

On Norway adapting the Swedish law.

Criminalizing the purchase of sexual services.

A Summary by Arne Randers-Pehrson, Pro Sentret

The present situation.

All three political parties in Government have voted in favour of having a law that prohibits the buying of sexual services in Norway. On this background the Norwegian Ministry of Justice and Police has made a draft for a new law. This proposal is out on a public hearing where all parties who have a say can give their input. The deadline for this hearing is 10.October this year. The Ministry will then write a Parliamentary Bill. This Bill will probably be presented to the Parliament late winter/early spring next year. The Parliament will probably vote for this law in spring and also set a date for the implementation of the new law. Thus it will probably not come into use before the autumn 2008. Until then it is still not illegal to buy sexual services, except from a person under the age of 18.

The present proposal

The proposed text will be an addition to the present § 202 (on pimping etc.) in the Civil Penal Code. In my – unauthorized – translation it will be something like:

“ §202a. Any person who procure sexual intercourse or act for oneself or another person by giving or promising remuneration, will be punished for the buying of sexual services with fines or imprisonment up to 6 months, or both. One is liable to the same punishment if the sexual act or intercourse is obtained by another person's remuneration.”

The basic elements, as far as I see it, are these:

- ✧ This is, basically, a blueprint of the Swedish law. One will not follow the Finnish model, making a distinction between forced and voluntary prostitution (in Finland one can be punished only if the person selling sexual services is a victim of trafficking or other kinds of force/ exploitation).
- ✧ Premeditation is enough to be punished; that is: it is enough to have made a deal to buy sexual services.
- ✧ One may be sentenced to prison up to 6 months, though it is obviously not the intention of the legislator to use imprisonment except for severe or repetitive cases (it has so far never been used in Sweden). But it is a provision that will give police the right to hold the person for questioning for a period of time and also several other legal means.

Other points of interest in the proposal:

- ✧ There is a discussion on what police methods can be used. The draft is not conclusive, but suggests that one – at a later stage – might introduce control of telecommunication. This means that the police can have information on a person's tele-traffick (phones and e-mail). We are heavily opposing this, because such a provision will be used to control the sexworkers and be a serious violation of their privacy.

- ✧ The Ministry states that the law should be seen as only one out of many measures to reduce prostitution and human trafficking and that one should not jeopardize the situation for those who sell sex. Therefore other measures, both to prevent buying, to change public attitudes and to strengthen social efforts for those who sell sex should be introduced. To achieve this the Ministry refers to Norway's Plan of Action against Human Trafficking (May be downloaded from <http://www.regjeringen.no/en/dep/jd.html?id=463>)
- ✧ There should be an scientific investigation on the effects of this new legislation on the prostitution scene: the extent of demand and supply, the organisation of prostitution (also pimping and trafficking) and the sexworker's own views on their situation (regarding violence, health etc.). This is obviously because such information is missing in Sweden. Documentation on the effects will be of use for evaluation and also for others considering such a measure. We are in favour of such an investigation, but see that its implementation is rather late as the scene is already changing.
- ✧ The costs of introducing a new law are not calculated. It is, however, very clear that the legislator wants this law to be enforced – it should not be only a “symbolic law”. It is therefore reasonable to ask what kind of priorities and economic consequences one can expect.

Background for the shift in Norwegian policies

There has, since the idea was introduced in the early 1980s, been a political majority against the criminalizing in Norway. One major reason for this has been that the health- and social services (including Pro Sentret) have advised not to criminalize. The main argument being the fear that such a law will jeopardize the health and safety of sexworkers – driving the market underground. So, something has happened to change the political climate – mainly within the Socialist/Social Democrat movement. These are probably some factors:

- ✧ The visible prostitution scene – the streets – have changed considerably the last 3 years. Nigerian (and to some extent Bulgarian) women are dominating the street-scene, and also sometime selling sex outside the traditional prostitution area. Most politicians (and also many others) assume that they are victims of trafficking, and are concerned: For the well being of the presumed victims, but also for the fear of organized crime. There might also be an element of xenophobia here. Though the total amount of sex workers have not increased dramatically, it is the nationality, skin-colour and visibility of the sexworkers that has changed for the last years.
- ✧ Public nuisance issues have been a considerable part of the discussion. The “dignity and cleanliness” of our streets etc. is threatened, and introducing law and order seems to be the proper answer (This is – as most people know – a trend in many European cities). This is not only about sexworkers, but also beggars, homeless people, unemployed migrants, people belonging to rom community, drug users etc.
- ✧ Sweden has been very successful in lobbying for their model, claiming that it is a very effective instrument in fighting human trafficking, that public attitudes have changed in Sweden and that prostitution is diminishing.

What are the effects so far?

Among the sexworkers there is quite a lot of anxiety, fear and insecurity of what the new law will bring. Many sexworkers feel that the law is an attack on them and their rights – marginalizing them even more. Also quite a few seem to think that the law will come into action very soon. A few (wrongly) assume that the law only will have an effect on migrant sexworkers and their clients.

Many sexworkers fear that violence will increase, as the decent, regular clients will withdraw from the visible marked.

We have seen some cases of harassment on streetworkers that can be related to the debate and the expectation of a new law. There are traces of racism in some of these harassments.

As for planning for the future, the sexworkers report different strategies.

Some just wait and see, being uncertain how the law will be implemented. Or they just don't see that they have any options (like the drugusers in the streets).

Some work as hard as they possibly can for the time they have left until the law comes into action. Those are often migrants who have a clear goal for their savings – like earning money to set up a business, paying down on debts, supporting their families etc.

Some prepare for sexwork in another arena (indoor) or another country. We have noticed that more sexworkers that used to be only in the streets are now advertising on Internet too.

Some look for alternatives to sex work. There is an increased demand for skills acquisition, job training and language courses.

As for the clients of sexworkers, it is not easy to identify responses, except for discussions on a website on client-issues. Most of the participants there look upon the new law as another confirmation of the marginalization of clients. Studies up to now say that few clients report that they will stop buying sex because of such a law.

What do we anticipate in the long run?

Looking at Swedish experiences, we can assume that the effect will depend very much on how the law will be applied. The political signal to be read out of the draft, is that the law is expected to be enforced – it should not be a symbolic law. Also taking the debate this year into consideration, we can assume that there will be more policing in most places where prostitution takes place, both in-door and out-door.

Also from the Swedish experience, we can assume that street-prostitution will diminish dramatically the first year and then slowly return. The sexworkers remaining on the streets will probably be the ones who have few other options, like drugusers and a few migrants. They expect to be more exposed to bad clients.

Many sexworkers expect to be more dependent upon different kinds of facilitators (landlords, organisers, advertisers, managers etc.). As mentioned before, quite a few are considering moving to the in-door scene and to use Internet for advertising. To do this they usually need the assistance from another person.

Some clients, probably the ones who have moral doubts about buying, will stop buying.

A more uncertain – but disturbing – perspective is that shift to restrictive legal strategies easily lead to more restrictive measures and attitudes in the long run. In my opinion, it is an unfortunate fact that so few decisionmakers have viewed the criminalization in a broader

context, like the general criminal policy (what should be the grounds for (re)introducing legislative measures in the Penal Code, how do we relate to zero-tolerance policy, what should be society's priorities etc.?).

What will Pro Sentret do?

The law will be a reality in a years time. On a short-term basis we are working to have provisions that are as little harmful as possible for the sexworkers. We will argue for a "Finnish model", but realise that this is not what the legislator has proposed. We will also argue against any possible action that violates the integrity of sexworkers – like communication control.

We also have to prepare for changes in the prostitution scene, and should be prepared to change our service accordingly. Having the experience from Sweden in mind, we probably have to focus less on the visible parts of the marked, more on indoor prostitution and on working on the Internet.

There is also a need to provide information on the effects of the law, as the sexworkers themselves see it. We will focus on violence and health issues.

As we now see signs of harassment and further marginalization of sexworkers, we also have to highlight human rights issues and legal support.

However, the debate has paved the ground for social measures too. We will work more on skills acquisition and alternative professional careers.

Lessons learned

I am quite sure this discussion will appear in several European countries. For those facing such discussions it can be useful:

- ✧ To make a clear distinction on trafficking and prostitution – also considering the Finnish model.
- ✧ To point out the lack of documentation of the effects (and costs) of the Swedish model.
- ✧ To point out the fact that most arguments in favour of such a law are of a principal nature, not considering the practical effects and costs and who is paying the price. I think the argument against criminalization that had the most impact is that the safety of sexworkers will be at risk.
- ✧ Not to underestimate the fear of trafficking – also questioning if the Swedish model really is a good instrument in fighting human trafficking.
- ✧ Not to underestimate the fear of "contamination of public places". Be aware that changes in the public prostitution scene with unfamiliar groups and approaches, easily can trigger the demand for simple, restrictive measures and consider how to deal with this.

Further reading:

For an update on what is happening, Pro Sentret's web site will have information in Norwegian and English on the most important developments www.prosentret.no

For background information, we recommend the report given by a working group under the Norwegian Ministry of Police and Justice in 2004. The report on legal regulation of the purchase of sexual services in Sweden and the Netherlands can be downloaded in English at <http://www.regjeringen.no/en/dep/jd/Documents-and-publications/Reports/Reports/2004/Purchasing-Sexual-Services.html?id=106214>

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