in sex clubs, and numbers of prostitutes today appear roughly equivalent to the numbers existing in the 1990s.⁸³

The Skarhed Report contends that the ban on purchasing sexual services has not driven prostitution underground, has not made it harder for support services to access sex workers, and has not increased the risk of abuse of women or created worse living conditions for sex workers.⁸⁴ These were all problems raised with the law by its detractors at the time of its introduction and since. Likewise, Ekberg has dismissed these as genuine problems, saying that there is no evidence, and described these as myths promoted by the pro-prostitution lobby.⁸⁵

The effects of driving prostitution underground are well known, especially in terms of their impact on the health and wellbeing of sex workers. They are marginalised, isolated and more vulnerable to exploitation, abuse, violence, coercion, and unsafe sex practises. Sex workers may be more reluctant to seek police assistance in response to an abusive client. It makes it more difficult for social and health services to access sex workers. There is also the danger of the involvement of third parties, such as 'pimps'. Some informants to the Swedish National Board of Health and Welfare have claimed that the law banning the purchase of sexual services has acted as a conduit to the involvement of pimps.⁸⁶ The report says that:

According to one informant in Goteborg, there are probably more pimps involved in prostitution nowadays. The informant says the law against purchasing sexual services has resulted in a larger role and market for pimps, since prostitution cannot take place as openly ... Informants from the Stockholm Prostitution Centre also mention that the law has opened the door to middlemen (pimps), because it has become more difficult for sellers and buyers of sexual services to make direct contact with one another.⁸⁷

Moreover, it has been asserted that for those women still plying their trade on the streets, the law prohibiting the purchase of sex has made their situation more dangerous. It is well established that street sex work is more dangerous than any other form of sex work. These workers are especially prone to being raped, bashed, robbed or murdered by clients or passersby. Ostergren, after speaking with sex workers, considering published interviews with sex workers, and interviewing women who sell sex to buy drugs has said that:

the sex workers say it is now harder for them to assess the clients. The clients are more stressed and scared and negotiation outdoors must be done in a more rapid manner.

The likelihood of ending up with a dangerous client is thereby greater. Due to the law, sex workers feel hunted by the police, social workers, media and sometimes even anti-prostitution activists on the streets. They find this unacceptable. One sex worker

⁸³ Phil Hubbard, et. al, *Regulation of sex work in Sweden – Working Paper*, pp. 20 and 42.

⁸⁴ Anna Skarhed, *Prohibition on the purchase of sexual services: An evaluation 1999-2008*, p. 37 (English Summary).

⁸⁵ Gunilla Ekberg, cited in "Abolishing Prostitution: The Swedish Solution, An Interview with Gunilla Ekberg", *Rain and Thunder: A Radical Feminist Journal of Discussion and Activism*, Issue 41, Winter Solstice 2008, and Gunilla Ekberg cited in, "Transcript: Prostitution in WA", *Law Report on ABC Radio National*, 25 September 2007.

⁸⁶ Swedish National Board of Health and Welfare, *Prostitution in Sweden 2007*, pp. 47-48.

⁸⁷ Swedish National Board of Health and Welfare, *Prostitution in Sweden 2007*, pp. 47-48.

commented that no other vocational group would accept that the police 'patrolled their workplace'.

Another consequence is that the sex workers are now more apprehensive about seeking help from the police when they have had problems with an abusive customer. They do not want to be forced to report the client.

Since the number of sex workers on the streets has decreased and they are more scared, previous informal networks amongst the sex workers have weakened. The result is that they are no longer able to warn each other about dangerous clients or give each other the same support.

Women also report that another consequence of the law is lower prices on the streets since there are less customers and more competition. This means that women in more desperate need of money will engage in unsafe sex and sexual activity they usually would not perform. This in turn leads to poorer self-esteem and exposure to infection. Other women who have turned to the Internet to advertise claim a positive effect insofar as they have been able to raise their prices. But note that this only benefits some sex workers. The more vulnerable sex workers seem to be the ones most negatively affected by the law.

Women working on the streets in some bigger cities claim that there is now a greater percentage of 'perverted' customers and that the 'nice and kind' customers have disappeared. A 'perverted' customer is someone who demands more violent forms of sex, sex with faeces and urine and who is more prone to humiliate, degrade and violate the sex worker. He also more often refuses to use condoms. Since there are fewer customers on the streets many women who sell sex in order to finance a drug habit can no longer refuse these customers, as they were previously able to. These women say the 'kind' customers have either turned to the Internet to find sexual services or have been arrested by the police. On the contrary, the 'perverted' customers know what to do to not be arrested and fined - they just have to deny it since there is rarely hard evidence.⁸⁸

A number of other issues have also been identified. The police have used the possession of condoms as evidence of sex work.⁸⁹ This means that there is an obvious disincentive to the practise of safe sex by street workers. Because the clients of street sex workers are common targets for the police, and they fear discovery and arrest, sex workers are forced into more out of the way areas where they are more vulnerable to attack. This problem was described by a street sex worker in Norway, where it is also illegal to purchase sex: "Now the men drive us out of town to find an empty space with no one in sight. It often takes more than an hour before we're back. Before we would go down to the harbour and be done in 15 minutes".⁹⁰

The Norwegian Ministry of Justice and the Police, in its report into the Swedish ban on the purchase of sex concluded that: "There is no documentary evidence from the hospitals or the police that there is more or less violence directed towards prostitutes, but there is much evidence that there is a tougher market with more violence".⁹¹

Whilst the ban on the purchase of sex was originally justified because prostitution is a form of male violence against women, recent years have also seen this expanded to include that it combats the trafficking of women to Sweden for sexual servitude. The Skarhed Report concluded that:

⁸⁸ Petra Ostergren, *Sex Workers Critique of Swedish Prostitution Policy*, www.petraostergren.com

⁸⁹ Petra Boynton and Linda Cusick, "Sex workers to pay the price", *British Medical Journal* 2006; 332, p. 190 and Don Kulick, *Talk delivered at Beijing Plus Ten meetings on the 'Swedish model'*, www.salli.org

⁹⁰ 'Michelle', cited in, "Sex ban puts us at greater risk", *The Guardian*, 27 May 2009.

⁹¹ Norway Ministry of Justice and the Police, *Purchasing Sexual Services in Sweden and the Netherlands*, 2004, p. 30.

Although it is hard to assess the exact scale of human trafficking for sexual purposes, in Sweden the establishment of this kind of crime is considered to be substantially smaller in scale than in other comparable countries. According to the National Criminal Police, it is clear that the ban on the purchase of sexual services acts as a barrier to human traffickers and procurers considering establishing themselves in Sweden.⁹²

Wahlberg, has said that the ban on purchasing sex has reduced the attractiveness of Sweden as a destination for human traffickers:

We know from our colleagues in Estonia who have eavesdropped on traffickers that they consider Sweden to be a bad market. They can no longer send the women on the streets, which was the easiest way to find clients. Now they have to find flats for the women, they must advertise on the internet, and clients are afraid of getting caught. [Traffickers] think it's not worth doing business in Sweden.⁹³

Prohibiting the purchase of sexual services is a blunt instrument to deal with the phenomenon of human trafficking. Moreover, it conflates prostitution with human trafficking. This leads to a problem where all migrant women involved in prostitution are regarded as being trafficked. In fact, this was acknowledged in the 2007 report of the Swedish National Board of Health and Welfare which said:

There are for instance people who believe that prostitution and human trafficking are synonymous, both with regard to organisation and content ... Some believe there is a misconception that all prostitution is synonymous with trafficking ... In our interviews, some women engaged in prostitution emphasise that they are opposed to human trafficking but not prostitution and that the two cannot be considered the same.⁹⁴

The conflation of prostitution with trafficking is particularly problematic in Sweden because there is no distinction made between voluntariness. All prostitution is regarded as violent and exploitative. Almost by definition, a migrant woman engaging in prostitution is regarded as a victim of trafficking. In other words, there is, "a failure to concede that migrants might gravitate towards sex work voluntarily".⁹⁵ As Vincent Clausen has remarked:

There is a strong tendency in Swedish debate towards the notion that prostitution generally speaking is violent and exploitative *per se*. From this perspective, prostitution across borders tends to be perceived as trafficking *per se*, regardless of the circumstances ... There is a gross difference between being of 'foreign descent' and being a 'victim of trafficking'.⁹⁶

Other consequences of this attitude in Sweden have also been identified. Jacobsson has argued that it is clients who are most likely to form a suspicion that a woman has been trafficked or is being forced to sell sex but that they are now unlikely to inform the police out of a fear of being arrested themselves.⁹⁷ According to Professor Kulick, a non-citizen or non-legal resident of Sweden found to be working in prostitution is

⁹² Anna Skarhed, *Prohibition on the purchase of sexual services: An evaluation 1999-2008*, p. 37 (English Summary).

⁹³ Kasja Wahlberg, cited in, "Sex ban puts us at greater risk", *The Guardian*, 27 May 2009.

⁹⁴ Swedish National Board of Health and Welfare, *Prostitution in Sweden 2007*, pp. 43 and 49-50.

⁹⁵ Phil Hubbard, et. al, *Regulation of sex work in Sweden – Working Paper*, p. 38.

⁹⁶ Vincent Clausen, *An assessment of Gunilla Ekberg's account of Swedish prostitution policy*, 2007, pp. 11 and 13.

⁹⁷ Pye Jacobsson, *Sweden: "We want to save you. And if you don't appreciate it, we will punish you"* – www.swannet.org/node/1512

immediately deported.⁹⁸ This would make it unlikely that a foreign sex worker abused by a client would report the matter to the police.

The way to deal with human trafficking is by measures to directly address trafficking, not by the blunt instrument of a blanket ban on the purchase of all sexual services. Indeed, it has been pointed out that since 2002, Sweden has had specific legislation on human trafficking which was amended in 2004 to comply with the United Nations Palermo Protocol.⁹⁹

The conflating of prostitution with trafficking has the effect that the incidence of trafficking for the purpose of sexual servitude is inflated because every migrant woman participating in prostitution is regarded as being trafficked for the purpose of sexual exploitation because no woman would possibly freely choose to sell sex. As Gillian Abel and Lisa Fitzgerald have said in a chapter of a book researching the impact of the decriminalisation of prostitution in New Zealand:

The trafficking rhetoric has gained momentum since the mid-1990s with reports worldwide of the millions of children and women trafficked both within and between countries ... Women who migrate voluntarily, with the full knowledge that they will be working in the sex industry, are conflated with helpless women and children, forced against their will to a life of slavery and sex work, both acquiring the label of trafficked victims.¹⁰⁰

Whilst especially problematic in Sweden, this is an issue by no means confined to that country and has been described as having the characteristics of a 'moral panic' or even a 'moral crusade'.¹⁰¹ Nick Davies, writing in *The Guardian*, has described a process in the United Kingdom where sex trafficking figures that are misleading are bandied about, repeated by others in pursuit of their cause, inflated further by others, or just made up entirely.¹⁰² One politician reportedly claimed in the House of Commons that the Home Office had estimated that there were 25,000 sex slaves in Britain. Apparently, there is no such Home Office statistic.¹⁰³ Another politician, Fiona Mactaggart, a former Home Office minister, has apparently claimed that, "something like 80% of women in prostitution are controlled". Davies has said that, "there is no known source for this".¹⁰⁴

As Davies has said: "Somewhere beneath all this, there is a reality. There have been real traffickers".¹⁰⁵ Part of the problem in the UK is that as far as some are concerned, it is sex trafficking even where a migrant is willingly working in the sex industry. This is not a situation which meets the definition under the UN Palermo Protocol, which involves the use of force, fraud or coercion to transport an unwilling

⁹⁸ Don Kulick, *Talk delivered at Beijing Plus Ten meetings on the 'Swedish model'*, www.salli.org

⁹⁹ Vincent Clausen, *An assessment of Gunilla Ekberg's account of Swedish prostitution policy*, 2007, p. 11.

¹⁰⁰ Gillian Abel, et. al, *Taking the Crime out of Sex Work*, 2010, p. 3.

¹⁰¹ Nick Davies, "Prostitution and trafficking – the anatomy of a moral panic", *The Guardian*, 20 October 2009.

¹⁰² Nick Davies, "Prostitution and trafficking – the anatomy of a moral panic", *The Guardian*, 20 October 2009.

¹⁰³ Nick Davies, "Prostitution and trafficking – the anatomy of a moral panic", *The Guardian*, 20 October 2009.

¹⁰⁴ Nick Davies, "Prostitution and trafficking – the anatomy of a moral panic", *The Guardian*, 20 October 2009.

¹⁰⁵ Nick Davies, "Prostitution and trafficking – the anatomy of a moral panic", *The Guardian*, 20 October 2009 and Weitzer, cited in, Gillian Abel, et. al, *Taking the Crime out of Sex Work*, 2010, p. 3.

victim into sexual exploitation. There is a vast difference between trafficking a person and smuggling a person (one is an unwilling victim, the other is a willing passenger).

Whilst there are undoubtedly women in Britain who have been trafficked for the purpose of sexual exploitation, it is unlikely that it is anywhere near the magnitude claimed by some of the more alarmist figures in the debate. As the UK Network of Sex Work Projects has stated: "It is undoubtedly the case that women are trafficked into the sex industry. However, the proportion of sex workers of whom this is true is relatively small ..."¹⁰⁶ The exaggeration of the sexual trafficking problem in Britain was given further credence by a *Guardian* investigation into the outcomes of Operation Pentameter Two. According to the *Guardian* report:

The UK's biggest ever investigation of sex trafficking failed to find a single person who had forced anybody into prostitution in spite of hundreds of raids on sex workers in a six-month campaign by government departments, specialist agencies and every police force in the country.¹⁰⁷

Dr Nick Mai from the London Metropolitan University conducted a study of 100 migrant male, female, and transgendered sex workers.¹⁰⁸ He found that only six per cent of female respondents, "felt that they had been deceived and forced into selling sex in circumstances within which they had no share of control or consent".¹⁰⁹ Other key findings revealed by the study were:

- Working in the sex industry is often a way for migrants to avoid the unrewarding and sometimes exploitative conditions they meet in non-sexual jobs
- By working in the sex industry, many interviewees are able to maintain dignified living standards in the UK while dramatically improving the living conditions of their families in the country of origin
- The stigmatisation of sex work is the main problem interviewees experienced while working in the sex industry and this impacted negatively on both their private and professional lives
- Interviewees generally describe relations with their employers and clients as characterised by mutual consent and respect, although some reported problematic clients and employers, who were disrespectful, aggressive or abusive
- Most interviewees feel that criminalisation of clients will not stop the sex industry and that it would be pushed underground, making it more difficult for migrants working in the UK sex industry to assert their rights in relation to both clients and employers.¹¹⁰

Finally, it should be noted that the Federal Government believes that the incidence of human trafficking to Australia is low in comparison to most other countries in the world.¹¹¹ This is attributed to, "our strong migration controls and geographic isolation".¹¹²

¹⁰⁶ cited in Nick Davies, "Prostitution and trafficking – the anatomy of a moral panic", *The Guardian*, 20 October 2009.

¹⁰⁷ Nick Davies, "Inquiry fails to find single trafficker who forced anybody into prostitution", *The Guardian*, 20 October 2009.

¹⁰⁸ *Migrant Workers in the UK sex industry*.

¹⁰⁹ Nick Mai, *Migrant Workers in the UK sex industry*, p. 4.

¹¹⁰ Nick Mai, *Migrant Workers in the UK sex industry*, p. 5.

¹¹¹ The Anti-People Trafficking Interdepartmental Committee, *Trafficking in Persons: The Australian Government Response January 2004 – April 2009*, p. iii.

¹¹² The Anti-People Trafficking Interdepartmental Committee, *Trafficking in Persons: The Australian Government Response January 2004 – April 2009*, p. 1.

Conclusion

The available evidence does not match the widely heralded rhetoric of the success of the Swedish model in practically eliminating prostitution. Even the best that the Swedish Government's own Skarhed Report can conclude is that prostitution has not increased in Sweden. Hardly a ringing endorsement. There is some evidence that the prohibition on the purchase of sexual services has driven the sex industry underground and sex workers feel less secure and consider themselves at greater risk of violence. The law does not protect sex workers who have been left worse off as a result. Trafficking is conflated with prostitution, so that all migrant women engaging in prostitution must be victims of trafficking and exploitation. One of the worst effects has been to marginalise an already stigmatised group in society. Sex workers have described how they feel like second rate citizens and they are infantilised by being told they could not possibly have freely chosen to enter the sex industry. They are not prostitutes, and certainly not sex workers, but prostituted women. They are told that they are disempowered victims of male violence and exploitation, even if they are incapable of comprehending that themselves because of a false consciousness syndrome. Their own views and experiences are discounted. They are deprived of their autonomy and agency as individuals. This is incompatible with the principles of a liberal democracy. Conversely, a harm minimisation model respects the right of adults to freely choose to enter the sex industry but puts in place measures to better protect the health, safety and welfare of sex workers and clients.