

**Don Kulick**  
**Professor of Anthropology**  
**New York University**

## **Talk delivered at Beijing Plus Ten meetings on the “Swedish model”**

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I will say a few words about what has come to be referred to as ‘the Swedish model’ of policy on sexwork. The Swedish model refers to a strong, state-sanctioned stance that holds that all forms of prostitution are, by definition, violence and must therefore be eradicated. The Swedish model arises from two main sources. The first is Nordic Social Democratic forms of governmentality that sanction the state to regulate sexuality not out of religious or overtly moral concerns, but, instead, out of rationally arrived at assessments about the greater public good. The second source of the Swedish model is radical feminist understandings of sexuality. These understandings see individual sexual acts as microenactments of social hierarchies, and argue that social change both reflects and depends on changes in each individual’s sexual behavior. This view highlights the symbolic and structural aspects of prostitution. It claims that single acts of prostitution are degrading to all women, and that the existence of prostitution promotes the view that all women can be bought.

In 1999, Sweden passed a law making it a criminal offense to purchase sexual services. Selling sex remained legal; the criminal act was the purchase of sexual services. This is a translation of the actual text of the law (*italics in original*):

Anyone who for remuneration procures a temporary sexual relationship will be guilty – if their action is not punishable by some other offense according to the penal code – of *purchasing sexual services*, and will be sentenced to fines or prison for not more than six months.

It should be immediately apparent that there are a number of quite serious problems with the way this law is formulated; problems that make it extremely difficult to interpret and enforce. The four key words ‘remuneration’, ‘procures’, ‘temporary’, and ‘sexual relationship’ are far from clear-cut. What constitutes remuneration? A nice dinner in a fancy restaurant – is that remuneration? (Actually, in this case, the courts have been instructed that remuneration includes non-monetary remuneration, ‘such as narcotics, alcohol or furs’). What about

'procure'? If I give a sexworker money for sex with me, that's clear. But what about if a company pays for escorts for visiting businessmen, or I pay for my best friend to have a big night out on the town right before he gets married? Who is prosecutable? The one who paid and didn't have sex, or the one who didn't pay but had sex? What does 'temporary' mean exactly? Should it cover regular clients, who maintain long-term relationships with individual sex workers, or are they exempt from prosecution? And, finally, what exactly constitutes 'a sexual relationship'? We might recall, in another context, how a certain U.S. president managed to complicate that question, admitting that a White House intern had performed fellatio on him on a number of occasions, but steadfastly denying that oral sex constituted 'sexual relations'. The issue is not much clearer here: what exactly has to be done to whom for a given interaction to be considered 'sexual'?

In addition to all this, a fundamental problem with it is that under the law contact with a prostitute is not illegal, and neither is sex with a prostitute. What is illegal is purchasing or attempting to purchase 'a temporary sexual relationship' – a specific action that is extremely difficult to document or prove, particularly when both parties deny it occurred, which of course they both have a strong incentive to do.

It is very difficult to obtain precise statistics about the number of clients who have been prosecuted under the law. The closest I have come is a newspaper article from January 2004 reports that there have been between 86-110 arrests per year. (Göteborgs-Posten "Mindre än varannan åtalad sexköpare fälls ", 2004-01-08, s. 7)  $\frac{3}{4}$  of these arrests never get prosecuted, and of those that do, 65% of the cases end up being dismissed. The article claims that 15% of the men who are arrested confess and pay a fine without the case ever reaching a court. In sheer numbers, all this means that the law has resulted in a total of perhaps 120 prosecutions in the five years of its existence. Fines have been between \$150-\$1,200 USD. In practice, this means that the penalty for purchasing sex is more or less equivalent to the penalty for petty shoplifting.

What has been the effect of the law on sex workers in Sweden? First, it is important to note that the issue of how the law would affect sex workers was of relatively little interest to the Social Democratic League of Women and other groups who were instrumental in getting it passed. Although many of these groups supported the move to criminalize only the clients of prostitutes – on the grounds that prostitutes themselves are oppressed victims – when they were confronted with the possibility that the law might drive sex work underground and make sex workers more vulnerable to exploitation by

profiteers, representatives consistently responded that the purpose of the law was first and foremost to 'mark a stance' or 'send a message' that 'society' did not accept prostitution; hence, the impact of the law on prostitutes was not their primary concern.

Immediately after the law began to be enforced, police noted a drop in the numbers of street prostitutes. This may have something to do with the fact that policemen, who had been allotted 7 million Swedish kronor (\$650,000 USD) to enforce the new law, immediately began making their presence on the streets where sex workers worked very visible. Armed with video cameras, which they ostentatiously pointed at any car that slowed down near a sex worker, they effectively frightened away clients, thus driving the sex workers off the streets. Since the law came into effect, four government reports have been commissioned to evaluate it and to recommend how it might be enforced. The latest report gives these figures:

<b>Changes in the number of street prostitutes in Sweden</b>				
City	<b>1998</b>	<b>1999</b>	<b>2003</b>	<b>1998 - 2003</b>
Stockholm	280	170	190	-32%
Göteborg	286	160	100	-65%
Malmö	160	80	135	-15%
<b>Total</b>	<b>726</b>	<b>410</b>	<b>425</b>	<b>-41%</b>

Source: SoS-rapporten 2003, p.25

In other words, it seems that the number of street prostitutes has diminished since 1999. However, even the government sponsored report that gives these figures admits that it is impossible to know whether this change is because of the law against purchasing sexual services, or because the sexual market has changed due to mobile phones and the Internet. And note that these figures are only about street prostitution. There are no reliable figures on other forms of prostitution, and all of the government commissioned reports concludes that it is in fact impossible to know whether the law has resulted in a significant drop in prostitution in Sweden.

Indeed, researchers report that the passage of the law corresponded with an increase of the number of sex ads on the Internet. Sexworkers interviewed in the mass media report that women with drug problems have been driven to desperation and even suicide by the new law, since they have been unable to put ads on the Internet and make up for the clients they lost as a result of the law. Social workers agree

that the law has made it more difficult for them to reach prostitutes. Police report that their efforts to prosecute pimps and traffickers has been made more difficult because clients, who before the passage of the law were sometimes willing to serve as witnesses, are now disinclined to cooperate, since they themselves are guilty of a crime. Social workers and street prostitutes say that the quality of clients has declined, and a report commissioned by the National Board of Police has concluded that that women are now forced to accept not only more clients (since prices have dropped), but also more unstable and dangerous clients than they would have accepted before the law, when there were more clients and, hence, more choice. In addition, sexworkers report that the law has made it more difficult for them to judge potential clients: they say that it is hard to know if a man displays nervous symptoms because he is worried about being caught by police, or because he is dangerous.

Police harassment of prostitutes has increased – they can be forced to appear in court to provide testimony against the client (they can refuse to witness, but they are still summoned and sometimes escorted to courtrooms), and whenever they are caught with a client, their belongings are searched and they may be frisked. Anything that police think they can use as evidence against clients (such as condoms) are confiscated. In those cases where a man was caught with a condom on his penis in the back of his car, police have used that fact to argue that he was breaking the law. This practice clearly has consequences for condom use among sexworkers. It provides both them and their clients with strong incentives to avoid using them. The law has been a catastrophe for non-Swedish sexworkers – if the prostitute found with a client is not a citizen or legal resident of Sweden, she is immediately deported; in fact government prosecutors complain that in a number of cases they were unable to gain convictions against clients because the prostitutes they were found with had been deported before they could even give a statement. This fact affects the willingness of non-residents to report on violence. A police chief in the north of Sweden is quoted as saying that, 'I don't think for example that a Russian woman would dare to report a man for violence against her, because then she would risk not being given a visa if she ever wanted to come back to Sweden, because it would have become known that she is a prostitute'. The only positive thing for sexworkers that perhaps can be said to have emerged from this law is that it seems that some of them have used it to rob clients or blackmail them, telling them that if they didn't cough up more money, they would turn them into the police. Of course, both robbery and blackmail are much more serious crimes than purchasing sexual

services, so if a client goes to the police, the sexworker risks much harsher penalties than the client she robbed or attempted to blackmail.

Despite these obvious negative impacts on the lives and working conditions of street sex workers, and despite the ludicrously small numbers of convictions for breaking the law against purchasing a temporary sexual relationship, the feminist organizations and the politicians who advocated the law still support it, claiming that any negative impact on prostitutes is outweighed by 'the message' conveyed by the law. Another reason they support it is because they assiduously ignore all information that might fly in the face of their assertions that the law is good. A speech given by the former Minister for Gender Equality, Margareta Winberg, on 15 May 2002, is typical. In that speech, Winberg asserts that the law 'has significantly reduced street prostitution and made it possible for the police to take measures against bordellos and other markets'. This assertion is misleading on several counts. First, police, of course, had power to take measures against bordellos before the passage of the law prohibiting the purchase of sexual services. None of the government commissioned reports on the law claim that the law has had any effect on the police's role in this area. On the contrary, as I noted a minute ago, police officers themselves report that the law has made it *more* difficult to locate and prosecute traffickers and exploiters. And while there does seem to have been do note a drop in street prostitution since the law was passed, all reports agree that there is no evidence that the law has reduced the total numbers of prostitutes or acts of sex for remuneration in Sweden.

So to summarize, the law prohibiting the purchase of sexual services has had the following effects on street prostitutes (by all accounts, the law has had no effect on other kinds of prostitution, such as escort services. So note that the ones who are most affected by the law are the prostitutes who already are working under the harshest conditions).

Is there nothing positive to be said about the law? My own conclusion, based on 4,000 newspaper articles and on my reading of all the official reports commissioned by the Swedish government, is an unequivocal 'No'. What is more, none of the negative consequences I have outlined here are surprising. They are all absolutely predictable – indeed, *they were predicted* – based on what we know from other countries about what happens to sexworkers when the transaction of selling sex becomes criminalized. The truly surprising thing is not that the law impacts extremely negatively on street prostitutes. The truly surprising

thing is that those politicians and feminist groups that promote the so-called "Swedish Model" so resolutely ignore these negative consequences in their continual insistence that the law is good. We may grant that the law may indeed feel good for those who are only interested in 'marking a stance' and 'sending a message' that they don't like prostitution. But for those involved in sexwork, the law prohibiting the purchase of sexual services is a disastrous throwback to an era of violence, exploitation, persecution and police harassment and that many of us thought could never be possible in a country that is supposedly so enlightened and progressive as Sweden.

## **Consequences of the law for street prostitutes in Sweden**

- driven to accepting more clients, and more unstable and dangerous clients
- have strong incentive not to carry or use condoms
- increased risk of venereal diseases and HIV
- are increasingly out of touch with social workers
- increased police harassment
- are arrested and immediately deported if undocumented
- unwilling to report violent clients or pimps (especially if undocumented)
- number of sex ads on the Internet on the rise
- clients no longer willing to provide evidence against violent or exploitative profiteers