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Impacts of the Swedish Criminalisation of the Purchase of Sex on Sex Workers

Presented at the British Society of Criminology Annual Conference,

Northumbria University, 4th July 2011

<u>BACKGROUND AND METHODOLOGY.....</u>	<u>2</u>
<u>SWEDISH CONSTRUCTIONS OF SEX WORK.....</u>	<u>3</u>
<u>THE SWEDISH MODEL ON SERVICE PROVISION.....</u>	<u>7</u>
<u>Harm Reduction.....</u>	<u>7</u>
<u>Drug Use.....</u>	<u>10</u>
<u>The Police and Security forces & The Justice System.....</u>	<u>11</u>
<u>SENDING A SIGNAL.....</u>	<u>13</u>
<u>CONCLUSIONS.....</u>	<u>14</u>
<u>BIBLIOGRAPHY.....</u>	<u>15</u>

Background and Methodology

This paper draws on interviews and participant observation undertaken during research I have conducted in Sweden since 2008. Outcomes of the Swedish sexköpslagen, the 1999 law criminalising the purchase of sex, were investigated, with Sweden being the first ever state to adopt such legislation.

Respondents of ongoing research include sex workers, politicians, NGO workers, spokespeople for lobby and activist groups, police, healthcare providers and social workers. Relationships have been established with Rose Alliance, Sweden's only sex workers rights collective, Stockholm and Malmö prostitution units, LBGT organisation RFSL, and drug users rights organisations Svenskabrukarföreningen and RFHL. These drug users rights unions have allied with sex work collective Rose Alliance, reporting similar experiences with service providers and authoritative groups, as well as similar alienation, pathologisation and exclusion from political discourse, debate and evaluation. Additionally, a trip to Norway in a month will involve an exploration of how the criminalisation of the purchase of sex has impacted Norwegian sex work.

The paper will start with an examination of how sex work has come to be understood in Sweden, tying this in with some discursive and legislative history. The main focus will be a discussion of how discourses and legislation have come to impact service provision and ideas surrounding harm reduction. The impacts of laws on levels and spaces of sex work will additionally be discussed. I will not be discussing non-female sex work or the pathologisation of sex buyers in Sweden, though these are additional areas of research focus.

Swedish Constructions of Sex Work

The Swedish sex purchase law is framed in feminist discourse constructing sex work as a form of oppressive violence, perpetrated by male clients against predominantly female sex workers: “For those radical feminists who hold all heterosexual intercourse to be an expression of patriarchal power (for example, Dworkin 1987; MacKinnon 1984; Jeffreys 1990), prostitution is perhaps the purest expression of male domination” (O’Connell Davidson 1995: 1). The very term sex work is seen as normalising an inherently violent and abusive industry:

“in Sweden, people are not so used to using the term ‘sex worker’, because it’s so far away from everything that Sweden, the law, and everyone, the politicians speaks about. There is nothing you could call sex work in Sweden.”

(Interview, 2010, Social Worker, Malmö Prostitution Unit FAST)

“It is not a normal job. That’s why. So we, we say prostitution, we can’t say like ‘sex work’”

(Interview, 2009, Social Worker, Stockholm Prostitution Unit)

Differentiation between forced and free sex work is seen to be a fallacy, leading to the conflation of child and adult sex work, and consensual migrant sex work with human trafficking. This construction of sex work as inextricably violent has no space for nuance:

“people, you put in the same category, and you say that well, ultimately, it’s all the same, it doesn’t matter if you make €5,000 a month, you sell sex without intermediaries, independently... you’re in the same position as someone who is forced by third parties to, someone who’s underage and forced by third parties”

(Interview, 2010, Senior Advisor Regarding Prostitution - National Board of Health and Welfare)

The structural violence apparently inherent in prostitution means that violence and abuse are always present, even if not physically visible, measurable, or empirically demonstrable.

People who sell sex are seen to have certain abusive histories and pathologies, thus limiting their agency in their decision to begin selling sex:

“what they have in common is that they all of them have been abused when they were (young). Not always sexually abused, but many times... if you have another choice than prostitution, you would take it”

(Interview, 2009, Social Worker, Stockholm Prostitution Unit)

“they have low esteem, they are not worth anything to themselves , that’s one of the reasons they get there”

(Interview, 2009, Founder of ROKS Women’s Shelter)

“my personal belief, that she, deep inside, is a victim”

(Interview, 2009, Stockholm Police [Narcotics Division Team Leader])

A discourse of false consciousness is used to explain away narratives that do not fit with a model of trauma and oppression:

“(It is argued that) if you see your situation in this way (as voluntary sex work, not as abuse), then it’s because of, you’re reacting on previous trauma, or you’re traumatised and reacting from previous sexual abuse... or you’re suffering from false consciousness”

(Interview, 2010, Senior Advisor Regarding Prostitution - National Board of Health and Welfare)

This discourse is criticised as ignoring a large body of research documenting “the fact that many work independently (and successfully) on their own terms” (Hubbard 2004: 1695) and additionally as being a mode of silencing some women whose narratives may be seen to be incompatible with a radical feminist model of exploitation.

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Experiences or testimony seem to only become discursively visible when women resist or leave sex work. As Weitzer (2005: 936) notes: “Women are described as lacking any agency, except when they resist being prostituted or when they decide to leave prostitution”, and so the testimony of active sex workers, or those who do not wish to identify sex work as essentially abusive may be devalued and sidelined:

“(one is) not (included in the debate) unless you are a former sex worker. Or a former client... If you like give a picture who’s (that’s) painted in many colours, it’s not okay. If you paint it in black, it’s okay. You can be listened to”
(Interview, 2010, Social Worker, Malmö Prostitution Unit KAST)

The radical feminist organisation ROKS, and the Swedish women’s shelter movement, as well as members of the Social Democrat party became increasingly vocal in the political debate, and the Swedish *remiss* system of consultation leading up to and following the 1999 sexköpslagen (see Svanström 2004). Along with this came the political mainstreaming of aforementioned radical feminist thought, constructing sex work as gendered violence. The rationale for criminalising the purchase of sex was that if demand for sex work was removed, sex work and trafficking would simply cease:

“Without demand, no trafficking and no, no people working as prostitutes”
(Interview, 2009, Social Worker, Stockholm Prostitution Unit)

The senior adviser at the National Board of Health and Welfare for issues surrounding Prostitution noted during interview that a political consensus was formed by silencing discursive opposition, where Gunilla Ekberg and radical feminists working for the Social Democrat Women

“really made an effort to control what people were saying, and then they, of course, did not invite those who were blacklisted, or on their shit list, they did not invite them to meetings, and of course you understood that your agency could not be considered for government grants”
(Interview, 2010, Senior Advisor Regarding Prostitution - National Board of Health and Welfare)

As noted by the Malmö Prostitution Unit:

“everyone must be on board. If you’re not, if you say something bad about it (the discourse), then you’re against the whole law, you’re against the whole thing. And then you’re excluded”

(Interview, 2010, Social Worker, Malmö Prostitution Unit FAST)

Indeed, being denied funding or being excluded from meetings or political consultation is reported by some respondents whose organisations (for example the Malmö Prostitution Unit, Kvinnoforum, Rose Alliance) were seen to be liberal or pro-sex work.

Efforts of the authorities to gather information on the views of sex workers have been hampered by the Stockholm Prostitution Unit, one of three state funded organisations designed to decrease levels of sex work. The Unit has questioned why the National Board of Health and Welfare should directly contact sex workers, asserting that they have mandate to speak on the sex workers’ behalf. The idea of false consciousness is used here to assert that some narratives of sex workers are misleading, with the sex worker either in a state of denial, or actively misleading the researcher in question, undermining the reliability of such testimony, with the Prostitution Unit hearing “the other side”:

“prostitution is about playing a role, I am being what you want me to be, I am horny, I am happy... that is the difficult thing about interviewing people who are active in prostitution and everything...”

“if you would meet one of my clients, in the street, because you wanted to make an interview, probably you will hear one thing, but what I get to hear is the other side... they have to put on this, you know, ‘I chose this, this is great, I love this, I’m really horny, I want to do this’, but what we hear is the other side”

(Interview, 2009, Social Worker, Stockholm Prostitution Unit)

The Swedish Model on Service Provision

Harm Reduction

With Sweden aspiring to create a sex work free society, service provision has been notably impacted. Harm reduction is seen to legitimise and endorse unwanted activities, such as sex work and drug use, undermining stated abolitionist ambition. Initiatives are perceived as allowing people to continue their sex work or drug use where they otherwise may have stopped:

“harm reduction is many times a way of, I mean it, it tends to keep people in the problem... if we take the harm reduction way of thinking about prostitution, a part of that is to see prostitution also as a normal job”

(Interview, 2009, Social Worker, Stockholm Prostitution Unit)

“(there is an idea that) we can’t say yes to harm reduction, because that is to say yes to drugs”

(Interview, 2010, Chairwoman of RFHL)

In spite of harm reduction’s legal status in Sweden, little is available. Giving out condoms to sex workers during outreach is not undertaken by the Stockholm Prostitution Unit, and condom provision is seen as something to entice sex workers to Prostitution Unit offices (which are closed at night when levels of street sex work are highest, and are not in close proximity to street sex work areas).

“we want to, what do you say, not just hand out the condoms, but try and, you know, catch the person”

(Interview, 2009, Social Worker, Stockholm Prostitution Unit)

In spite of sex workers and their clients being specified by the National Board of Health and Welfare as STI prevention target groups, the National Coordinator Against Trafficking and Prostitution (Interview, 2009) noted: “If they make so much money maybe they could buy their own condoms”.

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With such limited effort to distribute condoms to sex workers, women have to provide one another with condoms, with additional reports of shoplifting around Malmskillnadsgatan, Stockholm's street sex work area.

“When I was working before, regularly (on the street)... girls were shoplifting condoms”

“every time they (other sex workers are) asking me for condoms, because they know I have. I always have about thirty condoms so I give them to every girl who wants”

(Lisa, Interview, 2009, FSW [Street, Escort, Internet])

With the purchase of sex constructed as an act of violence, giving condoms to the clients of sex workers is seen to facilitate the committing of a violent crime. The Malmö Prostitution Unit's attempt to give condoms to buyers of sex in 2010 met with national outcry amongst politicians and in the media.

“We tried with condoms, and it became a national issue. Not a local, but a national issue... Eight condoms. And it became a national issue”

(Interview, 2010, Social Worker, Malmö Prostitution Unit KAST)

“that's totally bullshit, I mean if you give someone a condom, the purpose of that act is to prevent (the) spread of disease, it's not to encourage the person to pay for sex”

(Interview, 2010, Senior Advisor Regarding Prostitution - National Board of Health and Welfare)

Providing information on how to sell sex safely is seen to encourage people to begin selling sex.

“maybe some young girls who is not in the prostitution for the moment, they find this on the internet, and say ‘ah, maybe it could be really safe, because I have this handbook”

(Interview, 2009, National Coordinator Against Trafficking and Prostitution)

“since it’s illegal, you can’t, it becomes very strange if you are informing of something that not legal in Sweden, it would be the same thing as (if) you would inform of buying and selling drugs”

(Interview, 2010, Inger Segelström, Politician – Social Democrats; Previous Leader of Social Democrats’ Women)

There is additionally an element of fatalism: where sex work is seen to be inextricably surrounded by violence according to radical feminist discourse, providing information on how to avoid danger is seen to be futile:

“prostitution in itself attracts strange people, and I think prostitution has always been, and always will be really, really dangerous...what kind of information would you give to help people?...

since my knowledge tells me that prostitution is harmful, it would feel strange to hand out a kit with an alarm... I mean, people get raped anyway”

(Interview, 2009, Social Worker, Stockholm Prostitution Unit)

Respondents note conditionality of assistance, based upon the willingness of the sex worker to stop selling sex.

“I’m scared of talking too much to people, because I don’t want them to know that I’m a prostitute and then just going to come after me and say that I have to quit”

(Anna, Interview, 2010, FSW [Internet Escort; Former Stripping; Former Phone Sex])

One respondent noted that the prostitution unit refused to write to her doctor in order for her to get a sick note, until she had stopped selling sex for three months:

“(they told me) ‘if you are stopping prostitution for three months, and you don’t do anything for three months, then I will write that paper’... So I was angry, because if you are not working in sex work, what (how) am I going to (do to) get the money? I need first money, then I can stop”

(Lisa, Interview, 2009, FSW [Street, Escort, Internet])

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Women who do not consider their sex work to be detrimental, who do not experience difficulties, or who do not want to stop selling sex are not an area of concern for service providers:

“as far as they feel well, and like to be in this situation, fine with me, I mean, the day when they don’t like it anymore, they can come to me. So I don’t spend my energy on this group of people.”

(Interview, 2009, National Coordinator Against Trafficking and Prostitution)

The Stockholm Prostitution Unit’s assertion that all of their clients have experienced difficulties with sex work is perhaps not surprising then, given that they are expressly not concerned with women who “feel well, and like to be in this situation”:

“in Sweden, we are here for people who feel bad in prostitution”

(Interview, 2009, Social Worker, Stockholm Prostitution Unit)

Drug Use

Sweden’s anti harm reduction stance is noted to additionally impact service provision for drug users. With high levels of IV amphetamine and heroin use noted by respondents amongst street working sex workers in Sweden, the results of this would also impact this group of sex workers.

In terms of needle exchange, harm reduction is conflated with drug liberalism, permissiveness, and drug legalisation. There are only two needle exchanges nationally, in the towns of Malmö and Lund. Where harm reduction initiatives are seen to encourage sex work, needle provision is seen to encourage drug use:

“(it is thought that) if young people see that they can get free needles, then they decide ‘oh, I will start with the drugs”

(Interview, 2009, Svenskabrukarforeningen Stockholm Coordinator)

Like giving condoms to the clients of sex workers, giving drug users needles is seen to facilitate an activity that has been banned:

“Why should we give people needles, and that stuff, if it’s illegal to use it (drugs)?”
(Interview, 2010, KRIS Criminals Return Into Society)

In addition to a lack of state provision of clean needles, it is also illegal for drug users to buy needles from pharmacies and shops. Drug users report buying needles from drug dealers, used needles from friends, or on the black market. People use and reuse their needles for long periods, causing vascular and cosmetic damage, as well as infections.

“I saved my own. Months and months and months, I think for years sometimes... And you share with friends. There is a black market for used needles in Sweden... if you could buy it from the chemist, then the absence of needle exchange wouldn’t be like so devastating”
(Interview, 2009, Svenskbrukarforeningen Stockholm Coordinator)

The Police and Security forces & The Justice System

Where governmental reports note that the law has been positive in terms of sex workers reporting sex buyers to the police, some respondents in fact felt that they could place little trust in the police, having had bad experiences with them in the past.

“We don’t want to get raped, we don’t want to get beaten up, but I think if you go to the police and talk to them, they will only say that ‘it’s your fault’”
(Anna, Interview, 2010, FSW [Internet Escort; Former Stripping; Former Phone Sex])

Indeed, this had been precisely the case for one respondent:

“one police (officer) wouldn’t take my *anmälan* (statement / report) because he said ‘you’re a prostitute, and a prostitute can’t be raped, because you get money’”
(Lisa, Interview, 2009, FSW [Street, Escort, Internet])

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In spite of the apparent immunity of sex workers from authoritative harassment in the context of the sexköpslagen, the law has been used to directly destabilise some sex work – Police have been noted to report sex workers to hotels or venues, with the sex worker then barred from returning. Reports of verbal and physical assaults of sex workers by the police are additionally reported. In spite of some instances of formal complaints being lodged, and disciplinary proceedings being taken, the national rapporteur for trafficking and prostitution of the National Police surprisingly was not aware of any harassment of sex workers in Stockholm or Sweden:

“No. Definitely not. No. Actually this is the first time I have ever heard that it could be actually a problem... but of course there is always, you know, could be police officers behaving badly from time to time, but it could be very much an exception”
(Interview, 2010, Police [National Rapporteur for Prostitution and Trafficking])

There are additional reports of catch 22 problems with tax authorities, where sex workers are expected to pay tax, yet are sometimes unable to:

“you can’t have a company where you say that ‘I would like to pay taxes for this sum of money’, if you’re not saying (where it came from)... So they haven’t, I mean they haven’t solved this, and I don’t think that, you can’t find a solution, because if you would use, if you would start a company, where your money comes from prostitution, then you have to tell who’s your buyer”
(Interview, 2010, Inger Segelström, Politician – Social Democrats; Previous Leader of Social Democrats’ Women)

Immigration and tax authorities can work together in destabilising sex work: one respondent, who was a migrant sex worker from an EU state, was taken to immigration after being told by the police that she was a trafficking victim. When it became apparent that she was in Sweden voluntarily, the tax authorities then became involved, as she had not been paying taxes on her sex work income.

Sending a Signal

Discourse surrounding legislation, then, can be seen to have impacted service provision in terms of attitudes, stigma, and harm reduction. In terms of measurable differences that the law has made to the levels of sex work in Sweden, the results are far from clear. Due to the clandestine nature of sex work, measuring levels of these populations is difficult if possible at all. Claims as to a decrease, or estimates as to the extent of sex work in Sweden, are noted not to be empirically grounded:

“to be able to tell how many people that are engaging in sex trade... within any particular period of time in the country as a whole, of course that’s a very common political expectation but is nonsensical to anyone with basic knowledge of scientific methodology”

(Interview, 2010, Senior Advisor Regarding Prostitution - National Board of Health and Welfare)

Whether a spatial displacement from street to off-street sex work has occurred is not clear: some respondents, researchers and academics, notably Petra Östergren (2004) and Phil Hubbard *et al.* (2007), report a ‘spatial shifting’ (*ibid*) resulting from the sexköpslagen. However, other respondents involved in street outreach and charity work since before the legislation note that levels of street sex work have remained fairly static. Interestingly, the actual sex purchase law is defined as one of public order, not violence or assault as the discourse would suggest, where: “radical feminism is today only a framework for opposition against prostitution” (Interview, 2010, Senior Advisor Regarding Prostitution - National Board of Health and Welfare) with legislation then arguably used to destabilise and displace sex work. Norway’s adoption of the Swedish legislation seems to clarify this to some extent, with the express intention of using the law to displace migrant Nigerian sex workers from central Oslo:

“when these women were attacking the Norwegian men, it was just too much. And that’s when they started looking to the Swedish legislation”

(Interview, 2010, Inger Segelström, Politician – Social Democrats; Previous Leader of Social Democrats’ Women)

Historically, vagrancy laws in Sweden and widespread sterilisation were used until 1980 and 1976 respectively, to control sex work throughout Sweden (see Svanström 2006) and venereal disease legislation was (see Blom 2006; Blom 2007; Lundberg 2006) and is (see Baldwin 2005; Henriksson and Ytterberg 1992; Kirp and Bayer 1992) used to incarcerate and control sex workers. The sexköpslagen legislation may therefore be seen in a wider context of social engineering, attempting to create a Swedish Folkhemmet, the People's Home, free from groups perceived to be deviant and disruptive.

Conclusions

So to sum up, it seems that where laws have been introduced as part of an effort to create a sex work free Sweden, there has not been evidence demonstrating that levels have declined. In spite of the fact that sex work cannot be said to have decreased, laws are advocated as successes to be exported to other states.

“the one purpose of the law that the government has fulfilled... from the beginning (the intention) that the law should be exported to other countries... irrespective of the fact that the knowledge base was so poor, I mean the empirical (evidence) was very poor, very weak”

(Interview, 2010, Senior Advisor Regarding Prostitution - National Board of Health and Welfare)

Measurable outcomes of laws seem disruptive, with discourses feeding detrimentally into service provision and authoritative attention, and discourse and legislation in Sweden serving to further pathologise and stigmatise already vulnerable groups. Inclusion of such marginalised groups in evaluation and political process seems to be of great importance, at a time when the very groups legislation pertains to continue to be excluded and invisibilised from debate.

“there's never been nobody who asked the sellers about what they think... But we don't in Sweden. We assume”

“talk to the people who sell sex. Talk to them. Caus it doesn't happen in Sweden”

(Interview, 2010, Social Worker, Malmö Prostitution Unit KAST)

Bibliography

- Baldwin, P., 2005, *Disease and Democracy – The Industrialized World Faces AIDS* (London: University of California Press)
- Blom, I., 2006, Fighting Venereal Diseases: Scandinavian Legislation c.1800 to c.1950. *Medical History* 50: 209–234
- Blom, I., 2007, Contagion and Cultural Perceptions of Accepted Behaviour - Tuberculosis and Venereal Diseases in Scandinavia c.1900–c.1950. *Hygiea Internationalis* 6, 2: 121-133
- Henriksson, B., and Ytterberg, H., 1992, Sweden: The Power of the Moral(istic) Left, in *AIDS in the Industrialized Democracies – Passions, Politics and Policies*, ed. Kirp, D. L., and Bayer, R.: 317-338 (New Brunswick: Rutgers University Press)
- Hubbard, P., 2004, Cleansing the Metropolis: Sex Work and the Politics of Zero Tolerance. *Urban Studies* 41: 1687–1702
- Hubbard, P., Matthews, R., Scoular, J., 2007, *Regulating the Spaces of Sex Work in the EU - Regulation of sex work in Sweden* (Loughborough: University of Loughborough)
- Kirp, D. L., and Bayer, R., 1992, Introduction – An Epidemic in Political and Policy Perspective, in *AIDS in the Industrialized Democracies – Passions, Politics and Policies*, ed. Kirp, D. L., and Bayer, R.: 1-6 (New Brunswick: Rutgers University Press)
- Lundberg, A., 2006, Legislation on venereal disease. Lex Veneris 1919-1945. *Sven Med Tidskr* 10, 1: 125-44
- O’Connell Davidson, J., 1995, The Anatomy of ‘Free Choice’ Prostitution. *Gender, Work & Organization* 2,1: 1-10
- Östergren, P., 2004, *Sexworkers Critique of Swedish Prostitution Policy* Accessed 04.01.2008
<http://www.petraostergren.com/content/view/44/67/>
- Svanström, Y., 2004, Criminalising the john – a Swedish gender model? in *The Politics of Prostitution – Women’s Movements, Democratic States and the Globalisation of Sex Commerce*, ed. Outshoorn, J.: 225-244 (Cambridge: Cambridge University Press)
- Svanström, Y., 2006, *Prostitution as Vagrancy: Sweden 1923-1964*, *Journal of Scandinavian Studies in Criminology and Crime Prevention*, 7:2, 142 – 163
- Weitzer, R., 2005, Flawed Theory and Method in Studies of Prostitution. *Violence Against Women*: 11, 7: 934-949