



Criminalizing the Purchase of Sex - As a Means to Combat Trafficking

Seminar on

Trafficking with a Special Focus on Children

Casina Pio IV, Vatican City, 27 April 2015

Chancellor of Justice Anna Skarhed, Sweden

Your Eminences and Excellences, Ladies and Gentlemen

It is an honor to be here today and to have been given the opportunity to speak to you about one of the ways in which Sweden has tried to protect children's rights, as well as the rights of women and men who are victims of trafficking for sexual purposes.

Legislation that prohibits the purchase of sex

On January 1, 1999, as the first country in the world, Sweden passed legislation that prohibits the purchase of sex.

A person who, in other cases than previously stated in this chapter, obtains a casual sexual relation in exchange for payment shall be sentenced for the purchase of a sexual service to a fine or to imprisonment for at the most six months [one year from July 1, 2011]. What is stated in the first paragraph also applies if the payment has been promised or made by someone else. (Swedish Penal Code, Chapter 6: Sexual Crimes, section 11)

The offence comprises all forms of sexual services, whether they are purchased on the street, in brothels, or in other similar circumstances. Attempts to buy sex are also punishable. The payment can be money or goods or a favor of some sort. If convicted the penalty is normally a fine but a buyer can also be sentenced to imprisonment. The maximum penalty was from the beginning 6 months in prison, but is now one year. If the victim is under 18 years of age the maximum penalty is 2 years. The victim as well as the perpetrator can be male or female. (To have intercourse with a child under 15, in some cases under 18, according to Swedish law is always considered to be a rape, with a minimum sentence of 2 years in prison.)

The law criminalizing the purchase of sex first and foremost applies to offences committed in Sweden. It also applies if a Swedish citizen purchases sex abroad if the victim is less than 18 years of age, as well as if a Swedish military employee buys sex abroad. There have been some cases where women in prostitution have been exploited by Swedish personnel in Kosovo.

This means that the Swedish law today, unlike the later implemented law in Norway, does not criminalize all purchase of sex by Swedish citizens outside of Sweden. This is however now under consideration by the government since it could be said to send a double message and thus reduce the normative effect of the law.

The positive direct and normative effects of the legislation have inspired other countries in the European Union and beyond to implement similar laws e.g. England, Wales and Northern Ireland (2010), Norway and Iceland (2009), South Africa (2007), and South Korea (2003). These countries report similar positive results. In France there is right now an ongoing discussion about a similar legislation and in the Netherlands – police and politicians are also interested to learn more about “the Swedish model”.

Evaluation of the offence – Special Inquiry report July 2, 2010

In 2008, when the Swedish law had been in force for ten years, the government appointed me to lead a Special Inquiry. Our task was to evaluate the implementation of the law and its effects. Our results were based on statistical material and research-reports that had investigated different aspects of trafficking and prostitution during the ten years of the law. We also consulted with police, social workers, civil society, public authorities and other key stakeholders. We contacted individuals in prostitution, and women who had left prostitution. The Committee report (*Förbud mot köp av sexuell tjänst. En utvärdering 1999-2008*, SOU 2010:49) was presented to the government on July 2, 2010.

In short we found that:

1. The number of persons exploited in street prostitution in Sweden had halved since 1999.
2. Before 1999 the situation was similar in the Nordic countries. But in 2008 the neighbouring countries, Denmark and Norway had three times as many individuals (read women) in street prostitution as Sweden. (This was before the Norwegian legislation was adopted. When Norway adopted it's law in 2009 they had a radical decrease in the amount of street prostitution.)
3. The concern that prostitution should "go underground" and move from the street to other arenas had not been fulfilled.
4. Prostitution-contacts through the Internet had increased in Sweden as it had in other countries. This however could not be considered to be a result of the law, but was a natural development considering the growth of online technology.
5. The number of individuals offering sex via Internet web pages/ads, according to the surveys made, was also much larger in Denmark and Norway.
6. According to police and social workers there was no evidence of an increase of indoor prostitution.
7. Despite a significant increase in prostitution in the neighbouring countries during the past 10 years, there was no evidence of a similar increase in Sweden. We found it reasonable to believe that this was due to the new legislation.
8. The criminalization had deterred the establishment of organized crime networks/groups in Sweden. The National Police as well as the Swedish rapporteur on trafficking in humans has concluded that the law functions as a barrier against the establishment of traffickers and pimps in Sweden.
9. The law had strong support in Sweden among the public, and had led to a significant change in attitudes, hence it has had a normative effect as well as a direct effect to reduce the extent of prostitution and crime.
10. The criminalization acts as a deterrent for the buyers. Persons with experience in prostitution as well as police and social workers concluded that the buyers had become more careful and that the demand had decreased since the prohibition came into force.
11. According to a study in 2008 less than 8% of Swedish men had in the last year bought someone for prostitution purposes - compared to 13,6% before the law came into force.
12. Despite misgivings that the criminalization of buyers would make it more difficult to reach women in prostitution, that prostitution would "go underground", and that the conditions of individuals engaged in prostitution would worsen, there was no evidence what so ever of negative effects, such as more violence or worse conditions for individuals exploited in prostitution. But the fact remains that it is, and has always been, very dangerous to be involved in prostitution.
13. Police and prosecutors did not report any administrative difficulties to enforce the law. However it is important to note that good enforcement depends on the resources available, and what priorities are made by the justice system.

How do we go forward?

It is important to stress that although two distinct phenomena, there is a clear and strong link between prostitution and trafficking. According to the UN Global Report on Trafficking in People 2014 as many as 33 % of the detected victims are children, twice as many girls as boys. And in Europe the vast majority of the victims of trafficking are victims of sexual exploitation.

The number of victims is incomprehensible. It is estimated that only in Europe 140 000 women and girls are every day victims of trafficking for sexual purposes, forced into prostitution. This is a lucrative business which also finances other types of organized crime, such as dealing in narcotics and weapons. Thus combatting trafficking is essential also in order to prevent other types of serious criminality. And in order to reduce trafficking it is essential and necessary to stop prostitution.

The "new" approach of the so called Swedish or Nordic model is to focus on demand; to focus on the buyer. This is logical to us. If there was no demand there would obviously be no prostitution. It is important to mention that this is no moral issue but a question of human rights! It is also a strong gender issue and a question of equal rights since the overwhelming majority of the victims of trafficking are girls and women.

Several reports have shown that the opposite way of dealing with the problem of trafficking, which is to legalize the "business" and considering the "selling" of sex an ordinary job, has not been successful.

I do not have the time today to go into detail about the many reports. However I want to mention the UN global Report on Trafficking in People 2014. A very strong voice in favor of the Swedish/Nordic model is also the report "Prostitution, trafficking and modern slavery in Europe", of March 2014 by the European Commission's rapporteur Mr Mendes Bota. He concludes that "voluntary prostitution" is a myth, since for the large majority of individuals prostitution is the consequence of either a state of poverty and extreme need or of violence. He also emphasizes that every country has the right to choose its own way but strongly advises legislators all over Europe to follow the example of Sweden and other Nordic countries and criminalize the purchase of sex.

Like Mr Mendes Bota I believe that criminalizing the buyer of sex is today the most effective measure to combat trafficking in human beings. Criminalization is not enough but it is an important message to those who exploit others. To stop trafficking for sexual and other purposes is a huge and difficult task that no individual, organization or even country can solve alone. But we have to believe we can do it together. So we have to be persistent and continue the work against trafficking and prostitution. We owe this to our children and to all the children of our world.

More than 150 years ago, in 1862, the great writer Victor Hugo wrote in his work "Les Miserables", and I quote; "Some say that slavery has disappeared from European civilization. That is incorrect. It still exists, but now it weighs only on women and it is called prostitution".

This is the challenge we still meet today.

It is therefore of great importance that the Holy Father has taken the initiative to have this seminar today in the Casina Pio IV in the Vatican City.