

Abstract:

Over the last decade there has been a radical change in how prostitution is viewed in the Nordic countries. It used to be seen as mainly a social problem, but with an increasing focus on trafficking and the implementation of an “end demand model” 1999 in Sweden, focus has now moved to crime control with the political goal to end all prostitution. 2009 Norway adopted the “Swedish model” on prostitution, criminalizing the clients of sex workers. Similar to the Swedish legislation the Norwegian law regards all sex workers as victims, and there is never any “free choice” to consider as all prostitution is considered forced prostitution. In contrast to the official Swedish policy, where services are designed to assist women to leave prostitution the official policy in Norway is based harm reduction regarding services directed towards sex workers. Our aim in this paper is to explore and discuss how and in which ways the new regulatory regime affect harm reduction work among sex workers. According to both the Swedish and the Norwegian government the ban of purchasing sex has reduced the demand side and resulted in a decline of the market. We want to challenge that as there is no evidence based research, we also want to argue that the political agenda in itself is harmful for sex workers. Prostitution is more invisible leaving sex workers more isolated and stigmatized which negatively affects their risk assessment while working. Law enforcement has turned harm reduction measures such as condoms and lubricant into evidence of crime. Despite the fact that sex workers are regarded as victims the new regulatory regime fail to address the impact of the policy on sex workers rights, health and safety. We will therefore argue for the need to strengthen the harm reduction model in current political discourse.

When purchase of sex is a crime: About new legal measure and its impact on harm reduction among sex workers in Sweden and Norway

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Introduction

The political approach to prostitution has changed radically, not only in the Nordic Countries but also at an international level where prostitution has become a central part of what we can call transnational policing through the link made between prostitution, trafficking and organized crime.

The Norwegian ban of purchasing sex is a measure to combat organized crime, and the new regulatory regimes is to eliminate “safe havens” for foreign criminals by reducing the demand side of prostitution. The Swedish law has been promoted as a part of the gender equality program and a measure to combat violence against women. However, Swedish politicians claim the law has been an effective barrier against the establishment of organized criminals.

In both countries, the most important part of the law is general prevention: The law is sending a message that the society does not accept prostitution. The law is therefore claimed to be a symbolic tool more than as a goal for actually combatting prostitution. Despite the fact that there is no empirical knowledge supporting neither the decline of the market nor the absence of foreign criminals, both the Swedish and the Norwegian governments promote the law as an effective tool to combat prostitution. From our point of view it seems like the new prostitution regimes are not only symbolic tools for sending messages and changing attitudes, they are also symbolic tools for expressing the national identities as morally and culturally superior.

However, the absence of concerns about how the ban has affected sex workers, are in our opinion more problematic. Our aim in this paper is therefore to explore and discuss how and in which ways the new regulatory regime affects harm reduction work amongst sex workers.

From drug and HIV – to migration

In 1995 a special commission in Sweden proposed to criminalize both parties in prostitution, including both hetero and homosexual prostitution.ⁱ The commission did not gain any support and the majority of commentators were opposing any ideas of criminalization. Four years later the Swedish government implemented the Sexköpslag – the law banning the purchase of sexual services. The law was presented as groundbreaking, and it was claimed that “Sweden had taken the leading position when it comes to fighting prostitution”.

However, “The Swedish model” was met with skepticism among the other Nordic countries. In 2004, the Norwegian government concluded after an investigation of the Swedish and the Dutch model that prostitution is a social, not a criminal matter.ⁱⁱ

Five years later the Norwegian government enacted a new law criminalizing those who attempt to, or have purchased sexual services.ⁱⁱⁱ The ban was claimed to be not only the best, but also the only measure to fight international human trafficking.

To understand the changing face of prostitution policy in Sweden and Norway, we therefore have to look to migration and government’s needs for measure to regulate unwanted migrants.

After the political changes in Eastern Europe, both countries experienced an increased number of foreign sex workers. The fear of foreign sex workers with “life threatening diseases” and an increased flood of pimp-managed prostitution from the Baltic countries, Poland and Russia were seen as a potential threat and played a central part of the campaign to outlaw purchasers of sex in Sweden.^{iv}

In Norway the public opinion changed radically from a critical to a supportive stance for the Swedish model when black streetwalkers entered the streets of the Norwegian capital in 2005.

Several national politicians expressed the fear of the country “flooded by foreign whores and criminals”.

Victim discourse

According to both the Swedish and Norwegian laws, sex workers are victims and should therefore not be criminalized even though the idea of criminalizing both parties was also supported.

However, there are some main differences between the two: In Sweden, sex workers are regarded as victims of sexual exploitation and gender based violence. In this perspective there is never any “free choice”, and all prostitution is considered forced prostitution.

In Norway the victim discourse is based more on a general “prostitute misery life-narratives”, which means drug users and women from poor countries who are supposed to be lured or forced into prostitution by poverty and traffickers.

In practice there is no difference. The protection discourse means that you do not trust the person ability to make choices and denies the right of self-determination.

On the other hand there are several other regulations such as the prohibition against pimping, anti-trafficking law, immigration law etc. directed towards regulating sex workers directly or indirectly.

Zero tolerance and harm reduction

There is an important difference between the Norwegian and Swedish law, and that is the organization of social services for sex workers. The difference manifests itself in the approach to prostitution. The Swedish model designed social services to assist women leaving prostitution, while the Norwegian model designs two different regulatory regimes: zero tolerance and harm reduction.^v

The differences follow the two countries’ drug policy where Norway, in contrast to Sweden, has established harm reduction measures in addition to a harsh control policy. However, Sweden had also social services support directed towards women in the drug related prostitution.^{vi}

When it comes to prostitution, Sweden perceive harm reduction measures as something that facilitate criminal activities such as pimping and trafficking. To quote the Swedish governmental inquirer Anna Skarheds public statement: “We do not work with harm reduction in Sweden. Because that is not the way Sweden looks upon this. We see it as a ban on prostitution: there should be no prostitution”.^{vii}

The political approach to prostitution in Norway has since the 1980s been based on social support and harm reduction measures, such as syringe exchange programs, free condoms and lubricant.

It was also stated by the government that women in prostitution should not be affected by the criminalization of the clients. Women working in prostitution still have access to free medical examination, vaccination against Hepatitis A and B, condoms and lubricant. They were also given access to social centers where they can get food and relax, or get other forms of social and legal help and support.

However, the picture in Sweden is not unambiguous. Malmoe a smaller city close to the border of Denmark has kept the tradition of the 1980s when they established the Malmoe-project, and are still providing harm reduction support among street walkers.

In contrast, local authorities in Norway have used the law to justify cuts in funding to social services directed towards sex workers. The idea that social support should end prostitution has also become a part of the Norwegian discourse. According to local authorities in Bergen, social services-support directed towards migrant sex workers was inefficient because they did not manage to end foreign prostitution and were therefore not worth funding.

Implications of the new regulatory regime

However, criminalization of clients in prostitution is not only a measure to control prostitution. Punitive laws also structures our understanding of a phenomenon regarded as deviant, as well as creating new and reproducing old power structures and relationships. The criminalization of clients has also changed the focus away from sex workers and to the demand side.

Since the implementation of the law, the Swedish government has claimed that the ban has reduced the market. However, the Swedish evaluation of the law shows that both the police and social services have limited their knowledge to street prostitution. Sex workers in other arenas are invisible.^{viii}

Norwegian authorities are equally concerned about the act's impact on the demand side and claims that the ban has reduced the market. Despite the fact that the only thing we are able to say so far is that the market is changing. Reports show that both the customer and the seller adjust to new control system, and there is now a large-scale reorganization of the market.

Hypocraci of the victims discourse

It is the sex worker who are the victims of the law enforcement, and the result is violation of their rights; they are more isolated and stigmatized, which negatively affects their risk assessment while working. So despite the fact that sex workers are regarded as victims, the new regulatory regime fails to address the impact of the policy on sex workers rights, health and safety.

This is not surprising. It is hard to change old methods of enforcement. The sex workers are both the visible part, and traditionally the part regulation systems have been aimed at. On the other hand, the link to organized crime creates and legitimates new narratives about police fighting “the tough guys” and rescuing victims.

Police are using different methods. They chase women in street prostitution claiming that they encourage criminal acts. They control and persecute sex workers and their clients so as to catch them in the act. They inform landlords about possible prostitution and threaten them with prosecution for pimping unless the rent agreement of apartments etc. is not terminated immediately. Police raid apartments, massage institutes, studios and hotel rooms. They collaborate with the private sector such as hotel management, and exchange sensitive information not only about sex workers, but also women who might be potential sex workers, which means women from countries in Eastern Europe, Southeast Asia, Africa or South America.

The result is that sex workers are more isolated and are facing worse and more dangerous working conditions. Sex workers have been forced to work alone, visiting the client at home or at a hotel. They report to have less control over the relation to the clients and less negotiation opportunities about the price and about using condoms. They also report of having lost control over the hygienically conditions and the ability to assess the risk.

Use of protection has become a bargaining issue with clients that offer a higher price or claims that others sell sex without a condom. Sex workers who are most dependent on income from prostitution are more vulnerable to pressure from customers who don't want to use condoms. According to health services in Norway, there has been an increase among migrant sex workers of sexually transmitted infections and pregnancy– the latter include also sex with out condoms with partners.

Law enforcement has also turned harm reduction measures such as condoms and lubricant, into evidence of crime. The result is that sex workers are more reluctant to take precautions that could be used as evidence of prostitution, such as condoms, lube, information about social services etc. Condoms are also being stored, or more correctly hidden in ways which might be harmful and destroying, such as in a freezer.

Sex workers are also reluctant to seek out social workers and social services directed towards prostitution because they are afraid that social workers cooperate with the police, or that contact with social services can make them more visible for the police.

From our point of view it seems like sex workers are perceived as fair game having to accept discrimination and the lack of rights other citizens are taking for granted

The police carry out raids in the streets and studios etc with media coverage where sex workers face are exposed to the public. Journalists dial numbers in advertisements and shows pictures from the ads where neither voices nor photos are sufficiently unrecognizable.

So despite the fact that sex workers are regarded as victims, the new regulatory regimes fail to addresses the impact of the policy on sex workers rights, health and safety.

Social stigma

Sex workers are also facing the hypocrisy of the victim discourse in other public settings where both the prostitution myths and stereotypes affects and inform people working in health services, social services or other public and custodial services.

A study among sex workers and erotic dancers in Sweden and Finland, done by Pye Jacobson and the finish organization Pro-tukipiste in 2008, shows that sex workers face several levels of stigma and discrimination by social workers, health workers and therapists. A common problem is prejudices based on stereotypes, and according to the study, a majority of the informants hesitates to inform about their experiences as sex workers or erotic dancers because this knowledge overshadows everything else whatever the problem is related to, which can be back pain, substance abuse, mental problems or other health problems.

Sex workers in Norway also report that they don't inform their doctors or other health staff about their work. And if they do, they experience stigma and prejudices, which also means that they cannot raise questions about health problems which might be related to sex work, such as vaginal infections and other gynecological problems. The lack of possibilities to acquire adequate knowledge about health problems related to sex work or how to reduce injuries or harm, is a significant problem among sex workers.

Considering that both countries require tax on income earned by prostitution, while sex workers are deprived of all rights and dignity in society and have to face discrimination and

stigma at the tax offices, one can say the Norwegian and Swedish prostitution policy is contradictory and based on a well established double standard.

Conclusion remarks

It is difficult for us to understand how the Norwegian and Swedish government can claim that the ban of purchasing sexual services is a success. It is impossible to say whether it has any effect on the reduction of the demand side: after all, history shows that no regulatory regimes have contributed to anything else than the reorganization of the market. It works counterproductive as a measure to combat exploitation, such as pimping and human trafficking.

To define prostitution as a matter of crime has consequences, not only for sex workers but also for the political approach to the phenomenon, and the society as a whole. Prostitution has become a threat to society, and the cause of prostitution is to be found in male demand after sex and cynical criminals who profit on supplying this demand. Prostitution is not longer understood as an expression of economic problems, poverty, social exclusion, labour market, lack of education, drug abuse, migration issues or other societal conditions and problems. This means that we lose an important key to the correction of our self-understanding as a society.

The ban is in strong contrast to the current policy of normalization, empowerment and participation, among other traditionally marginalized groups such as drug users. Taking into consideration that social support and health services are important means for a dialogue between the public and marginalized groups, the legal regulation also have consequences for the societies knowledge of the development and change in the market.

We will therefore not only argue for the need to strengthen the harm reduction model in current political discourse, but also the need to decriminalize prostitution.

ⁱ SOU 1995:15

ⁱⁱ Ministry of Justice and the police (2004): *Purchasing sexual services in Sweden and the Netherlands. Legal Regulation and Experiences*. A Report by a Working Group on the legal regulation of the purchase of sexual services, chaired by Professor Ulf Stridbeck. Issued on 8. October 2004

ⁱⁱⁱ Ot.prp. nr. 48 (2007-2008) Om lov om endringer i straffeloven 1902 og straffeprosessloven (kriminalisering av kjøp av seksuell omgang eller handling mv.) <http://www.regjeringen.no/nb/dep/jd/dok/regpubl/otprp/2007-2008/otprp-nr-48-2007-2008-.html?id=507678> (Proposition. No. 48 (2007-2008) relating to amendments to the Penal Code and Criminal Procedure Act 1902 (criminalizing the purchase of sexual intercourse or act, etc..)

^{iv} Gould, Arthur (2002): "Sweden's law on prostitution: Feminism, drugs and the foreign threat" In: *Transnational prostitution. Changing global patterns* (Ed): Susanne Thorbek and Bandana Pattanaik. London – New York: Zed Books

^v Skilbrei, May-Len og Renland, Astrid (2008): "Å tolerere eller ikke tolerere, det er spørsmålet: Forholdet mellom lovgivning og sosialt arbeid på prostitusjonsfeltet". *Tidsskrift for velferdsforskning* 11(3): 166 - 178 ("To tolerate or not tolerate, that is the question: the relationship between law and social work in the field of prostitution.")

^{vi} Svanström Yvonne (2004): Criminalising the john – a Swedish gender model? In: *Politics of prostitution. Women's Movements. Democratic states and the globalisation of sex commerce*. Ed: Joyce Outshoorn. Cambridge University Press.

^{vii} Agustín, Laura (2010): Behind the happy face of the Swedish anti prostitution law. <http://www.lauraagustin.com/behind-the-happy-face-of-the-swedish-anti-prostitution-law>

viii Förbud mot köp av sexuell tjänst. En utvärdering 1999–2008
<http://www.regeringen.se/content/1/c6/14/91/42/ed1c91ad.pdf> (Ban on purchase of sexual services. An evaluation 1999-2008)