

**DEMAND CHANGE:
UNDERSTANDING
THE NORDIC
APPROACH
TO PROSTITUTION**





The Coalition Against Trafficking in Women Australia (CATWA) is the Australian branch of CATW International, a Non-Governmental Organisation that has Category II consultative status with the United Nations Economic and Social Council. We are a secular, feminist organisation that works locally and internationally to end all forms of sexual exploitation of women and children, especially prostitution, trafficking, and pornography.

OUR POSITION

CATWA argues that no effective policy can be developed against the trafficking of women into prostitution – which is the most common form of trafficking – without an understanding of its connection to the industry of prostitution. Indeed, research now shows that the full legalisation of prostitution tends to increase inward flows of trafficking. We recommend what has been termed the ‘Nordic Model’, which criminalises the purchase of ‘sexual services’* but decriminalises those within systems of prostitution. This approach recognises that systems of trafficking and prostitution are largely driven by demand and, accordingly, it targets the (overwhelmingly male) buyers rather than those (predominantly women) who are prostituted.

The Nordic Model also focuses on public education programs about the harms of prostitution and the importance of providing a range of dedicated support services for those in prostitution to enable them to exit. Furthermore, the available evidence suggests that the Nordic Model is effective in reducing sex trafficking. This model has been adopted in Sweden, Norway and Iceland as well as Canada, Northern Ireland, Ireland and France and is under consideration in Israel, Luxembourg and Italy.

* ‘Sexual services’ is the most common translation of the terminology used in the Swedish legislation.

OUTLINE

- Legalisation and decriminalisation are failed policy approaches to prostitution.
- The legalisation of prostitution increases trafficking inflows and expands the overall market for prostitution, fostering greater demand for the purchase of 'sexual services'.
- The Nordic Model is an innovative form of prostitution policy gaining traction internationally.
- The Nordic approach directly targets the demand for prostitution by criminalising the actions of pimps and buyers, rather than the actions of prostituted persons: it is a form of asymmetric decriminalisation.
- The Nordic Model acknowledges that the vast majority of buyers are men and that the vast majority of prostituted persons are women and girls.
- This approach recognises prostitution as a form of violence against women and is incompatible with women's equality.
- The Nordic Model incorporates public education programs discouraging the purchase of sex, as well as comprehensive exit programs, and social and economic support to assist prostituted persons to leave the industry.
- The Nordic Model originated in Sweden and has been in operation since 1999. It has been highly effective in reducing the markets for prostitution and sex trafficking in Sweden.
- The Nordic Model has been endorsed by the European Parliament as best practice for preventing sexual exploitation.
- The Nordic Model is now in operation in Sweden, Norway, Iceland, Canada, France, Ireland and Northern Ireland (with variations in Finland and South Korea), and is under consideration in Italy, Israel and Luxembourg.

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PREAMBLE TO THE UPDATED REPORT

A lot has happened since the CATWA team first compiled a guide to the Nordic Model in 2013. Additional jurisdictions have adopted the Nordic Model in the intervening period and more have it under consideration in various forms of drafted legislation. The European Parliament has endorsed the Nordic Model as a way forward for addressing the sex industry through the lens of gender equality.

We have also seen the formation and strengthening of local and international networks of sex trade survivors. Many are pushing for change, both in terms of ending men's demand for the purchase of sexual access to women and girls, and in recognising the intersections of economic, racial and sexual inequality that need to be addressed in order to abolish systems of prostitution.

In Australia, we've seen this manifest in many ways: from the flourishing of the Nordic Model in Australia Coalition (NorMAC), to the survivor-led World's Oldest Oppression conference in Melbourne, in 2016, and the release of the *Prostitution Narratives: Stories of Survival in the Sex Trade* collection. The Nordic Model is increasingly entering public debate with the work of survivors front and centre.

But it has not only been a story of progress. When we launched the original report, there was a significant backlash from sex industry organisations in Australia. This is hardly surprising given that the international progress of the Nordic Model is quite threatening to sex industry businesses. There have also been significant challenges elsewhere, including the decision taken by Amnesty International to call for the decriminalisation of pimps, brothel owners, and sex buyers. So there is clearly still much work to be done.

In Australia, we still need to address the common myths and misrepresentations that are propagated when the Nordic Model is raised in parliamentary inquiries and reports. And, to this end, we hope this report will assist those wishing to know more about the Nordic Model and how it fits into a framework for achieving women's equality.

We have had such supportive feedback from individuals and organisations around the world about the usefulness of the original booklet. Our hope is that this updated version will continue to provide practical information as well as an affirmation that change is possible.

March 2017

INTRODUCTION

This report provides readers with an overview of the Nordic Model and its influence on sex industry policy across the globe. When the original version was published in 2013, it was the first time that such a detailed document on the Nordic approach to prostitution had been produced in Australia. At the time, mainstream media outlets and policy makers around the country seemed to know little of the Nordic Model. A few years on, the term ‘Nordic Model’ now appears more frequently in news reporting and government documents, but it is often poorly explained or misrepresented. It is this lack of understanding in the Australian context, coupled with the increasing influence of the Nordic Model internationally, that led us to provide an updated report in 2017.

We focus, initially, on why more traditional attempts at legalisation have failed and how the Nordic Model offers a new way forward. We then consider the origins of the Model in Sweden, looking at what the law there aimed to achieve and if it has worked. We then offer brief outlines of the status of the Nordic Model in 11 other countries around the world. The information contained in this report will be of use to policy makers, journalists, workers and activists in the area of violence against women, women’s rights, and gender equality, as well as those interested in pursuing social justice in Australia.

THE FAILURES OF LEGALISATION AND DECRIMINALISATION

In the 1980s and 1990s the states of Victoria and Queensland as well as the Australian Capital Territory (ACT) legalised brothel prostitution, while New South Wales (NSW) decriminalised prostitution. In legalised systems some parts of the sex industry, usually brothels, are regulated by the state. In decriminalised systems there is no state oversight and brothels can, in effect, operate ‘like any other business’ (Jeffreys, 2009: 175). Australia was at the forefront of these approaches to prostitution policy. A legalised model, similar to that in Victoria, was later adopted by Germany and the Netherlands. In the last decade, legalisation in Australia has been criticised by feminist scholars as a ‘failed experiment’ (Jeffreys, 2009; Sullivan, 2007). Research on the US State of Nevada (Farley, 2007) shows that policies of legalisation have led to serious social harms and that they do not alleviate the problems they were set up to counter, such as violence against women in the industry and the involvement of organised crime. These conclusions are supported by government reports from Germany (Federal Ministry of Family Affairs, 2007) and the Netherlands (Daalder, 2007) that detail the failures of legalisation policies. German prosecutors have noted, for instance, that legalising

prostitution has 'made their work in prosecuting trafficking in human beings and pimping more difficult' (EU Parliament, 2014). This is, in part, because legalisation not only fails to prevent the harms of prostitution, it exacerbates them by encouraging a boom in the illegal sector and sex trafficking.

In localities that legalise sectors of prostitution, the illegal industry outstrips the legal industry in size and is harder to control than before legalisation (Crime and Misconduct Commission, 2004; Federal Ministry of Family Affairs, 2007; Farley, 2007; Sullivan, 2007). As the legalisation of prostitution leads to an 'expansion of the prostitution market' (Cho et al., 2013), it is therefore not surprising to find that the illegal industry grows in order to meet the greater demand created in areas where policies of legalisation have been pursued.

Laws in Victoria were introduced to legalise prostitution, in part, to help provide a safer environment for women in prostitution, but this has not occurred. Evidence from the occupational health and safety codes produced for the legal industry in Australia show that it is expected that women in legal prostitution will face various forms of physical assault and rape (Jeffreys, 2009, 2010; Sullivan, 2007). International research on the psychological harms of prostitution also shows no difference in the level of harm experienced by those prostituted in legal and illegal industries (Farley et al., 2003).

Far from reducing the involvement of organised crime and trafficking in the prostitution industry, policies of legalisation seem to create more entrenched problems. Organised crime has increased its grip upon, and profits from, both legal and illegal sectors of the industry in Australia (Jeffreys, 2009) and in the Netherlands (Daalder, 2007). In addition, a recent comparative analysis of 150 countries shows that those with policies of legalisation experience larger inflows of trafficked persons (Cho et al., 2013).

Claims that total decriminalisation and deregulation of the sex industry is the way forward to address the shortcomings of legalisation and licencing have also been gaining momentum in some quarters. Total decriminalisation most closely resembles the model applied in NSW and New Zealand (NZ), and it is also the model now, rather infamously, supported by Amnesty International. This model involves not only the decriminalisation of prostituted persons, but also the decriminalisation of pimps, brothel keepers, and sex buyers. Many prominent feminist, women's rights, and sex trade survivor groups have been scathing about Amnesty's support for this model, pointing out that purchasing sexual access to another person is not a human right, and that the health and safety of women in prostitution is not furthered by a total decriminalisation approach (Tyler, 2015).

A recent inquiry into brothels in NSW found that drug use, abuse, organised crime and trafficking remained substantial problems under full decriminalisation (Duff, 2015; Raper, 2015). In addition, the evidence from NZ, often held up as a best practice example by those favouring total decriminalisation, does not show any great improvement to women's safety (Tyler, 2016a). Indeed, the NZ government's own review of decriminalisation (brought in under the Prostitution Reform Act), found a majority of prostituted persons felt that the law change made 'no difference' with respect to the violence of male buyers and that 'few' prostituted persons reported any incidents of violence against them to police (NZ Govt., 2008).

It is also important to note that there have been reports of serious corruption and conflicts of interest in the international lobbying for the total decriminalisation approach. These include a prominent pimp claiming credit for the origins of Amnesty's position (Bindel 2015), and the involvement of a convicted sex-trafficker in groups assisting in the development of the UNAids recommendations 'on HIV and sex work' (Banyard, 2015).

Fortunately, we do not have to choose between outmoded models of total criminalisation, the failures of legalisation, or the deregulation and denial of harm embedded in total decriminalisation. The Nordic Model offers a useful way forward to address sex industry policy, not just in Australia and New Zealand, but internationally.

THE NORDIC MODEL: A NEW WAY FORWARD

The Nordic Model offers an alternative to legalisation and total decriminalisation; it is an innovative approach to prostitution policy that is not based on standard legalisation or criminalisation principles. It is a differentiated model of asymmetric decriminalisation where the *selling of 'sexual services' is decriminalised but the buying of 'sexual services' is criminalised*. The fundamental innovation of the Nordic Model is that it targets *demand*. The Model recognises that it is the demand for 'sexual services' that promotes the expansion of the sex industry and sex trafficking. In addition, it acknowledges that buyers are largely men and that their demand is primarily for buying women and girls. This focus on demand is a radical departure from much existing research and policy which has focused on the 'supply side' of the sex industry and trafficking, i.e. traffickers, trafficking victims and prostituted persons. As there is now an 'emerging consensus' that policies addressing only the supply side of the industry are 'insufficient and ultimately ineffective' (Yen, 2008: 655), there has been growing international interest in ensuring that buyers do not avoid accountability.

The Nordic Model represents more than just legislative change; it must be understood as a more holistic approach that encompasses social and economic support for prostituted persons and public education campaigns about the harms of prostitution and trafficking, alongside a ban on the purchase of 'sexual services'. In countries where the Nordic Model has been adopted, the legislative change itself is seen to be less an issue of law and order, and more an issue of changing societal attitudes and norms (Ekberg, 2004). The Nordic Model aims to make the buying of sex socially unacceptable.

The Nordic Model takes an abolitionist approach to prostitution and trafficking. This approach does not accept that booming markets for prostitution and sex trafficking are desirable or inevitable. Instead, the Nordic Model advocates social and cultural change. Within this model, prostitution and sex trafficking are understood as harmful to prostituted and trafficked persons, as well as barriers to social justice. Criminalising the purchase of sex is seen as an important part of efforts to end violence against women and to achieve gender equality. This approach was affirmed by the European Parliament in 2014, with the adoption of the 'motion on sexual exploitation and prostitution and its impact on gender equality' (EU Parliament, 2014). Also known as the 'Honeyball resolution' it recognised the success of the Nordic Model in Sweden and noted that: 'Exploitation in the sex industry is both a cause and a consequence of gender inequality perpetuating the idea that women's and girls' bodies are for sale' (EU Parliament, n.p.).

Furthermore, the Nordic Model addresses trafficking and supports the provisions set out in the United Nations (UN) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, also known as the 'Palermo Protocol' (Australia ratified the Protocol in 2005). The Protocol is a milestone in international anti-trafficking law, not least because it calls on governments to directly address the demand for trafficking (Yen, 2008). Article 9.5 of the Protocol states:

States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking (UNOHCHR, 2013).

The Palermo Protocol explicitly compels signatories to adopt legislative models, as well as social and educational programs, to discourage the demand for prostitution. The Nordic Model achieves this aim while also addressing the

Palermo Protocol's other main concern, the welfare of victims of exploitation and trafficking.

The following sections of this report outline the origins of the Nordic Model, and discuss in more detail its central aims, its effects, and its development in a variety of countries worldwide. The report concludes by considering how advocacy for the Nordic Model can promote better policy outcomes in Australia.

“The old polarisation into legalization and criminalisation is giving way to a more practical, woman-centered and successful Third Way: decriminalise the prostituted persons...and penalize the customers who create the market...”

Gloria Steinem
[feminist icon]



ORIGINS OF THE NORDIC MODEL: SWEDEN

“Swedish men are now ashamed of buying sex – it’s just not socially accepted.”

- Swedish politician, Jenny Sonesson

The concept of criminalising only the purchase of ‘sexual services’ originated in Sweden. The idea had been raised by various feminist and socialist groups in Sweden for some decades but only gained momentum in the late 1990s. The concept was formalised in 1998 with the introduction of the Law that Prohibits the Purchase of Sexual Services, which was part of a raft of other measures and legislative provisions (the *Kvinnofrid*, or Women’s Sanctuary) to ‘counteract violence against women’ (SMoL, 2013: n.p.). This legislation came into effect in Sweden on the 1st of January 1999. The original version of the law stated: ‘[a] person who...obtains a casual sexual relation in return for payment, shall be sentenced for purchase of a sexual service to a fine or imprisonment for at most six months’ (quoted in Waltman, 2011: 449) but in 2011, the maximum penalty of imprisonment was raised to one year.

Prior to this legislation, neither the buying nor selling of ‘sexual services’ had been illegal in Sweden, but a government inquiry into prostitution in the early 1990s had considered the possibility of full criminalisation (i.e. criminalising those in prostitution as well as people who purchase those in prostitution). In adopting a different way forward, which seeks to punish only the purchase of ‘sexual services’, the Swedish government rejected a traditional model of criminalisation and acknowledged that prostitution is an inherently unequal exchange between the buyer and the bought. In the rationale for the prohibition on the purchase of ‘sexual services’, the government recognised that many prostituted women were effectively coerced into either entering or remaining in prostitution through a confluence of factors including economic and social marginalisation, sexual abuse, substance abuse, and international trafficking and sexual slavery. As a result, the government concluded that:

[I]t is not reasonable also to criminalize the one who, at least in most cases, is the weaker part who is exploited by others who want to satisfy their own sexual drive. It is also important to encourage the prostituted persons to seek assistance to get away from prostitution, that they do not feel they risk any form of sanction because they have been active as prostituted persons (quoted in Waltman, 2011: 454-455).

It is important to point out that although the wording of the legislation itself, and the accompanying explanations of it, are written in gender neutral language, the Swedish government also accepted that women's inequality is at the heart of prostitution. That is, while there are some men (and boys) in prostitution, the vast majority of prostituted persons are women (and girls) and buyers are almost exclusively men (Ekberg, 2004; SMoIGE, 2009).

Indeed, by introducing the Law That Prohibits the Purchase of Sexual Services as part of the *Kvinnofrid*, the government effectively named prostitution as both a site and cause of gender inequality and linked it directly to broader trends of men's violence against women. This is evidenced by the other important measures introduced as part of the *Kvinnofrid*. These included, for instance: new laws targeting men's violence in intimate relationships, a broadened definition of rape, greater social welfare provisions for women experiencing violence, more rigorous provisions regarding sexual harassment in the workplace, more funding for women's shelters and research into violence against women, the establishment of a national rapporteur on trafficking in women, and a national telephone crisis line for women experiencing violence.

WHAT DID THE SWEDISH LAW AIM TO ACHIEVE?

There were several aims associated with the introduction of the law to prohibit the buying of 'sexual services'. Firstly, the government aimed to reduce the market for prostitution. The Swedish Ministry of Labour's *Fact Sheet on Violence Against Women* explains: 'This new prohibition marks Sweden's attitude towards prostitution. Prostitution is not a desirable social phenomenon' (SMoL, 2013: n.p.). Unlike traditional models of criminalisation, however, this is not seen as an issue of morality or decency where ordinary citizens must be 'protected' from exposure to the industry of prostitution. Rather prostitution is seen as undesirable because it contributes to women's inequality. As Gunilla Ekberg, writing for the Swedish Ministry of Industry, Employment and Communications explains:

In Sweden, it is understood that any society that claims to defend principles of legal, political, economic, and social equality for women and girls must reject the idea that women and children, mostly girls, are commodities that can be bought, sold and sexually exploited by men (Ekberg, 2004: 1188).

This focus of the law has sometimes overshadowed the fact that it was also brought in to address the safety and wellbeing of people (primarily women) in prostitution. That is, the existence of prostitution was seen as harmful not only to society and gender equality more broadly, but also that the practice of prostitution

was seen as harmful to those actually being prostituted (Ekberg, 2004; Waltman, 2011). Thus, when the purchase of 'sexual services' was criminalised, the Swedish government announced increased funding for exit programs and greater social service support to help women leave prostitution and establish their lives outside of prostitution (SMoL, 2013; Waltman, 2011).

In addition, the justification for the law linked trafficking to prostitution through the concept of demand. As the Swedish Ministry of Integration and Gender Equality explains: 'What primarily sustains trafficking and prostitution is demand. In other words, the fact that people – mostly men – buy sex' (SMoIGE, 2009: 4). Moreover, the government sought to show that demand for prostitution, mostly from men, fuels sex trafficking to the region and that 'prostitution and trafficking for sexual purposes represent a serious obstacle to social equality, gender equality and to the enjoyment of human rights' (SMoIGE, 2009: 4).

Finally, the law aimed to change attitudes, both those of the general public and those of men who had previously purchased 'sexual services'. Thus, the law had a significant normative or educational element (Ekberg, 2004). It was not aimed primarily at mass arrests, but rather to deter the purchase of sex in the first place. The passing of the law and the associated public education campaigns have affected attitudes in Sweden. In 1996, only 45 per cent of women and 20 per cent of men were in favour of criminalising the purchase of sex. By 1999 this had jumped to 81 per cent of women and 70 per cent of men in favour of the new law (Waltman, 2011). In 2014, the number of women supporting the law had risen to 85 per cent (Mujaj & Netscher, 2015).

HAS THE SWEDISH LAW WORKED?

It has now been more than fifteen years since Sweden introduced the Law that Prohibits the Purchase of Sexual Services. A wide range of evidence, including government reviews, police reports, and research studies, suggests the law has been very effective in reducing the markets for prostitution and sex trafficking.

According to a variety of Swedish NGOs and government agencies, street prostitution 'virtually disappeared' in major cities after the introduction of the ban on the purchase of 'sexual services' (Waltman, 2011: 459). Other forms of prostitution are also thought to have declined. In the mid-1990s, for example, the Swedish Prostitution Inquiry estimated that there were around 2500-3000 women in prostitution in Sweden. A study undertaken by researchers at the Nordic Institute for Women's Studies and Gender (NIKK) suggests this number had fallen to around 650 people by 2008 (Swedish Institute, 2010; Waltman, 2011).

The Swedish government acknowledges, however, that evaluating the effects of the ban is ‘a difficult task’ given that ‘[p]rostitution and human trafficking for sexual purposes are complex, multifaceted social phenomena that occur in part in secret’ (Swedish Institute, 2010: 7). Subsequently, the government has investigated claims that prostitution has simply shifted from the streets to less visible locations. The results of this investigation led the Swedish government to publicly claim that street prostitution in Sweden had been reduced by half during the period 1999-2008 (Swedish Institute, 2010). This figure was determined after independent, comparative research was carried out in conjunction with extensive consultation processes incorporating the police, social services and relevant NGOs.

Claims that the law has reduced the market for prostitution are strengthened by research carried out in neighbouring Nordic countries. For instance, the number of people in prostitution in Sweden in 2008 was estimated at around 650, while in neighbouring Denmark, where prostitution is legalised, the number was put at around 5500 (Holmström & Skilbrei, 2008 cited in Waltman, 2011). Such a discrepancy is even more striking when the total population of these two countries is taken into account (see table below).

	Total Population	Number of People in Prostitution
SWEDEN	9.4 million	650
DENMARK	5.6 million	5567

Table 1.1

That is, the prostitution population is approximately 15 times larger, per capita, in Denmark than in Sweden. Furthermore, when prostitution was still legal in nearby Norway, it had a prostitution population about eight times greater, per capita, than that in Sweden (Waltman, 2011). As the official review of the Swedish law explains: ‘while there has been an increase in prostitution in our neighbouring Nordic countries in the last decade, as far as we can see, prostitution has not increased in Sweden...given the major similarities in all other respects among the Nordic countries, it is reasonable to assume that prostitution would also have increased in Sweden if we had not had a ban on the purchase of sexual services’ (Swedish Institute, 2010: 9).

Evidence on the proportion of men who report paying for ‘sexual services’ is also in line with the data showing a reduction in the market for prostitution. Even many

of those who criticise the law accept that it has reduced demand (Kelly & Lovett, 2016).

CRITICISMS AND RESPONSES

It must be noted that the ban on the purchase of sexual services, while enjoying substantial public support in Sweden, has still been controversial, and there have been a variety of criticisms of the law (Waltman, 2011; e.g. Jordan, 2012; Wallace, 2010). These criticisms have often centred on two key issues: that the law has pushed prostitution ‘underground’ and that the law has exposed women in prostitution to more dangerous conditions. In this section we explain why such criticisms are either inaccurate or unfounded.

Has prostitution just gone ‘underground’?

Many critics of the Swedish law argue that prohibiting the purchase of sex has pushed prostitution ‘underground’ (Jordan, 2012). This is generally taken to mean that prostitution has moved off the streets, to indoor locations, with solicitation generally occurring online, rather than in public. As Janice Raymond (2013), former director of the Coalition Against Trafficking in Women (CATW) has argued, however, it is unclear why indoor forms of prostitution should be seen as inherently worse or more ‘underground’ than street prostitution. Indeed, the Swedish National Police Board has stated it is easier to track online prostitution markets with greater accuracy than traditional forms of street prostitution (Raymond, 2013). But the intimation by critics is that the law has not reduced the overall market for prostitution; it has simply displaced it into new locations.

The official review of the ban in Sweden explicitly sought to determine if this kind of displacement had taken place. It was noted in the final report that while evidence of greater prostitution activities in non-street contexts (e.g. escorting, sex-clubs or advertising in newspapers and online) had been sought, none had been found (Swedish Institute, 2010). Similarly, a more recent study on prostitution in Sweden also found that, while the availability of information about ‘sexual services’ online had increased, that there was no evidence of an increase in the actual number of prostituted persons (Mujaj & Netscher, 2015). While the Swedish government admits it may be difficult to calculate exact numbers of people in prostitution, the suggestion that prostitution has gone ‘underground’ has not found any support in existing research.

As well as the external measure of the number of people in prostitution conducted across the Nordic countries (Table 1.1), there are other pieces of evidence that support an overall reduction in domestic prostitution and in trafficking for sexual

purposes in Sweden after the introduction of the Law that Prohibits the Purchase of Sexual Services. There is evidence that Sweden is no longer seen as a lucrative market by sex trafficking networks and that there has been a reduction in the number of men buying 'sexual services'.

Swedish police monitoring trafficking networks in the region noticed changes after the introduction of the law banning the purchase of sex. Telephone intercepts conducted by Swedish police in the years following the introduction of the ban showed that traffickers and pimps were 'disappointed with Sweden's market for prostitution' (Waltman, 2011: 459). The official review also outlines that many police and social workers report that criminal groups selling women for sexual purposes in the region view Sweden as a 'poor market' and are discouraged from establishing networks in Sweden because there is less demand for prostitution. Attempting to traffic women to Sweden for prostitution was seen as being higher risk and less profitable. The review adds that '[a]ccording to the Swedish Police, it is obvious that the ban against the purchase of sexual services works as a barrier for human traffickers and procurers to establish themselves in Sweden' (Swedish Institute, 2010: 29).

In addition, less men report buying sexual access to women. Research from the Nordic Institute for Women's Studies and Gender research (NIKK) shows that since the introduction of the Law that Prohibits the Purchase of Sexual Services, the number of respondents reporting that they have purchased sex has fallen (cited in Claude, 2011; Ekberg & Wahlberg, 2011). In 2008, the researchers conducted a survey of 2500 individuals between the ages of 18 and 74 and found 7.9 per cent reported buying sex. This was compared to a similar poll in 1996, where 13.6 per cent of respondents reported buying sex (Claude, 2011). This is consistent with international research, which shows that legislative measures aimed at penalising buyers are reported, by buyers themselves, as the biggest deterrent (Farley et al. 2009; Macleod et al., 2008). Swedish men are also now less likely to buy sex than their counterparts in Norway and Denmark (Kotsadam & Jakobsson, 2014). Criminalising the purchase of 'sexual services' can, and does, change behaviour.


Are women exposed to more dangerous conditions?

Some critics of the Swedish law, mostly from 'sex worker rights' groups (e.g. Rose Alliance), have suggested that banning the purchase of 'sexual services' has placed prostituted women in more dangerous conditions (see also: Jordan, 2012). This is an offshoot of the argument that prostitution has gone 'underground' but there is no evidence that indoor prostitution is more dangerous than street prostitution. Indeed, vocal opponents of an abolitionist approach to prostitution have often

claimed that 'indoor prostitution' is safer and therefore more preferable than other forms (e.g. Weitzer, 2005; 2007).

There is also evidence to suggest that, after the introduction of the new laws in Sweden, women in prostitution felt more able to report sex buyers to the police. In 2003, the Swedish Board of Health and Welfare reported that some informants felt more able to 'file rape complaints against clients, thanks to the law against purchasing sex which, in these cases, had been a source of strength and support' (quoted in Coy et al., 2016).

It is important to note that the Swedish approach to prostitution is profoundly different from the more traditional 'harm minimisation' approach taken by those promoting legalisation or decriminalisation. The Swedish model does not aim to make systems of prostitution more palatable or acceptable but rather to reduce and ultimately abolish the existence of a market for prostitution; thereby, at least reducing – and potentially eliminating – harm altogether. As legal scholar Max Waltman (2011) has argued, the traditional approach to harm minimisation has accepted that the abuse of women in prostitution is inevitable, whereas the Swedish model questions why any level of abuse should be acceptable at all.



“We've changed the
mindset of the Swedish
population.”

Simon Häggström
[Detective, Stockholm Police]

THE SWEDISH MODEL BECOMES THE NORDIC MODEL

Actions from women's rights and feminist organisations, coupled with the success of criminalising the purchase of 'sexual services' in Sweden, led neighbouring countries to reconsider their own laws governing prostitution and trafficking. Norway and Iceland have since adopted laws based on key elements of the model pioneered by Sweden, and Finland has adopted a (less effective) variation. As a result of these changes what was originally seen as the Swedish model, is often now referred to as the 'Nordic Model'. Denmark remains the only country in the region without some version of prostitution law which directly attempts to target and limit demand for 'sexual services'. It is therefore not surprising that Denmark continues to experience much higher rates of prostituted persons per capita than those found in other Nordic nations.

ICELAND

Iceland criminalised the purchase of 'sexual services' in 2009 and, in 2010, extended this ban to specifically cover the operation of strip clubs and companies profiting from the nudity of their employees. These laws were widely supported by the general public. At present, buyers face fines, or up to one in year in jail, similar to the original Swedish law. The Icelandic law was explicitly based on the understanding of human trafficking advanced by the Palermo Protocol, which acknowledges that trafficking can occur within, as well as between, countries and that the line between trafficking, pornography, prostitution, and strip clubs cannot be clearly delineated. Jóhanna Sigurðardóttir, Iceland's then prime minister, described the introduction of the law as an important move for women's equality: 'The Nordic countries are leading the way on women's equality, recognizing women as equal citizens rather than commodities for sale.'

By 2013, only two of the 13 strip-clubs that existed in Iceland before the ban were still in operation (albeit illegally). There are also laws against the production, publication and/or importation of pornographic material. However, there are still few prosecutions and convictions of trafficking offenders and funding is considered inadequate for this area of law enforcement. There have also been recent reports of increased numbers of tourists paying for sex in the capital, Reykjavik, with criminal gangs reportedly trafficking foreign women to meet rising demand from male tourists on 'stag nights.' Several government agencies have run a public education campaign about trafficking and sexual exploitation, in response, and women's rights groups, such as Stígamót, are pushing for prosecutions of those who pay for sex in Iceland, including tourists.

Further information

General Penal Code (Iceland):

https://eng.innanrikisraduneyti.is/media/Log_og_reglugerdir/AHI.pdf

‘Iceland’s stripping ban’

http://www.salon.com/2010/03/26/iceland_bans_stripping_strip_clubs/

‘Iceland wakes up to trafficking for sex work’

<http://www.ipsnews.net/2010/04/rights-iceland-wakes-up-to-trafficking-for-sex-work/>

Icelandic Women’s Rights Association

<http://kvenrettindafelag.is/status-women-iceland/>

‘Increase in escort ads’

<http://icelandreview.com/news/2016/10/20/five-fold-increase-escort-ads>

Stígamót

<http://www.stigamot.is/>

US State Department Trafficking in Persons Report - Iceland

<http://www.state.gov/j/tip/rls/tiprpt/countries/2016/258783.htm>

NORWAY

In 2009, Norway became the third country in the Nordic region to make the buying of ‘sexual services’ a criminal offence. There is a long history of the women’s movement in Norway pushing for the criminalisation of buyers and it gained momentum when the trade union movement began to publicly support the model in the 1990s. In 2005, the Norwegian Confederation of Trade Unions, an influential player in Norwegian politics, voted in favour of a law to penalise the buyers of ‘sexual services’. The increase in trafficking into Norway for the purposes of sexual exploitation was seen as a decisive factor that led to the change in legislation. It was argued that, as trafficking is fuelled by demand – from almost exclusively male buyers – it was necessary to address demand in order to reduce trafficking.

The legislation was enacted as amendments to the General Civil Penal Code. Section 202 covers pimping and has penalties of fines and/or imprisonment up to five years, and Section 202a deals with the buyers and includes a fine and/or imprisonment of up to six months. The legislation applies to all persons in Norway, but also to Norwegian citizens and persons normally resident in Norway who purchase ‘sexual services’ in another country.

The legislation in Norway has been very effective. By the end of 2010 all known brothels in Oslo were shut down and street prostitution (similar to Sweden) is thought to have dropped by around 50 per cent. There have been hundreds of arrests since the legislation came into force and, in Oslo, the fine is NOK 25000 (approx. AUD \$4370). Even groups opposed to the law have admitted that it has become difficult for people to buy 'sexual services' and that there are fewer 'customers'.

In August 2014, an independent evaluation of the legislation was presented to the Norwegian Ministry of Justice and Public Security. The main findings of the report revealed a reduction in the demand for buying of sex and the extent of prostitution. According to the report, there has been a reduction in trafficking for sexual exploitation and that, despite concerns from some sex industry groups, there is no evidence of an increase in violence against prostituted persons after the ban was introduced.

Other research on the effects of the law in Norway also suggests that women who remain in prostitution are now less likely to encounter extreme violence. While sex work rights group 'Pro Sentret' had initially claimed that women in prostitution were facing more dangerous conditions after the criminalisation of buying 'sexual services', their own research demonstrated that women were, in fact, *less* likely to be raped, punched or robbed since the introduction of the law.

Further information

Amendments to the Penal Code of 1902 (Norway) and the Criminal Procedure Act (criminalization of the purchase of sexual activity or a sexual act)

http://www.regjeringen.no/upload/JD/Vedlegg/Norsk-engelsk_lovvedtak.pdf

'A glimpse of 30 years of struggle against prostitution by the women's liberation movement in Norway.' <http://www.catwinternational.org/Content/Images/Article/443/attachment.pdf>

'Criminalising the purchase of sexual activity'

<http://www.regjeringen.no/en/dep/jd/whats-new/News/2008/criminalizing-the-purchase-of-sexualac.html?id=537854>

'Evaluation of Norwegian legislation criminalising the buying of sexual services'

<http://www.eu-norway.org/news1/Evaluation-of-Norwegian-legislation-criminalising-the-buying-of-sexual-services/- .V4je05N95E4>

Kvinnefronten - The Women's Front of Norway

<http://kvinnefronten.no/>

‘New research shows violence decreases under the Nordic model: Why the radio silence?’
<http://www.feministcurrent.com/2013/01/22/new-research-shows-violence-decreases-under-nordic-model-why-the-radio-silence/>

‘Norway’s closely watched prostitution ban works, study finds’
<http://www.reuters.com/article/us-norway-prostitution-idUSKBN0GB1BL20140811>

US Department of State Trafficking in Persons Report - Norway
<http://www.state.gov/j/tip/rls/tiprpt/countries/2016/258835.htm>



“We must end demand.
Demand for the
prostituted is the engine
that drives sex
trafficking. The Nordic
Model works.”

Sex Trafficking Survivors United
[international NGO]

THE NORDIC MODEL: GOING GLOBAL?

More recently, jurisdictions outside of Scandinavia have begun to seriously consider the Nordic approach to prostitution as a viable alternative to both legalisation and traditional criminalisation. Several countries have also developed draft legislation which would criminalise the purchase of sexual services. These laws have been proposed by a variety of parties across the political spectrum, from Socialists in France, to Unionists in Northern Ireland.

CANADA

In late 2014, Bill C-36, the Protection of Communities and Exploited Persons Act, received Royal Assent. Through a series of amendments to existing law it 'denounces and prohibits' the purchase of sexual services, while decriminalising – for the most part – prostituted persons. The Bill was a response to a 2013 decision by the Canadian Supreme Court (the *Bedford* ruling) that directed Parliament to come up with new legislation.

In early 2014, the Canadian government launched a month long online consultation on prostitution legislation. More than 31000 individuals and 117 organisations responded. Overall, 56 per cent of respondents felt that purchasing 'sexual services' should be a criminal offence and 66 per cent felt that selling 'sexual services' should not be a criminal offence.

One of the important considerations in the framing of the legislation was the fact that Aboriginal women and children are over-represented in prostitution. The Native Women's Association of Canada (NWAC) pointed out that 'prostitution exploits and increases the inequality of Aboriginal women and girls on the basis of their gender, race, age, disability and poverty' and the NWAC firmly advocated for the Nordic Model. Prostitution has also been framed by indigenous women's rights activists in Canada as a form of colonialism and men's violence against women, and has been argued to have harmful effects on the women and girls sold to men for sex. It has also been found that a considerable amount of sex trafficking in Canada involves the movement of vulnerable persons, mostly Aboriginal women and girls, from one locality to another.

Under Bill C-36, purchasing 'sexual services' carries a mandatory fine of \$500 for a first offence, increasing with subsequent offences, and allows for imprisonment up to a maximum of 5 years, or 10 years if the victim is a child. The new approach was outlined by the Canadian Department of Justice as also incorporating vital funding for exit programs:

The new criminal law regime seeks to protect the dignity and equality of all Canadians by denouncing and prohibiting the purchase of sexual services, the exploitation of the prostitution of others, the development of economic interests in the sexual exploitation of others and the institutionalization of prostitution through commercial enterprises, such as strip clubs, massage parlours and escort agencies that offer sexual services for sale. It also seeks to encourage victims to report incidents of violence to the police and to leave prostitution. Toward that end, \$20 million in new funding has been dedicated to help individuals exit prostitution.

It should be noted, however, that the legislation has been criticised by some as falling short of the full Nordic Model because it still potentially criminalises prostituted persons if the prostitution occurs in a public place in close proximity to anywhere frequented by children (e.g. schools, day-care centres etc.). There have also been reports about the reluctance of various police forces across Canada in adopting new policing methods in line with the Nordic Model approach, and in mid-2016, women's rights and anti-violence organisations joined together in Vancouver to demand the law be properly enforced in the city.

Further information

Bill C-36, Protection of Communities and Exploited Persons Act:

http://laws-lois.justice.gc.ca/eng/annualstatutes/2014_25/page-1.html

'Prostitution criminal law reform: Fact sheet'

http://www.justice.gc.ca/eng/rp-pr/other-autre/c36fs_fi/

'Online public consultation on prostitution related offenses in Canada: Final results'

http://www.justice.gc.ca/eng/rp-pr/other-autre/rr14_09/p1.html#fn2

Native Women's Association of Canada statement of prostitution

http://www.nwac.ca/wp-content/uploads/2015/05/2012_NWACs_Position_on_Prostitution.pdf

'Technical Paper: Bill C-36, *Protection of Communities and Exploited Persons Act*'

<http://www.justice.gc.ca/eng/rp-pr/other-autre/protect/p1.html>

'Vancouver residents and women's groups demand Mayor Gregor Robertson enforce the law criminalising johns'

<http://www.feministcurrent.com/2016/06/15/vancouver-demands-gregor-robertson-enforce-prostitution-law/>

FRANCE

In April 2016, France adopted legislation to criminalise the buying of 'sexual services' and provide legal and financial aid to those exploited in the sex industry. The law is based on abolitionist principles and overturned a 2003 law which sought to penalise prostituted persons working openly in the streets. According to Socialist MP Maud Olivier: 'the law is intended to reduce violence towards prostitutes and to get it into the general mind-set that paying for sexual services is not acceptable...Prostitutes are victims and should not be treated like criminals.'

Historically, prostitution has not been illegal in France, although associated activities such as soliciting, pimping, running brothels and living off the earnings have been. Measures to police these activities in recent decades have been largely ineffective. In response to the inadequacy of existing legislation, and faced with an increasingly visible number of trafficked women entering France, a parliamentary commission was established to investigate all aspects of prostitution in France.

In early 2011, the French Parliamentary Information Commission on Prostitution tabled a report in the National Assembly that called for the adoption of the Nordic Model; it explicitly acknowledged links between trafficking, pornography, and prostitution and named prostitution as a form of violence against women. It proposed a six-month jail term and €3000 fine for the buyers. The report states that foreign women, most of whom are trafficked, make up 80 per cent of prostituted women in major cities in France, compared with only 20 per cent in the early 1990s. The report is also very clear about the harms done to women in prostitution and calls for public education policies to reduce demand.

Based on the recommendations of this report, an in-principle resolution was adopted in 2011, reaffirming the abolitionist position of France in relation to prostitution; it received considerable support from all sides of the Parliament. The details of the proposed Bill, developed by the Socialist government, were made public in September 2013 and the Bill was debated in the National Assembly (lower house of parliament) and Senate soon after.

After a number of rejections by the Senate, the text was finally adopted in April 2016. Sex buyers are now subject to a fine of €1500 (or up to €3500 for repeat offenders), soliciting is no longer criminalised, prostituted women seeking to exit the industry have access to support from social services, and non-French citizens have the right to a temporary residence visa.

While the law has not been uncontroversial in France, it still enjoys significant public support. Prior to the introduction of the draft legislation, more than 100 NGOs published an open letter in support of an abolitionist position on prostitution and 50 politicians, from a range of parties, co-signed an open letter in *Le Monde* entitled: ‘Prostitution: mobilisons-nous pour une loi d’abolition!’ (tr: Prostitution: let’s mobilise for an abolitionist law!). Prime Minister Manuel Valls called the adoption of the law ‘a major advance in respect for the human being and for women’s rights’, while feminist organisation Osez le Féminisme called it ‘a true feminist victory and one step closer to equality, which is not attainable so long as the purchase of human beings and the impunity of forced sex remains possible.’

Further information

Full Bill [in French]: <http://www.senat.fr/dossier-legislatif/ppl13-207.html>

French Prostitution Law of 13th April 2016:

http://www.cap-international.org/uploads/4/0/6/7/40678459/fr_law_long_en_pdf.pdf

‘Why France is adopting a law that criminalizes the clients, not prostitutes’:

<http://www.huffingtonpost.com/yael-mellul/why-france-is-adopting-a-b-9635988.html>

‘French draft bill calls for the criminalisation of the purchase of sex’:

<http://www.womenlobby.org/spip.php?article5537>

French Parliamentary Information Commission on Prostitution Report [In French]:

<http://www.assembleenationale.fr/13/pdf/rap-info/i3334.pdf>

‘French Minister for Women seeks abolition of prostitution in Europe’:

<http://www.guardian.co.uk/society/2012/jun/22/french-minister-abolition-prostitution-europe>

‘Prostitution : mobilisons-nous pour une loi d’abolition!’ [In French]:

http://www.lemonde.fr/idees/article/2013/09/20/prostitution-mobilisons-nous-pour-une-loi-dabolition_3482035_3232.html

IRELAND

In February 2017, the Criminal Law Sexual Offences Bill was signed into law in Ireland. The Bill includes provisions to criminalise the purchase of sex, making it illegal to pay for or ‘promise payment for sexual activity with a prostitute’, while ensuring that the ‘person offering sexual acts does not commit any offence’. The

Bill also seeks to address trafficking by incorporating significantly higher penalties for cases where the buyer is proved to have known the prostituted person had been trafficked.

The Bill has not been without opposition, most notably from pro-sex industry groups, but it has received broad political backing with the support of all the major political parties – including Fine Gael, the Labour Party, Fianna Fáil and Sinn Féin – and passed in the Dáil (lower house) by 94 votes to six.

The introduction of the Bill followed a 2013 report from the Oireachtas (Irish legislature) Joint Committee on Justice, Defence and Equality which stated that:

The Committee finds persuasive the evidence it has heard on the reduction of demand for prostitution in Sweden since the introduction of the ban on buying sex in 1999. It concludes that such a reduction in demand will lessen the incidence of harms associated with prostitution and – particularly in view of the predominance of migrant women in prostitution in Ireland – the economic basis for human trafficking into this State for the purpose of sexual exploitation.

In handing down its findings, the Committee also noted that banning the purchase of ‘sexual services’ has a ‘strongly positive normative effect’ on social attitudes to gender equality and sexuality.

The passage of the Bill was the result of a significant campaign in Ireland, from a wide range of groups lobbying for the Nordic Model. As far back as 2008, the Immigrant Council of Ireland (ICI) commissioned research into trafficking and prostitution which revealed the expanding sex trade in Ireland and the increasing exploitation of migrant and trafficked women. Following the publication of the research, ICI brought together key organisations and service providers responding to women in prostitution and trafficking in human beings to lobby for the introduction of criminal sanctions against the buyers of sex, as the best way to discourage the demand for prostitution and to lobby for the de-criminalisation of those exploited in prostitution. Turn Off the Red Light (TORL) is now an alliance of 56 networks, umbrella organisations, trade unions and non-governmental bodies, representing 1.6 million members.

After being founded by sex trade survivors in Dublin in 2012, SPACE International has also gained international attention, and has played a key role in the campaign in Ireland. In addition, the *Prostitution: We Don't Buy It* campaign (funded by the EU and co-ordinated by Ruhama, the Men's Development Network, and the Department of Justice and Equality), which aimed to end male demand for prostitution and sex trafficking, has been influential.

Further information

Criminal Law (Sexual Offences) Bill 2015

<https://www.oireachtas.ie/viewdoc.asp?fn=/documents/bills28/bills/2015/7915/document1.htm>

‘Ireland passes law making it a crime to buy sex’

<http://news.trust.org/item/20170223151948-xnbk3/>

Prostitution: We Don't Buy It

<http://wedontbuyit.eu/>

‘Report on the Review of Legislation on Prostitution’

<http://www.oireachtas.ie/parliament/media/committees/justice/1.Part-1-final.pdf>

SPACE International

<http://spaceinternational.ie/>

‘The ugly truth about prostitution is that without various forms of force it would collapse’

<http://www.thejournal.ie/turn-off-the-red-light-2982934-Sep2016/>

Turn Off the Red Light

<http://www.turnofftheredlight.ie/about/whos-involved/>

ISRAEL

The Prohibition of Consumption of Prostitution Services and Community Treatment Bill was approved by the Ministerial Committee of Israel in 2012 but the government was dissolved before it could proceed further. The Bill, based on the Nordic Model, would have brought the Israeli approach into line with the Palermo Protocol. It was also seen by some as a logical extension of Israel's 2006 anti-trafficking law, which redistributes funds raised from trafficking fines to assist victims with rehabilitation, legal representation and compensation. Prostitution is currently legal in Israel, though organised prostitution through pimping and brothel-keeping is not.

Following an announcement from the Justice Ministry, in April 2016, a committee has been formed to evaluate again whether to criminalise the purchase of sex. The formation of this committee is the result of efforts of women's groups and female politicians, over almost ten years, pushing to criminalise clients. Zehava Galon, of the left-wing Meretz party, has been a prominent proponent of these measures and, in her words: ‘the consumption of prostitution is a crime against women’s

rights and human rights, and it's time the state recognised it as such.' According to Tzipi Nachshon-Glick, head of the Social Affairs Ministry's youth service, under the new proposals: 'In addition to police enforcement, we suggest that every client who is convicted is required to take workshops about the woman's experience as a prostitute and the hardships she has to bear. The workshops will be given by women who survived prostitution.'

In mid-2016, the Welfare Ministry published a report which estimated that there were between 11,000-13,000 prostituted persons in Israel, of whom 95 per cent were women and girls. It also found that the majority of women entered prostitution due to 'financial woes' and that a minority were pushed into the sex trade due to pre-existing drug-addiction. More than three quarters of the prostituted women surveyed for the report stated that they wanted to exit prostitution.

A significant majority of Israelis reportedly support the government 'curbing prostitution', but the concept of criminalising demand, specifically, remains more controversial. Despite this hurdle, the Nordic approach continues to be supported by a variety of politicians, legal scholars, and migrant rights groups, as well as feminist organisations. As Professor Shulamit Almog surmises: 'There is a reasonable chance that Israel will eventually join the small club of countries that have embraced the prostitution-as-harm approach and reformed their law accordingly. Such a process might be sluggish...Nevertheless, it might be on its way.'

Further information

Proposed Bill (2012): http://www.rsy-netzer.org.uk/images/stories/Proposed_legislation.pdf

'In anti-prostitution battle, Israel takes a trick out of Europe's book'
<http://www.timesofisrael.com/in-anti-prostitution-battle-israel-may-join-europe-in-punishing-johns/>

'Israel, where prostitution is legal, debates criminalising the men who pay for sex'
<https://theconversation.com/israel-where-prostitution-is-legal-debates-criminalising-the-men-who-pay-for-sex-66257>

'Stop blaming Israeli prostitutes; what about the clients?'
<http://www.haaretz.com/weekend/magazine/.premium-1.539226>

'The face of Israeli prostitution'
<http://www.ipost.com/Metro/The-face-of-Israeli-prostitution-413413>

ITALY

In 2015, there was a proposal – which became known as the Spilabotte Bill – to decriminalise pimping and brothel keeping within so-called ‘red light districts’ and to criminalise prostitution, including the criminalisation of prostituted persons, outside of these designated areas. The Bill was touted by its proponents as increasing government regulation, tackling trafficking, and helping the country’s economy through increased taxation of the sex industry.

These changes were designed to overturn the decades old ‘Merlin Law’, introduced by the Socialist Party in 1958. This law prohibited the ‘exploitation of prostitution’ and aimed, primarily, to prohibit ‘procuring’ and pimping. Under the ‘Merlin Law’ prostitution in various public spaces was prohibited, but street prostitution itself was not outlawed at the national level (although local authorities have enacted various ordinances against it).

Italian feminist, anti-trafficking, and women’s rights groups – including Resistenza Femminista, IROKO, UDI Napoli and Salute Donna – have been prominent in opposing the Spilabotte Bill and pushing for a more open discussion of the Nordic Model in Italy as well as better support for trafficked women. This is seen as particularly important in Italy, where the visibility of trafficked women in the sex industry has increased in recent years, with tens of thousands of women estimated to have been trafficked from Nigeria alone in the last decade.

Campaigns against the quasi-legalised proposal of the Spilabotte Bill have been largely successful and, in mid-2016, a draft law was presented to the Chamber of Deputies in Italy, proposing that the purchase of ‘sexual services’ under any conditions be made an offence instead, with fines between €2 500 and €10 000, and with repeat offenders risking up to a year in prison. In introducing the law Democratic Party MP Caterina Bini made links between prostitution and trafficking, and drew attention to the 2014 European Parliament resolution that supports the Nordic Model and calls on all states to do more to prevent the trafficking in women and children for the purposes of sexual exploitation.

Feminist groups have announced that they are still working to ensure the draft law, and any future law changes, accurately reflect the ideals of the Nordic Model and will provide fully funded exit programs and support for trafficked women. To this end, an international forum on the Nordic Model was held in Rome in early 2017, bringing together feminist organisations, survivor groups, and representatives from Sweden, France and Norway with Italian MPs, to promote a better understanding of the aims and successes of the Nordic Model.

Further information

‘International seminar on the Nordic model response to prostitution’ [in Italian]
<http://www.resistenzafemminista.it/wp-content/uploads/2015/04/Seminario-20gennaio2017.pdf>

‘Italy mulls fines of up to €10k for prostitutes’ clients’
<http://www.thelocal.it/20160715/italy-mulls-10000-fine-for-clients-of-prostitutes>

‘Italy will become a pimp if it legalises prostitution say campaigners’
<http://www.ibtimes.co.uk/italy-will-become-pimp-if-it-legalises-prostitution-say-campaigners-1501851>

IROKO
<http://www.associazioneiroko.org/it/>

‘Legalisation of prostitution currently discussed in Italy’
<http://www.womenlobby.org/Legalisation-of-prostitution-currently-discussed-in-Italy>

‘My bill against the “slavery” of prostitution’ [in Italian]
<http://www.caterinabini.it/la-mia-proposta-di-legge-contro-la-schiavitù-della-prostituzione.html>

‘Trafficked to Turin: The Nigerian women forced to work as prostitutes in Italy’
<https://www.theguardian.com/global-development/2016/aug/07/nigeria-trafficking-women-prostitutes-italy>

Resistenza Femminista
<http://www.resistenzafemminista.it/>

NORTHERN IRELAND

In June 2015, the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) came into effect and it became a crime to pay for ‘sexual services’. This was explained as shifting the burden of responsibility from those prostituted, to their ‘clients’. The legislation also enhanced the capacity of law enforcement to tackle human trafficking and modern slavery in a number of ways. In addition, the Act included a raft of measures aimed at trafficking prevention and the provision of improved support for victims.

The shift to criminalising only the purchase of ‘sexual services’ is part of wider debates about reform to the legislative framework around human trafficking and slavery, servitude and forced or compulsory labour in Northern Ireland.

In 2012, a Private Member’s Bill titled ‘Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill’ was proposed by Lord Morrow. The Bill primarily focused on reducing trafficking (not only sex trafficking) through ending demand and proposed greater state services and support for victims of trafficking. The Bill included a brief section, which intended to make ‘paying for the sexual services of a prostitute’ an offence, effectively making it an adaptation of the Nordic Model. Prior to the proposed Bill, purchasing ‘sexual services’ of a trafficked person was already a criminal offense in Northern Ireland but Lord Morrow argued that the approach made it almost impossible to prosecute and was not adequate for dealing with demand. The consultation process for the proposed bill was completed in October 2012 and it has been reported that 96 per cent of respondents were in favour of the new legislation.

Further information

Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) <http://www.legislation.gov.uk/nia/2015/2/contents/enacted>

‘Justice Minister launches consultation on Human Trafficking Strategy’

<https://www.northernireland.gov.uk/news/justice-minister-launches-consultation-human-trafficking-strategy>

‘Morrow right to keep driving trafficking Bill’ (2012)

<http://www.belfasttelegraph.co.uk/opinion/columnists/liam-clarke/morrow-right-to-keep-drivingtrafficking-bill-16229408.html>

‘Proposed changes in the law to tackle human trafficking: Consultation paper’

<http://www.niassembly.gov.uk/Documents/Legislation/Bills/Private-Members-Bills/Session-2011-12/human-trafficking-bill/tackle-human-trafficking.pdf>

‘Romanian pair jailed for controlling prostitution and people trafficking’

<http://www.bbc.com/news/uk-northern-ireland-366520>

VARIATIONS OF THE NORDIC MODEL

The Nordic approach to prostitution has also been considered in a number of other countries that have chosen to only adopt certain elements underpinning the original Swedish legislation. Finland has adopted what some have termed an ‘anaemic’ version of the Nordic Model, which penalises buyers of sexual services but only when the prostituted person has been trafficked or coerced. A similar version is being put forward in Luxembourg. South Korea, on the other hand, has introduced comprehensive exit and support programs for women in prostitution, as well as pursuing traffickers and buyers, but still has not repealed laws penalising (non-trafficked) prostituted persons. CATWA maintains that these models are inadequate and do not do enough to protect women in prostitution and penalise those who seek to purchase prostituted persons.

FINLAND

In 2005, the Finnish government proposed a ban on the purchase of sex. After significant debate – and a fight from women’s groups and female MPs to oppose a more draconian ‘full criminalisation’ model, that would have also punished prostituted persons – a somewhat lacklustre version of the laws prohibiting the purchase of sex was enacted in 2006. This ‘compromise’ legislation has been criticised by some as placating ‘sex worker rights’ groups, and protecting ‘the male right to purchase sex’.

Although one of the stated aims of the law is to reduce the incidence of prostitution and deter men from buying sex, the Finnish law only covers buyers who use ‘trafficked, forced or unlicensed persons in prostitution.’ This is not a strict liability offense and, in order for a conviction to be successful, it must be shown that the buyer knew the prostituted person was trafficked, forced or coerced. In practice, this is often very difficult to prove and prosecution rates have been significantly lower than in countries like Sweden with a more general law against the purchase of ‘sexual services’.

Thus, the Finnish law has been seen by many as a failure and the possibility of moving towards a full Nordic Model was considered by the Ministry of Justice in 2014. In its report, the Ministry cited the failures of the current law, and concluded that ‘the best way to improve the position of persons exploited sexually for financial gain would be to prohibit the purchasing of sex.’

Further information

'Abuse of a victim of sex trade: Evaluation of the Finnish sex purchasing ban'

http://oikeusministerio.fi/material/attachments/om/julkaisut/FMVCU3esJ/OMSO_13_2014_Sex_136_s_korjattu.pdf

'Customers responsibility when buying sex'

<http://www.helsinkitimes.fi/finland/finland-news/domestic/11941-customers-responsibility-when-buying-sex.html>

'Comrades, push the red button! Prohibiting the purchase of sexual services in Sweden but not in Finland.'

http://www.academia.edu/2241466/Comrades_Push_The_Red_Button_Prohibiting_the_Purchase_of_Sexual_Services_in_Sweden_But_Not_in_Finland

'Finland's prostitution law and the hope of Nordic unity'

<https://web.archive.org/web/20131106131724/http://nppr.se/2009/10/12/finlands-prostitution-law-and-the-hope-of-nordic-unity/>

'Human trafficking and organised crime: Trafficking for sexual exploitation and organised procuring in Finland.'

<https://www.issafrica.org/acpst/uploads/Human%20trafficking%20and%20organised%20crime.pdf>

'Finnish legislation on the purchase of sexual services: potential revisions?'

<https://web.archive.org/web/20140226092234/http://nppr.se/2011/11/07/finnish-legislation-on-the-purchase-of-sexual-services-expected-to-be-revised/>

LUXEMBOURG

In 2016, proposed changes were put forward to prostitution legislation in Luxembourg which drew on some concepts of the Nordic Model, while falling short of a full Nordic Model approach. Attempting to take a middle-of-the-road option, under the new proposal, prostitution is to be neither prohibited nor 'legally authorised'. Soliciting remains illegal, as does pimping and trafficking. Clients will be penalised if they prostitute minors, victims of pimping or trafficking, or women who are 'particularly vulnerable' (where the vulnerability is obvious or known to the client). These crimes are punishable with imprisonment for one to five years and a fine of a minimum of €251, up to a maximum of €50 000.

This is a change from the current law under which only clients prostituting minors can be penalised. Further changes include measures to tackle pimping, such as the prohibition of providing a location to be used for prostitution, even in the absence

of evidence of ‘exploitation’; and measures to tackle trafficking, such as an increase in the penalty for the theft, destruction or falsification of another person’s identification papers. Exit programs will also be introduced as part of the institutionalisation of a ‘Prostitution Platform’ which will coordinate awareness-raising programs. According to Lydia Mutsch, Minister for Health and Equal Opportunity (Luxembourg Workers’ Socialist Party), ‘the aim is to reduce demand and to raise awareness that often, prostitution is an act of violence’.

The proposed changes have been criticised by the Luxembourg National Women’s Council, on the basis that the new legislation is ‘ignorant of the nature of the prostitution system and continues to differentiate chosen from forced prostitution’, calling this distinction ‘absurd’. While recognising that it makes some progress, the LNWC characterises the proposed law as ‘stagnation’.

Further information

‘Luxembourg proposes tougher penalties for sexual exploiters’

<http://www.wort.lu/en/politics/prostitution-luxembourg-proposes-tougher-penalties-for-sexual-exploiters-5774c8f9ac730ff4e7f62c57#>

National Action Plan on prostitution [French]:

<http://www.mega.public.lu/fr/publications/publications-ministere/2016/plan-daction-national-prostitution/index.html>

SOUTH KOREA

In 2004, the South Korean government passed two laws aimed at reducing the sex industry, prostitution, and trafficking. The Act on the Punishment of Procuring Prostitution establishes legal penalties for pimps and traffickers who attempt to sell people for prostitution, as well as for those who seek to buy a person for the purpose of prostitution. The Act stipulates harsh punishment for the owners of prostitution businesses, the scaling down of the prostitution industry, and the protection of the ‘victims of prostitution’.

The second law, the Act on the Prevention of Prostitution and Protection of Victims Thereof, outlines social education and awareness-raising measures for the prevention of prostitution, as well as requirements for the protection and social reintegration of people leaving the sex industry. Since the introduction of this law, the Korean government has offered women leaving the sex industry 18 months of assistance, including subsidised accommodation and legal, medical, counselling, and retraining programs, to help them reintegrate into mainstream society.

These laws have brought significant changes to the environment in which men buy women for prostitution in Korea. From 2004 to 2007, 12,562 sex buyers were arrested and these laws have been credited with a 37 per cent reduction in the number of brothels in the country, a 30-40 per cent decrease in the number of bars and clubs, and a 52 per cent drop in the number of women being prostituted.

Unlike the laws in Sweden, Norway, and Iceland, however, the Korean legislation still allows for punishment of a prostituted person if they are deemed by police to not have been trafficked into the sex industry. While the definition of trafficking in Korean law is very broad, this is still viewed by some as the de facto criminalisation of those in prostitution. Furthermore, the effectiveness of the legislation is still constrained by the extent to which police are educated in the principles underpinning it, that is, to protect victims exploited within the sex industry as well as punishing traffickers, pimps and procurers.

Women's organisations in Korea are currently campaigning to have the law changed so that prostituted people, even those deemed not to have been trafficked, are fully decriminalised, as in the Nordic Model. In March 2016 the Constitutional Court of South Korea rejected a challenge to the current law criminalising prostituted persons. Three of the nine justices, however, condemned the ruling, stating that women driven to prostitution by desperate circumstances such as poverty should not be punished.

Further information

Full Act (English translation): <http://researchprojectkorea.files.wordpress.com/2012/03/act-on-the-prevention-of-prostitution-and-protection-of-victims-thereof.pdf>

South Korean Court upholds ban on prostitution:

http://www.nytimes.com/2016/04/01/world/asia/south-korea-upholds-prostitution-ban.html?_r=0

'Korea's New Prostitution Policy: Overcoming challenges to effectuate the legislature's intent to protect prostitutes from abuse'

<http://digital.law.washington.edu/dspacelaw/bitstream/handle/1773.1/597/16PacRimLPolyJ493.pdf?sequence=1>

Women's Human Rights Commission of Korea

http://www.stop.or.kr/index.php?mid=en_sub0101

AUSTRALIA: TIME TO DEMAND CHANGE

Prostitution policy in Australia is determined at the state and territory level. As a result, there are varied approaches to prostitution, creating disjointed and sometimes contradictory legislation across the nation. Some states have systems of legalisation or decriminalisation in operation while others have de facto criminalisation in operation, often as a result of antiquated laws relating to hygiene and the public order. In recent years, legislation on prostitution has been reconsidered in government consultations and inquiries, in almost all states and territories, but policy makers are yet to fully examine the Nordic Model as a potential alternative to existing arrangements.

Indeed, many lawmakers in Australia have continued to overlook evidence of the harms of prostitution and ignore, dismiss or misrepresent the Nordic Model. In Tasmania, for example, the Attorney General has incorrectly claimed in an official paper that ‘sex work’ is criminalised in Sweden (Wightman, 2012: 5) when, in fact, ‘sex work’ is decriminalised in Sweden and only the purchase of sex is illegal. Whistleblowers Tasmania has also pointed out that the Tasmanian government’s call for responses on prostitution law was notably biased (MacGregor, 2012). It required that: ‘Submissions should indicate which regulatory model (decriminalisation, criminalisation or licensing) would be preferable for Tasmania’ (Wightman, 2012: 25), effectively ruling out any discussion of the Nordic Model.

Similar problems of bias have occurred in Queensland and the ACT. In 2012, the Chair of the Standing Committee on Justice and Community Safety in the ACT took the extraordinary measure of attaching her dissenting views as an appendix to the *Inquiry into the Prostitution Act* report (SCoJCS, 2012), after she felt that other members of the Committee had ‘played down human rights problems’ associated with prostitution and ignored evidence that did not fit with the government’s existing approach of legalisation (SCoJCS, 2012: 153-156). In Queensland (which also has a legalised system), the Prostitution Licensing Authority has released only one discussion paper in the last ten years (Wallace, 2010) and it is specifically designed to discredit the Swedish ban on the purchase of ‘sexual services’. Rather than relying on evidence, the paper – subtitled ‘the so-called Swedish model’ – champions legalisation while disparaging prominent women who have publicly supported the Nordic Model in Australia and overseas.

An understanding that the Nordic Model is about significant social change, funding exit programs, and targeting demand has become more evident in recent inquiries and reports. However, the dominant framework through which prostitution policy is understood, is business. That this is primarily a debate about business regulation

and occupational health and safety, rather than gender equality and men's violence against women (Tyler, 2016b). A continuing focus on 'business and regulation' rather than human rights allows policymakers and elected representatives to ignore the fundamental contradiction between providing fertile ground for the sexual exploitation of women and girls and purporting to promote women's equality and end to violence against women. It is time this contradiction was raised in all discussions of gender equality and violence against women across the country.

Debates around prostitution policy in Australia have reached an impasse. None of the existing approaches in this country have been effective in targeting sex trafficking, increasing the safety of prostituted people, or reducing the involvement of organised crime. The experiment with legalisation, for some years held up internationally as a progressive approach to prostitution policy, has been exposed as a resounding failure. Far from regulating and controlling the industry, legalisation has encouraged the demand for prostitution to grow and has seen a boom in illegal brothels. Total decriminalisation has, similarly, failed to provide increased safety for prostituted persons, while traditional criminalisation is rightly criticised as a flawed and outdated approach that compounds harm. But we need not choose between the extremes of legalisation / total decriminalisation and criminalisation. The Nordic Model offers a new way forward for more comprehensive, cohesive and compassionate prostitution policy in Australia.

It's time to demand change.



“Not to be bought and sold for sex should be a human right.”

Dr Max Waltman
[legal scholar]

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