

A Particular Kind of Violence: Swedish Social Policy Puzzles of a Multipurpose Criminal Law

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Abstract This article explores the policy underpinning Sweden's 1999 ban on purchases of sexual services with a focus on the social and health service sectors and their role vis-à-vis people who sell sex. It argues that the rationale behind the ban is difficult to reconcile with legislation and practices beyond the merit of criminal justice. While an understanding of prostitution as “men's violence against women” may serve symbolic functions at central policy level, it can hardly guide local implementation without conflicting with core social policy principles. The article concludes that there is a need to address the agency of people who sell sex, since denying or minimizing such agency may be counterproductive to the policy's own objectives.

Keywords Criminal law · Social policy · Gender equality · Victimhood · Agency · Radical feminism

Introduction

Under two Swedish governments, left and liberal/right wing, respectively, the 1999 ban on purchases of sexual services has been proclaimed the cornerstone of a policy that is being promoted as an “example” for the world (Claude 2010). While its targeting of clients is often incorrectly referred to as unique, it is the simultaneous abnegation of criminalizing adults who sell sex that makes the more striking feature of Sweden's approach to the matter. It assumes that the providers

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should under no circumstances bear responsibility for sexual service transactions but be helped out of prostitution by social interventions to which the sex purchase ban is a mere complement. In other words, social interventions, rather than the ban itself, are expected to reduce the sex trade in Sweden. The implications of this arrangement have generally been overlooked in debates and writings on the country's prostitution policy. Yet they present challenging questions concerning its implementation and point to a mismatch between common claims about the ban and the actual contents of Swedish law. This article sets out to examine ambiguities of the policy vis-à-vis adults who sell sex with a focus on social services and health care. It discusses how an overall understanding of prostitution as violence against women relates to legislation and practices within and beyond the remit of criminal justice and its possible meaning at the level of service provision. The idea here is not primarily to appraise the measure of penalizing people who buy sex, which has already been widely celebrated and widely condemned, but to look more closely at problems associated with the other side of the coin, namely, legal tolerance for selling sex. How does the government conceptualize harm and agency in regard to sex vendors? What are the present prospects for accomplishing prostitution policy objectives through the welfare sector? In addressing these questions, I owe a lot to other scholars (e.g., Gould 2001; Pettersson and Tiby 2003; Scoular 2004; Kulick 2005; Svanström 2004; Träskman 2005; Östergren 2006; Dodillet 2009; Eriksson 2011) without endeavoring to deal with the full complexity of their work. Nor do I communicate with research on other countries and related issues such as feminism and violence. Rather, the aim is to contribute to a more informed starting point for further analysis of the Swedish policy. Special consideration is given to legislative history, i.e., predominantly government bills, which, in contrast to other political statements, are formally expected to guide

relevant agencies in Sweden's system of governance. While inquiries preceding bills may be influential, bills contain the government's own assessment and justify proposals for new laws.¹

The Ban in Rhetoric and Law

In contemporary public Swedish debate, the sex purchase ban has come to represent the ruling opinion that prostitution is a male mode of dominating, objectifying, and dehumanizing women. By signaling that men can buy a woman's body, prostitution is presumed to harm all women. From such a perspective, no woman can ever truly consent to selling sex, since she would thereby be subjected to violence or slavery. Consequently, distinctions between free and forced prostitution must be denied as must any notion of prostitution as “work.” This view is equally characteristic of *radical feminism* to which the most fundamental social regime is patriarchy, structured around male exploitation of female sexuality in a broader sense than prostitution alone (Truong 1990).²

While these assertions about people who buy or sell sex form part of Sweden's prostitution policy as discourse, they are less evident in corresponding law. There is no legal definition of *prostitution*, a concept that the government designates as “characterized by vagueness” (Government of Sweden, GoS, bill 2004/05:45, p. 105). This is somewhat perplexing given its long-term objective of eliminating prostitution completely (GoS missive 2002/03:140, bills 2005/06:155, 2005/06:60, Utrikesdepartementet 2006). The sex purchase ban was laid out in the 1998 omnibus bill *Kvinnofrid* (“Peace for Women”) which mostly concerns physical violence and instances other than commercial sex.³ The crime (Penal Code, Chapter 6, Section 11) consists of obtaining a casual sexual relation from an adult person in return for payment in cash or kind. By implication then, to “prostitute” oneself is to provide the kind of casual sexual relations that are illegal to

obtain for payment. Nonmonetary remuneration could be any sort of economic benefit.⁴ A “sexual relation” refers to intercourse and acts that involve a person touching another person's genitals or the other person's body with his/her own genitals (GoS bill 1997/98:55). The ban does not affect compensation for webcam sex, live masturbation, striptease, escort or nude massage without such touching, i.e., activities that could arguably be reproached as male modes of dominating women, too.

While supplementing preexisting laws against live sex shows and third party involvement in prostitution, in itself the ban is indiscriminate with regard to the ways in which purchases are organized. It covers occasional trading of drugs for sex between heroin users as well as buying sex for money from someone who, with or without middlemen, is regularly providing services as an enterprise. Yet as Pettersson and Tiby (2003) point out based on interviews with authorities concerned (police, social services, and health care), the degree of external exposure is pivotal for what these agents understand as prostitution. A potentially wide range of sexual-economic exchanges has been outlawed, but those that are systematic, formalized, and marketed are more likely to be identified as violations of the ban. Only a few sentences between 1999 and 2008 were due to nonmonetary compensation. Reported offenses have resulted mainly from police street surveillance and investigations into procuring and trafficking (GoS report 2010:49), i.e., crimes that are more severely punished than sex purchases. Sex buyers are typically fined and faced a maximum penalty of imprisonment for 6 months until 2011 when it was raised to 1 year.⁵ In conclusion, the ban covers consumption of some, but not all, of the services commonly defined as *sex work* and those who provide sexual relations that are illegal to pay for form a more diverse group than simply self-identifying *sex workers*. Moreover, the application of the sex purchase ban is selective and contingent on harsher laws.

The argument that sex cannot be sold out of choice or free will has little substantive foundation in law and legal practice. By being subsidiary to other regulations of the Penal Code, the crime of buying sex presupposes that the

¹ In addition, the government presents its view on various matters in action plans and other policy documents that may include assignments to government agencies. These are referred to as missives (*skrivelser*) in this text. Where relevant, introduction of new EU-related legislation follows a different process.

² However, as demonstrated by Eriksson (2011), the radical feminist argument on prostitution as violence against women was less significant to the political process leading up to the passing of the sex purchase ban. Rather, this idea was gradually established through the policy on gender equality.

³ The ban was introduced as a separate law and transferred to the Penal Code (2005) after minor revisions.

⁴ Preparatory work exemplifies this as alcohol and drugs. Cases of conviction include cigarettes, a cab ride, and food. Liability may be established when payment has been promised but not yet made and when the person who pays is someone else than the consumer (GoS report SOU 2010:49).

⁵ The penalty was raised to allow for a more nuanced assessment of aggravating circumstances such as buying sex from someone who suffers from a psychiatric disability, is under the influence of drugs, etc. (GoS bill 2010/11:77).

selling party consents to the transaction (Träskman 2005).⁶ Similarly, in line with the UN Palermo Trafficking Protocol (2000), the government distinguishes between free and forced adult prostitution by having established means (threat, force, etc.) that make consent irrelevant in defining trafficking in persons (Penal Code, Chapter 4, Section 1 a, 2002). Nor is the sale of one's own sexual services wholly disqualified as work, since the Income Tax Act makes no exception in this regard. Pursuant to a 1982 Supreme Administrative Court ruling, prostitution is a business (Regeringsrättens Årsbok 1982). Earnings may be taxed through a firm registered with some other activity or by arbitrary assessment if a person who has not declared any income is detected and states that this is how she/he makes a living (Wallberg 2008).

The *Kvinnofrid* bill did instate a Penal Code provision designed solely for *male* offenders and *female* victims (of partner violence).⁷ The sex purchase ban, in contrast, is gender neutral. Thus, the interest behind it is wider than protecting women. The justification for criminalizing sex purchases encompasses several aims, most of which have little immediate bearing on people who are presently selling sex.⁸ These include contributing to long-term norm building in the entire population, making a statement about Sweden's position in international debates, and maintaining a stance towards foreign sex business agents who might consider the country a market for expansion (GoS bill 1997/98:55). From 2008 to 2010, the effects of the ban were investigated by the so-called Skarhed Commission for which the government made persisting illegalization a precondition. Research on prostitution prevalence was not conducted as part of the inquiry, and the commission classifies estimates in this regard as highly precarious. Nevertheless, it concluded that prostitution in Sweden has “at least not increased” since the ban was introduced and that the regulation has worked as intended without any negative side effects (GoS report 2010:49, p.36). Penalization of sex purchases was expected to reduce prostitution. However, the 1998 *Kvinnofrid* bill also declared that such a step was merely *complementing* social interventions to “... motivate prostitutes to seek help and to get away from the destructive lives they are leading” (1997/98:55, p.106). Reiterated in 2011 (GoS bill 2010/

11:77), this position is no trivial detail, since it strongly suggests that the laws of the social service and health care sectors ought to be seen as the backbone of Sweden's prostitution policy.⁹

People Who Sell Sex as Victims of Violence

Relying on data from the previous prostitution inquiry, *Könshandeln* (1993–1995), the Skarhed Commission proposed that 2,500–3,000 women per year sold sex in Sweden during the past decade. This approximates to about 0.1% of all females aged 18–65 years as of 2010 (GoS Report 1995a, b:15, Statistics Sweden, SCB, 2011).¹⁰ Population-based surveys constitute an alternative source of information but are deficient due to absence of nonresidents, low response rates, and other limitations.¹¹ Three such studies (Månsson 1998; Kuosmanen 2008; Svedin and Priebe 2012) indicate more reports of being paid for sex by men than women as well as an increase in the reported number of women who had been paid for sex from 1996 to 2011. The numbers are notably low. The 2011 figure of 0.6 % amounts to 17,400 women if transposed onto the female population aged 18–65 years in 2010 (Svedin and Priebe 2012, SCB 2011).¹² None of these, however, reported to have been paid for sex in the past 12 months. Concurring, few respondents of the earlier surveys reported recent or regular sex sales. A moderate guess would be that a relatively small percentage of female permanent residents sold sex both in the years before and after the passing of the ban.

When considering government actions, it is foremost the bill on Sweden's gender equality policy that casts sex selling females as victims of “men's violence against women”

⁶ That is, if a person does not consent to provide a sexual service, obtaining it implies a different crime. In legal practice, the moment when the parties have entered into an *agreement* has been defined as the point at which an attempt becomes a criminal offense. However, prosecutors and the police have found this point difficult to prove (GoS report 2010:49).

⁷ Gross violation of a woman's integrity (Grov kvinnofridskränkning).

⁸ The government decided to criminalize sex purchases despite professing to the principle of using criminal justice as a last resort only, i.e., *ultima ratio* (GoS bill 1994/95:23).

⁹ This position was also restated by the 2010 Skarhed Commission, albeit in the deliberations and proposals section and not as a starting point for its evaluation of the sex purchase ban (GoS report 2010:49).

¹⁰ The 1993 inquiry which partly provided the basis for the *Kvinnofrid* bill extrapolated the total number of sex vendors and unknown cases from estimates of individuals known to be active in street prostitution.

¹¹ These include exclusion because questionnaires are available in Swedish only, underrepresentation of varying groups in the different study samples, a specific aversion to answering questions about sex sales, and possible differences in how men and women respond to such questions due to the impact of gendered norms.

¹² The three surveys found the following numbers of male and female respondents who reported having been paid for sex: eight of 1,475 males (0.5 %) and four of 1,335 females (0.3 %) (1996 survey); four of 296 males (1.4 %) and five of 436 females (1.1 %) (2007 survey); and 21 of 2,488 males (0.8 %) and 16 of 2,583 females (0.6 %) (2011 survey).

(2005/06:155). This umbrella term also includes partner violence against women, female genital mutilation, and sexual harassment. Thus, the gender equality policy partly codifies radical feminist discourse on prostitution and gives the sex purchase ban meaning as a tool for combating violence.¹³ In addition, the policy addresses inequalities (of power/influence, wealth, and unpaid care/household work) that affect large segments of the population and is aimed to be mainstreamed into all other government policies.¹⁴

Most actions subsumed under “men’s violence against women” are de facto crimes against individuals, e.g. rape, for which sentences range from 2 to 6 years of imprisonment. In governmental discourse, buying sex is at times equated to such crimes.¹⁵ However, paying for sex per se is not a crime against an individual and being paid for sex does not necessarily make a person a crime victim. As established in case law, offenders are considered to commit a crime against public order (Nytt Juridiskt Arkiv 2001). Legal scholars (Lernestedt and Hamdorf 2000, 2001; Träskman 2005) remark that the chief interest worthy of protection behind the ban was not pinned down with sufficient precision. As a result, it is ambiguously seeking to protect public order *and* those who sell sex at the same time (Träskman 2005).

According to the 1998 *Kvinnofrid* bill prostitution inflicts serious damage on both individuals and society at large. The bill briefly asserts that, as a rule, prostitutes are encircled by criminality of various kinds and that their social situation, in general, is very hard.¹⁶ Hence, the government is unspecific

¹³ The 1998 *Kvinnofrid* bill denotes male sex purchases, partner violence against women, female genital mutilation, and sexual harassment as “closely related” (p. 19). The 2002 government policy plan for gender equality (GoS missive 2002/03:140) refers to prostitution as a form of “men’s sexualized violence against women” (p. 11). The 2005 bill on gender equality (2005/06:155) defined “men’s violence against women” by clustering the above topics with the problem of sexual objectification of female and male bodies in public spaces (advertisement, etc.).

¹⁴ Since 2006, the government broadly defines gender equality as the objective: “Women and men are to have equal power to shape society and their own lives” (GoS bill 2005/06:155, p.43). Gender equality was previously defined as women’s and men’s enjoyment of equal opportunities, rights, and obligations in all areas of life (GoS bill 1993/94:147, p.15).

¹⁵ For example, in 2004, Mona Sahlin (then Minister for Democracy, Integration, and Gender Equality), made the point that calls for reviews of the effects of the laws against assault, robbery, and rape are unheard of while arguing against the need for such a review of the sex purchase ban (Sahlin 2004).

¹⁶ The preceding inquiry (*Könshandeln*, GoS Report 1995a, b:15), further claims that women are only exceptionally able to exit the sex trade without lasting injuries. It maintains that those who sell sex almost invariably develop mental disorders, suffer from poor health, abuse alcohol/drugs, and are often subject to theft and abuse. The damage done to the community is thought to lie in the ability of men to purchase sexual access to women to gratify their own sexual needs. The inquiry also discussed health- and crime-related costs.

about the single act of being paid for sex when classifying selling sex as categorically harmful to persons who do so. Instead it quotes coexisting problems of sex vendors and the environment in which the activity may take place. The 1993 inquiry preceding the *Kvinnofrid* bill voiced authorities’, social workers’, and researchers’ views of predominantly help-seeking women in street prostitution (Dodillet 2009). While highlighting and generalizing problems of this group, the inquiry also called for complete illegalization of prostitution, arguing that a ban on sex sales would effectively inhibit recruitment of new providers (GoS report 1995a, b:15).¹⁷ In rejecting the proposal, the government found it unreasonable to criminalize what it saw as “... at least in most cases, the weaker party who is being exploited by others wishing to satisfy their sexual urge” (Bill 1997/98:55, p. 104). Fear of penalties was deemed an obstacle to motivating prostitutes to seek help. The government acknowledged that sex purchases, in general, require active participation by the providers, but without further direction, it exempts them from criminal responsibility for the instigation of or aiding the crime, i.e., in themselves crimes under the Penal Code (Bill 1997/98:55).

Furthermore, the judicial standing of sex vendors in proceedings was left unaddressed. Throughout the ban’s existence, they have commonly been summoned to court as witnesses—a function most of them decline to perform (GoS report 2010:49).¹⁸ The 2008 Skarhed Commission examined this issue and asserted that it is the *individual crime* rather than the *type of crime* that determines whether or not a person should hold the status of injured party. The crucial aspect is whether the crime in question has been committed *against* the person and whether she/he has been injured or suffered damages. So the commission concluded that there is nothing to prevent sex vendors from being considered as the injured party in Sweden’s legal framework but that their standing must be carefully decided on a case by case basis. Endorsing this assessment, the government sees no need for changes in relevant legislation (Bill 2010/11:77).¹⁹ The consequences of such ambiguity go beyond criminal justice. It means, for instance, that special crime victim provisions of the Social Services Act do not automatically apply to a person who has sold sex. Originating from the *Kvinnofrid* bill, these provisions are, by definition,

¹⁷ In the ensuing consultation process, most government agencies opposed criminalization of both clients and providers, while about a third of those consulted recommended criminalizing only the clients (Eriksson 2011).

¹⁸ Thus far, it has only happened when the person who provided the sexual service was simultaneously subject to some other crime in connection with the purchase (GoS Report 2010:49).

¹⁹ The Swedish Prosecution Authority, however, expressed dissatisfaction with the proposed order of establishing from case to case whether a sex vendor should be regarded the injured party (GoS bill 2010/11:77).

linked to the Penal Code and may entitle a victim of partner violence to additional livelihood support (SoS 2003).

Unlike other forms of violence under the gender equality policy (GoS bill 2005/06:155) then, prostitution generates victims by analogy and from a structural viewpoint only. Female sex vendors are victims in their capacity as *women* due to the bare existence of men's purchases of women's sexual services. Seen this way, a woman is a victim of violence so long as at least some men buy sex from women, irrespective of whether or not she herself enters or exits the sex trade. Female social or health care workers are as much a victim as the woman selling sex who they are trying to assist.

Denial and Recognition of Agency

Still, what the victimhood of people who sell sex *ought to be* is a matter of debate where supporters of the ban display diverging opinions. US Professor of Law Catherine A. MacKinnon, former Gender Equality Ombudsman Claes Borgström, and others advocate, referring to the current law, a general and full recognition of sex vendors as crime victims entitled to compensation from clients (Schyman et al. 2008). Legal scholar Jenny Westerstrand, on the other hand, warns that such an “Americanized, individualist” reading of the ban threatens to subvert its underlying ideas about gender, violence, and prostitution at social and cultural levels (Westerstrand 2011). From another standpoint, Schultz (2011) notes that compensation for criminal injuries is reserved exclusively for victims who have had no part in causing the violation. In the case of someone who has sold sex, it would require an exception that not even victims of rape or attempted murder can count on. In theory, Schultz reasons, if sex vendors were by definition crime victims, they would be able to collect compensation also from public funds equalling SEK 5000 (≈USD 760) for each sexual service sold (provided the crime is documented and no one has been convicted for it).²⁰ Such an option, he suggests, could lead to more prostitution.

Apparently at stake here are disparate assumptions about the interests and agency of people who sell sex. As documented by Dodillet (2009), the empirical basis for political conclusions on their conditions and perceptions was biased when the sex purchase ban came about. More recent small-scale interviews testify to a *variety* in how informants appraise past and present experiences of selling sex, both negative and positive (Socialstyrelsen, SoS, 2008, 2010a, b, GoS report 2010:49, Laanemets 2007, Östergren 2006).

²⁰ Under the Criminal Injuries Compensation Act, compensation for criminal injuries may apply to any crime victim when the offender is unable to pay, remains unidentified, or money cannot be retrieved from private insurance.

The 2011 population-based survey revealed no significant differences between sex vendors and other respondents in measures of mental health, self-esteem, and alcohol consumption (Svedin and Priebe 2012).²¹

According to the 2010 Skarhed Commission, those who have stopped selling sex are in favor of the ban, whereas those “still being exploited” are critical to it (GoS report 2010:49, p. 129). The commission recognized that there are complaints about increased social stigma, the sensation of being haunted by the police, and the perceived insult of legally being declared incompetent. The commission contended that, given the law's purpose, such drawbacks must “rather be described as positives” (GoS report 2010:49, p.130). The government has acknowledged neither potential conflicts of interest between the ban and sex vendors nor tensions between disease control and distrust in authorities that share the Skarhed Commission's view. The government is yet to explain *how* people will be motivated to give up selling sex and what to do about those who evade or fail motivational efforts.

The *Kvinnofrid* bill omitted to change the health and social service laws on prostitution and does not offer a legal base for welfare professions. Nor does it enable the National Board of Health and Welfare (NBHW) to set standards specific for work with sex vendors, a group that is not delineated in the Social Services Act.²² They are labeled *victims of prostitution* and proclaimed a most-at-risk population in the national HIV/AIDS strategy (Ministry of Health and Social Affairs 2007). However, they remain anonymous in health care legislation. The entire sector is governed by the basic principles of *inclusion and impartial assessment of individual cases*.²³ Accordingly, welfare professionals must

²¹ Respondents who had previously sold sex reported a more positive view of prostitution than those who had not. The majority of sex vendors reported no drug use (86 % of male respondents and 81 % of female respondents). However, their drug use was higher than for nonsex vendors. Few sex vendors (none of the male respondent and 12.5 % of the female respondents) stated money for drugs as a motive for the most recent sex sale. There was no difference between female sex vendors and nonsex vendors with regards to childhood sexual abuse. However, male sex vendors reported a higher rate of childhood sexual abuse (Svedin and Priebe 2012).

²² Sweden's 290 municipalities are responsible for the provision of social services, whereas the county's 20 county councils are responsible for health care provision. At central policy level, the National Board of Health and Welfare is the agency assigned to ensure quality aspects of these sectors across the entire country. This is expected to be achieved by providing supervision, information, maintenance of registers and statistics, and by setting both legally binding and recommended standards.

²³ In principle, consideration of specific groups entitled to provisions under the Social Services Act (Chapter 5) are secondary to the general right for all individuals who are unable to provide for their needs to be considered for assistance (Chapter 4, Section 1). Reflecting a similar sentiment, the Health and Medical Service Act does not specify groups of special provisions, with the exception of certain disabilities, generally dictating that priority should be given to those in greatest need (Art 2).

take into consideration variations in sex trade experiences, for instance, in terms of gender and sexual orientation. A narrow view of prostitution as heterosexual female subordination/male dominance is thus at odds with these principles.

Under the Care of Young Persons Act, prostituting and performing in sex clubs are classified as destructive youth behaviors and a possible ground for their apprehension (GoS bill 1989/90:28, SoS 1997).²⁴ A similar regulation of The Alcoholic and Drug Abusers Act may be applied to drug users over 19 years (GoS bill 1987/88:147). The option of compulsory care to protect the individual and society from prostitution is thus confined to these instances.

Otherwise, in principle, sex selling by adults per se is a problem only insofar as a sex-selling adult thinks so or when the activity has detrimental consequences for her/him or somebody else. Unlike exposure to domestic physical violence, living with a sex selling parent, does not warrant social service intervention on behalf of a child (SoS 2011b).²⁵ The Social Services Act (Chapter 1, Section 1) states that such services shall promote people's socioeconomic security and active participation in the community and be based on respect for their self-determination and privacy.²⁶ The NBHW is obligated to regard the perspectives of clients/patients and to acknowledge their role as experts when it comes to their personal situation. This is also a legally-based quality assurance requirement for health care professionals (SoS 2003, 2006). Recipients of social services are expected, to the extent possible, to partake in decisions on suitable approaches as stated in the government's 2011 program for *evidence-based practice* in the social services. This ideal stipulates that measures should be grounded in the best available knowledge on the effects, and as a minimum, not induce harm (Socialdepartementet 2011, SoS/SKL 2011).

The NBHW (2008) concluded, based on an exhaustive international review, that stringently evaluated social work approaches towards the sex trade are rare and tend to focus on harm-reducing STI prevention (SoS/IMS 2008, SoS 2011a, b). Put differently, scientifically tested, effective, noncoercive means to make people stop selling sex may not currently be accessible to the social services. Nevertheless, measures like supplying condoms, lubricants, and assault

alarms for those who sell or buy sex are equally in accordance with relevant laws as they aim to prevent harm rather than promote payment for sex (SoS 2010a, b).²⁷

Social Interventions

The *Kvinnofrid* bill mandated the NBHW to monitor the extent and evolvement of prostitution in Sweden. The NBHW was also required to compile knowledge on domestic social interventions and support their development (GoS bill 1997/98:55).²⁸ Since 1999, the total budget allocated to the agency's work in this domain is approximately SEK 20 million or just over a quarter of the sum allocated to the National Police Board for related projects during the same period (GoS report 2010:49).²⁹ The latest inquiry on gender equality ranked social policy measures addressing "men's violence against women" as weak when compared to repressive operations (GoS report 2005:66). Even so, the government did take many such measures concerning pertinent issues other than prostitution, including assigning substantial grants to municipalities and NGOs.³⁰

Sex purchases have been reported in nearly all Swedish counties, and an estimated 49 of 290 municipalities know of local prostitution. However, only the cities of Stockholm, Gothenburg, and Malmö carry social service units specialized in commercial sex trade (SoS 2008, GoS report 2010:49). These units incorporate or collaborate closely with health services. They engage in outreach work, including online, and offer counselling, treatment, practical assistance as well as referral to other resources. Their mission is to help people voluntarily give up selling or buying sex. The

²⁷ The Social Services Act and the Communicable Diseases Act.

²⁸ So far, the NBHW has published three reports, *Prostitution in Sweden* 1998–1999, 2003, and 2007, all of which refrain from estimating the total number of people who sell sex in the country (SoS 1999, 2004 & 2008). The agency arranged two workshops in 2000 for the few social service units specializing in sex trade activities. The workshop themes were determined by the units themselves. In 2007, the NBHW was commissioned to inventory social interventions for people who sell sex. In 2008, 10 years after the *Kvinnofrid* bill, the NBHW was commissioned to both produce a training material for relevant professionals and evaluate the effects of sex trade-oriented work in the social services.

²⁹ A portion of this budget was allocated to work in collaboration with the Swedish Prosecution Authority.

³⁰ The *Kvinnofrid* bill launched a significant training program in the judicial as well as the welfare system which excluded prostitution. Additionally, provisions were added to the Social Services Act for female victims of partner violence (GoS Report 2005:66). The government mobilized all the powers of the NBHW in the area of domestic violence between 2007 and 2011, which included providing general recommendations and national inspections of social services.

²⁴ The regulation can be applied to someone who has not yet turned 20 years old and the care must be terminated before she/he turns 21 years old (SoS 1997). The legal age of sexual consent under the Penal Code is 15 years.

²⁵ The individual circumstances surrounding the case determine whether there is a need for social services intervention. The selling of sex by a parent is not specified as neglect or abuse in welfare legislation (SoS 2011b).

²⁶ Furthermore, the Health and Medical Service Act includes a regulation regarding respect for patient's rights to self-determination and privacy (Art 2 a).

prostitution units rely on other bodies for, among other things, livelihood support, as they lack a mandate to exercise public authority.³¹ Between 2009 and 2011, a study of 34 clients in treatment for having sold sex, showed improvements in their self-esteem, mental health, and a reduction in sex sales. It could not be determined whether these improvements were due to the intervention (Kjellgren et al. 2012).³² During the same 1-year period, the units registered contact with 112 sex buyers and 326 vendors, 181 of which held a Swedish residential permit (Åkerman and Svedin 2012). This is a quite low number in comparison to estimates of the total number of sex buyers and vendors in Sweden. It is even less than the estimated number (1,450) of women who had bought sex in the past 12 months according to the 2011 population-based survey (Svedin and Priebe 2012). Despite reports of female sex buyers and larger numbers of sex selling boys/men in numerous studies,³³ neither the prostitution units nor the police tend to make contact with these groups (SoS 2003, 2008, tv4nyheter.se 2007; Levin 2009; Siring 2008).

Research by the NBHW and others suggests that, in general, social service and health care staff rarely encounter clients who reveal experiences of selling sex. When they do, they often take no specific action to address the issue (SoS 2003; 2010; Richert and Svensson 2009). The municipalities have long reported a desire for staff training on prostitution to the NBHW. A review of social and health services in 16 municipalities conducted in 2010 demonstrated considerable gaps of knowledge on the subject. Some interviewees were even unaware that it is legal to sell sex in Sweden (SoS 2003, 2008 & 2010a, b). Among specialized professionals, intolerance for prostitution prevailed prior to the sex purchase ban. However, the conspicuous lack of national guidance on service provision has allowed for this criminal law to exert great influence relative to the actual laws of the welfare sector. Social workers publically engage in defending the ban, although it could affect the confidence

of potential clients who sell sex and disagree.³⁴ The city of Stockholm, aimed to bolster the Swedish legislation, nearly exclusively interpreted as the ban, in an antiprostitution plan (2007–2010). The plan made but two references to the Social Services Act without elaboration on its implications (Stockholm stad 2006). Active condom distribution has been deemed counterproductive despite indications of a significant occurrence of unprotected transactional sex.³⁵ In 2009, a local government commissioner in Malmö intervened against condom share-outs to suspected buyers, arguing that such measures sanction criminal acts (Larsson 2009).

Sweden's most frequent standardized interview with drug users includes a question on income from prostitution. A compilation of data from 2001 to 2008 showed that, compared to other respondents, the few who stated such income suffered from severe problems of mental health and addiction that were more often unattended by public support agencies (Armeliuss and Armeliuss 2010).³⁶ Nonrepresentative studies attest to sex vendors' low trust in authorities as a result of not receiving help and of being met with ignorance and prejudice (Östergren 2006; Jakobsson 2008; Olsson 2007, SoS 2008, 2010a, b; Larsdotter et al. 2011; Jonsson and Svedin 2012). The Rose Alliance, which consists of some 60 self-identifying sex workers, claims that this is a typical experience for them, regardless of whether they dedicate themselves to services that are illegal to pay for or not (P. Jakobsson, personal communication, September 8, 2010). If so, more general attitudes might be reflected in the welfare sector. Although surveys point to a solid and growing support for the sex purchase ban since the late 90s, there has also been a notable increase in the proportion of residents who would like to penalize sex vendors as well (Månsson 1998; Kuosmanen 2008; Svedin and Priebe 2012).³⁷

³¹ This lack of mandate also means that the units are not obliged to systematically document their work which complicates rigorous evaluation of the effectiveness of their approaches.

³² The prostitution units nonrandomly selected the clients of whom the majority claimed to have stopped selling sex before the intervention began. The study did not include a control group.

³³ Sex sales by men and teenage boys were surveyed by Svedin and Priebe (2004, 2009, 2012), Eriksson and Knutagård (2005), Kuosmanen (2008), Månsson (1998), Olsson (2007, 2010), Abellsson and Hulusjö (2008), and Statens Institutionsstyrelse (2011). Though much more limited, there is also data on sex purchases by women, e.g., Kuosmanen (2008); Svedin and Priebe (2011); Richert and Svensson (2009); Sandin et al. (2010); Larsdotter et al. (2011); and SoS (2008). In the 2011 population-based survey cited above only 0.1 % of female respondents aged 18–65 years (an estimated 2,900 women) reported having bought sex.

³⁴ For example, Hulusjö (2009) and Svennecke in Sahlin (January 24, 2008) and Westerberg and Ivarsson (March 3, 2009).

³⁵ According to Sweden's 2010 country progress report to UNAIDS, 18.5 % of sex-selling drug users stated that they used a condom when they last had sexual intercourse. Seventy-eight percent of sex buyers and 43 % of sex vendors reported condom use when they last bought/sold sex in the 2011 population-based survey (Government Offices of Sweden 2010; Svedin and Priebe 2012).

³⁶ The Addiction Severity Index Interview is utilized in most municipalities. The study included data on 13,893 clients interviewed from 2001 to 2008. Eighty-eight respondents (0.6 %) stated recent income from prostitution which may also be interpreted as income from another person's prostitution, i.e., pimping.

³⁷ In the 1996 survey, 42% of female respondents ($n=1,475$) and 19 % of male respondents ($n=1,475$) stated that women who sell sex ought to be criminalized. In the 2007 survey, 66 % of female respondents ($n=436$) and 49 % of male respondents ($n=296$) agreed that the sale of sexual services should be prohibited by law. In the 2011 survey, 65 % of female respondents ($n=2,583$) and 37 % of male respondents ($n=2,488$) agreed to the same statement (Månsson 1998; Kuosmanen 2008; Svedin and Priebe 2012).

Concluding Remarks

International campaigns marketing the sex purchase ban were launched less than 3 years after its entry into force and soon became an official priority (GoS missive 2002/03:140, Sahlin 2004). One goal of Sweden's global policy on sexual and reproductive health and rights is to encourage other countries to introduce a similar prohibition irrespective of their social and economic profile (Utrikesdepartementet 2006). Social interventions, however, are the leading national antiprostitution strategy as decided by the government. Yet health and social services neither have the capacity nor the legal means to stop all people from selling sex. They know little about prostitution as such and are ruled by laws that specifically address the problem to a limited degree. It is beyond doubt that they have a legal basis for respecting that adults sell sex as well as supporting them in ways that make it as safe as possible. It is questionable whether they have such a basis for working *against* them. The government has done nothing to change this framework and little to guide or fund targeted service provision.

The categorical harm of being paid for sex is yet to be specified. Except for renouncing criminal responsibility and victim status of people who sell sex, the sex purchase ban is neutral concerning their agency. The ban can be reconciled with a diversity of motives and experiences in this regard, a diversity that is primarily denied by a particular discourse on prostitution. Such discourse is not generically formalized in law but in Sweden's policy on gender equality. Nevertheless, this same policy allows for the consideration of female sex vendors as destructive to both themselves and others. If prostitution is violence against women as a collective, then individual women can actively contribute to that violence. For some people who sell sex, it may be upsetting when their agency is being disclaimed or minimized. However, this could be a concern to the government as well. Given the objective to eradicate prostitution altogether, one might, for instance, question why selling sex has not been included as grounds for apprehension and compulsory care of adult women other than upper teens and drug users. Social workers can indeed feel powerless in relation to sex vendors, not least in cases involving their children. As phrased by a local official interviewed by the NBHW, “those [sex vendors] who do not depend on the social services are especially hard to motivate” (SoS 2010a, b p.72).

Clearly, crucial issues regarding sex vendors' agency and interests remain unaddressed. Despite or because of prostitution being framed as violence, it seems that the majority of women now support double criminalization as originally proposed by the 1993 inquiry (Svedin and Priebe 2012). Jessen (2007) predicts that this will be the next move in Scandinavia's battle with the sex trade. On the other hand, Östergren (forthcoming) proposes that the prevalent ideas

on gender, sexuality, and inequality surrounding the ban might foster a countermovement that will eventually lead to its abolishment. Both scenarios would require a tremendous shift in political rhetoric and, therefore, appear unlikely to be realized in the short run. In any case, there are definitely lessons to be learned from the policy promoted as the Swedish “example” for international and domestic audiences alike. The first one is that the policy has yet to materialize in its country of origin.

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