

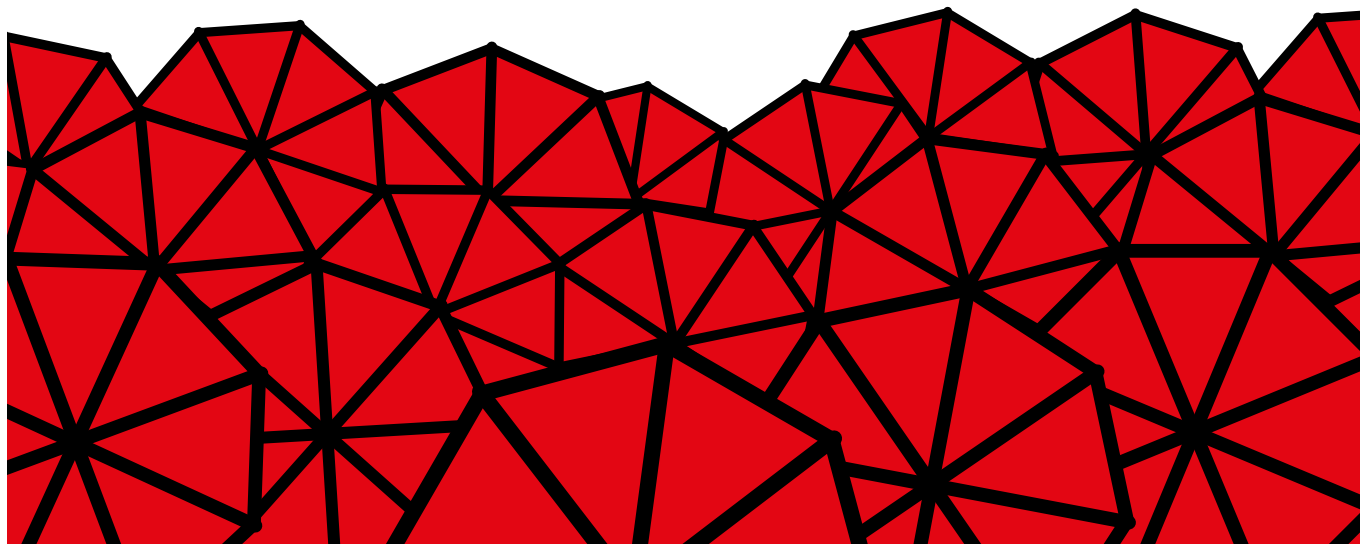


nswp

Global Network of Sex Work Projects
Promoting Health and Human Rights

**BRIEFING
PAPER**

**#02 The criminalisation
of clients:**
a summary



The criminalisation of clients: *a summary*

The criminalisation of sex workers' clients is often claimed to be part of a new legal framework to eradicate sex work and trafficking by 'ending demand'. In 1999, Sweden criminalised sex workers' clients and maintained the criminalisation of third parties such as brothel-owners, managers, security and support staff¹. The individual selling of sex remained legal. This model is frequently referred to as the 'Swedish', 'Nordic' or 'End Demand' model. There is great pressure in many countries to advance such legal and policy measures. The damaging consequences of this model on sex workers' health, rights and living conditions are rarely discussed.

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Impact on sex workers of 'end demand' laws

The premise of criminalising buying sex is that clients' demand for sex is responsible for women entering and remaining in sex work. While male and transgender sex workers are overlooked in this analysis, female sex workers are frequently conflated with children² or 'pimps' and traffickers³ in what are often anti-migrant narratives.⁴ Female sex workers are construed as victims with no agency – and as harmful to all women, family and the nation at large.⁵ The resulting agenda is summed up by Pye Jakobsson, a Swedish sex worker: "We want to save you. And if you don't appreciate it, we will punish you."⁶

In many countries, legal measures aiming to eliminate sex work have been implemented for well over a century. Though their theoretical framework and justification is different than in Sweden, sex workers' experiences of the criminalisation of clients in these different contexts add to the growing body of data about the lived consequences of such measures. Laws advanced to end demand impact upon sex workers in the following ways:

¹ This is the case in Sweden where sex workers were not criminalised before the criminalisation of clients. Clients are criminalised under the Swedish Penal Code Chapter 11 (previously under the Sex Purchase Act, 1999). Laws requiring a landlord to terminate the lease if a tenant (or others) uses the premises for sex work include: Penal Code chapter 6 s.12.2; Land Code 12 s. 42.1.9; Condominium Act 7 s.18.8. Brothelkeepers and procurers are criminalised under the Penal Code chapter 12 s. 12. In S. Dodillet & P. Östergren (2011), *The Swedish Sex Purchase Act: Claimed Success and Documented Effects*, paper presented at Decriminalizing Prostitution and Beyond: Practical Experiences and Challenges International Conference, The Hague.

² See for example S. Jeffreys (2000), Challenging the Child/Adult distinction in theory and practice on prostitution, *International Feminist Journal of Politics* 2(3), pp. 359–379. Another example of note is how provisions criminalising the adult selling and purchasing of sex were included under the state of Illinois' *Safe Children Act* (HB-6462) of 2010. For a discussion of this issue in Sweden see D. Kulick (2003), *Sex in the New Europe: The Criminalization of Clients and Swedish Fear of Penetration*, *Anthropological Theory* 3(2), pp. 199–218.

³ See D. Hughes (2004), *The Demand: Where Sex Trafficking Begins*, presentation at the US Embassy of the Holy See, Rome. Hughes, affiliated with Coalition Against Trafficking in Women (CATW) states that: "The exploiters, including traffickers, pimps, brothel owners, organized crime members, and corrupt officials make-up what is known as the sex industry."

⁴ See A. Rendland & P. Jakobsson (2011), *The Nordic Model: Norwegian and Swedish Experiences*, paper presented at the International Harm Reduction Conference, Beirut; Kulick, *op. cit.*; J. Berman (2003), (Un)Popular Strangers and Crises (Un)Bounded: Discourses of Sex-trafficking, the European Political Community and the Panicked State of the Modern State, *European Journal of International Relations* 9(1), pp. 37–86.

⁵ Kulick, *op. cit.*

⁶ HCLU (2010), Interview with Pye Jakobsson, SWAN, Retrieved from www.swannet.org/node/1512

Increased repression of sex workers

Most countries that have introduced legislation criminalising clients have maintained or increased the criminalisation sex workers.

For example,

- ▶ This is true of South Korea, South Africa and Lithuania.⁷ In Illinois (US), the ‘end demand’ coalition successfully lobbied for legislation that both criminalises clients and elevates the selling of sex to a felony offence, punishable by imprisonment up to a year.⁸
- ▶ Even in countries where selling sex is decriminalised, sex workers can be criminalised under laws against brothel keeping and profiting from prostitution if they work together indoors and pay each other for rent or any part of the expenses.⁹
- ▶ In some countries, sex workers are disproportionately targeted for arrest under unrelated laws. For example, in Sweden and Norway, though selling sex is not illegal, significant numbers of sex workers are arrested and deported for illegal immigration.¹⁰
- ▶ The policing of clients on the street subjects sex workers to invasive searches, surveillance and high levels of harassment in their homes and work places.¹¹

Increased violence and discrimination

- ▶ Police surveillance patrols aimed at locating clients drive sex workers on the street into less public areas where they are more vulnerable to violence.¹² Since client criminalisation, sex workers on the streets in Sweden have reported greater competition, declining prices and harsher conditions.¹³
- ▶ Fewer clients on the street can force sex workers to accept aggressive or drunken clients. Violence against sex workers has increased following anti-client measures.¹⁴
- ▶ Since exposing oneself as a sex worker to police often leads to harassment, sex workers seldom report incidents of violence or coercion.¹⁵ Norwegian police report that the Swedish model has made it harder to gather evidence – from sex workers and clients – against people who have coerced or exploited sex workers.¹⁶
- ▶ Sex workers in Sweden who took part in a government sponsored study reported a significant increase in stigma and discrimination after the passing of anti-client measures.¹⁷

⁷ Republic of Korea, *Act on the Punishment of Procuring Prostitution and Associated Acts, and Act on the Prevention of Prostitution and Protection of Victims Thereof*, both 2004; Republic of Lithuania, *Amendment to Article 182–1 of the Administrative Offences Code*, 2005; Republic of South Africa, *Sexual Offences Act*. Section 20(1), 1957 (criminalizes sex workers); Republic of South Africa, *Criminal Law (Sexual Offences and Related Matters) Act*, Section 11, 2007 (criminalizes clients).

⁸ State of Illinois, *Safe Children Act*, (HB-6462), 2010.

⁹ Dodillet & Östergren, *op. cit.*

¹⁰ Kulick, *op. cit.* and Rendland & Jakobsson, *op. cit.*

¹¹ Dodillet & Östergren, *op. cit.*; Kulick, *op. cit.*; Rendland & Jakobsson, *op. cit.*

¹² This is reported in Sweden, Korea, Norway and Canada. Dodillet & Östergren, *op. cit.*; A.L. Crago (2011), *Legal Barriers to Fighting Violence Against Sex Workers: The Montreal Experience*, paper presented at the CRI-VIFF Conference, Montreal; J. Herskovitz (2006). South Korea sex trade revamps after clampdown. *Reuters*; N. Schwartzmann (2008), *Special Law on Prostitution Turns Four Years Old*, *Asian Correspondent*; Rendland & Jakobsson, *op. cit.*

¹³ Norwegian Ministry of Justice and Police Affairs (2004), *Purchasing Sexual Services in Sweden and the Netherlands*; Swedish National Board of Health and Welfare (2007), *Prostitution in Sweden 2007*; Dodillet & Östergren, *op. cit.*

¹⁴ Scot-Pep records of violent incidents against sex workers quoted in M. Autin (2008), *La pénalisation du client en Europe et dans le monde*, Fondation Scelles; A.L. Crago (2008), *Our Lives Matter: Sex Workers Unite for Health and Rights*, New York: Open Society Foundation.

¹⁵ Kulick, *op. cit.*; Dodillet & Östergren, *op. cit.*; P. Östergren (2003), *Sex Workers Critique of Swedish Prostitution Policy*, retrieved from http://www.petraostergren.com/pages.aspx?r_id=40716

¹⁶ Norwegian Ministry of Justice and Police Affairs, *op. cit.*

¹⁷ A. Skarhed (2010), *Prohibition on the purchase of sexual services: An evaluation 1999–2008 (English Summary)*.

Decreased access to health and social services

- Due to fewer clients as a result of client criminalisation, many street-based sex workers compensate for loss of earnings by not using condoms.¹⁸ Indoor venues, such as massage parlours refuse to keep condoms on the premises since they can be used as evidence of sex work.¹⁹
- Increased mobility and the displacement of sex workers to hidden venues impedes provision of health and services to sex workers. In Korea and Sweden, health authorities have expressed concern about the negative outcomes of laws on sex workers' health and safety.²⁰

There is strong evidence to suggest that peer-driven and rights-based programmes aimed at sex workers are the most effective HIV prevention strategy

- There is strong evidence to suggest that peer-driven and rights-based programmes aimed at sex workers are the most effective HIV prevention strategy.²¹ A framework that equates sex work with violence against women prevents state support for such programmes and excludes specific health and social services for male and transgender sex workers.

Decreased access to housing and shelter

- Laws against buying sex, profiting from sex work or renting space for sex work render landlords and hotel owners liable if they rent rooms to sex workers. In many countries, police order landlords to evict suspected sex workers without notice. This compromises sex workers' access to safe housing, which is crucial to preventing violence and protecting their health.²²

In sum, there is no conclusive evidence to suggest that legal measures criminalising clients, brothel-owners, managers and support staff within the sex industry eliminate or significantly reduce sex work. The available evidence suggests instead that such measures increase repression, violence and discrimination against sex workers. This diminishes sex workers' access to health care, housing and social services. The criminalisation of clients is not a human rights-based response to sex work.

¹⁸ Norwegian Ministry of Justice and Police Affairs, *op. cit.*

¹⁹ Y. Lee & Y. Jung (2009), The Correlation between the New Prostitution Acts and Sexually Transmitted Diseases in Korea, *The Korean Journal of Policy Studies*, 24(1), pp. 111–125.

²⁰ Schwartzmann, *op. cit.*; Dodillet & Östergren, *op. cit.*

²¹ See C. Jenkins (2000), *Female Sex Worker HIV Prevention Project: Lessons Learnt from Papua New Guinea, India and Bangladesh*, UNAIDS Best Practice Collection, Geneva: UNAIDS; D.T. Swendeman, I. Basu, S. Jana, M.J. Rotheram-Borus, S.J. Lee, P.A. Newman & R.E. Weiss (2004), *Evidence for the Efficacy of the Sonagachi Project in Improving Condom Use and Community Empowerment Among Sex Workers: Results from a cohort-control study*, presented at the International AIDS Conference, Bangkok.

²² This is documented for Sweden, Norway and Canada. Rendland & Jacobsson *op. cit.*; Crago, *op. cit.*; Written communication from Astrid Rendland, Director of PION, a sex worker support centre in Oslo. 2011, July 12.