

Report of Visit of Dignity Project Partners to Stockholm 14-16 September 2010

1. Dignity Project

Dignity is an EU funded (Daphne Programme) research project examining services provided for victims of human trafficking, with a view to replicating best practice models in partner countries, and is led by the Dublin Employment Pact and the Immigrant Council of Ireland. It is an inter-agency and inter-jurisdictional initiative with partners in Scotland, Spain and Lithuania and works to identify what steps can be taken to end the exploitation of women and children who are trafficked for sexual exploitation.

The Irish partners are Ruhama, Sonas Housing, the Legal Aid Board, the HSE Women's Health Project, the Immigrant Council of Ireland and the Dublin Employment Pact. In addition, the Anti-Human Trafficking Unit of the Department of Justice and Law Reform and the Garda National Immigration Bureau are partners with observer status.

Dignity has been lobbying the Minister to follow the lead of Sweden, Norway and Iceland and bring forward legislation to criminalise the purchase of sex and decriminalise the sale of sex* in Ireland in order to target the demand side of the sex industry.

2. The Minister's Response

During a Private Members' Motion in the Dáil in November, 2009 the Minister stated that he would keep the laws on prostitution under review and committed to bringing forward legislative proposals in the usual way, if required. He further stated that before a change in the law could be recommended he would have to be satisfied that change would be in the best interests of those involved in prostitution, not make it easier to induce young boys and girls into such activity, increase the dangers for persons involved in prostitution by driving it further underground, or expose them to more violent types of client who would not be deterred by changes in the law. The Minister suggested that the Irish Dignity Partners might like to consider the Swedish model "*including the use of some funding for study visits, and revert with their views in due course*". He went on to suggest "one of the Oireachtas Committees, perhaps, might access some of that funding, to find out the position in some other countries, particularly in relation to issues of prostitution, for instance, in Sweden, and see what happened post-change there in that respect".

3. Visit to Stockholm

Dignity wrote to the Minister on 27 January, 2010 informing him of a proposal to visit Sweden and asked that he nominate an official, who could make best use of an information exchange, to attend.

*** Under the criminal law as it stands, at present, it is not an offence, in itself, to sell sex. In general, it is not an offence to purchase sex, either. Consequently, neither party to the transaction is currently criminalised.**

A visit was arranged for 14 to 16 September and 3 Justice officials representing the Department's Anti-Human Trafficking Unit, Crime Division and Criminal Law Reform Division attended.

The schedule for the visit included meetings with the Justice Ministry, Sweden's National Rapporteur on Trafficking, and the Co-ordinator of the Stockholm Prostitution Unit. In addition, brief presentations were made by representatives from the Swedish national refuge movement, the Swedish Institute (a division of their Foreign Ministry) and an academic/researcher of prostitution regimes.

4. History of Sweden's Law on Prostitution

On 1 January, 1999, Sweden became the first country in the world to introduce legislation criminalising the purchase, but not the sale, of sexual services. More recently, similar bans followed in Norway and Iceland.

An account of the history of Sweden's law on prostitution is included in a summary in English of a recent evaluation of their 1999 legislation. The issue of criminalising prostitution was first raised in Sweden in the 1970s. "This was linked to social changes and an altered view of sexuality" (2010 evaluation of the 1999 legislation criminalising the purchase of sexual services). The **Prostitution Inquiry of 1977** produced an extensive survey of prostitution. This inquiry wished to highlight that prostitution is a human problem, as opposed to a women's issue, and considered that prostitution was incompatible with freedom of the individual and gender equality, values which have long been prevalent in Sweden. In its report, the inquiry team proposed that prostitution should remain exempt from punishment but highlighted other social and legal solutions to reduce prostitution.

The **Prostitution Inquiry of 1993** used the term "sex trade" to describe activity in which at least two parties purchase or sell sexual services and "which is intended to satisfy the purchaser's sexual drive". It considered that criminalisation of prostitution was necessary in order to make it completely clear that prostitution is not accepted by society and proposed a ban on both purchasing and selling sexual services. This proposal and, in particular, criminalisation "of the person exploited by prostitution" was met by extensive criticism and was not implemented.

The proposal which ultimately led to the introduction of the 1999 legislation formed part of a Government Bill on Violence against Women. This proposal was based on the report of the Prostitution Inquiry of 1993 and the **final report of the Commission on Violence Against Women (1995)**.

At the time of the introduction of the legislation, human trafficking was not in the mind of the legislators as it was not an issue then. However, the ban on the purchase of sexual services is viewed as an important instrument in the prevention of and fight against human trafficking.

5. 1999 Legislation on Prostitution

The current law is contained in Chapter 6, Section 11 of the Penal Code. This chapter - at TAB A - deals with sexual offences. A person who obtains, or attempts, a casual sexual relation (in any place) in return for payment commits the offence of *purchase of sexual service*. The legislation applies equally to men and women. Purchasing a sexual service on a single occasion is sufficient for criminal liability. In addition to money, payment can be made, for example, by means of alcohol or drugs. A person, other than the person who avails him/herself of the sexual service, who provides or promises the consideration also commits an offence. The penalties are a fine or imprisonment for a maximum of 6 months. The offences would appear to be absolute liability offences as there is no specific legal defence available to defendants.

By contrast, Section 6 of Chapter 6 of the Penal Code provides for the offence of *sexual abuse of a child*, where the child is under the age of 15, or under the age of 18 and the perpetrator is responsible for the child. There is also an offence (section 9) of *purchase of a sexual act from a child*, where a person induces a child under 18 years of age to undertake or endure a sexual act in return for payment. However, section 13 of Chapter 6 of the Penal Code provides that:

"Criminal responsibility as provided for in this Chapter for an act committed against someone under a given age shall also be required of a perpetrator who did not realise, but had reasonable grounds for assuming, that the other person had not attained that age."

This implies that an accused can use the defence that he did not realise and there was an absence of reasonable grounds for assuming that the other person was underage.

The 1999 legislation is focused on addressing demand for sexual services. The rationale behind the criminalising of the buyer but not the seller is that the prostitute is the weaker party and is therefore, being exploited. The main purpose of the legislation is to criminalise the purchase of sex and protect those who are, or who risk becoming, involved in prostitution. A second purpose, viewed with equal importance, is to create an environment which promotes gender equality and human rights. Sweden's Ministry for Integration and Gender Equality is responsible for co-ordinating their National Action Plan to Combat Prostitution and Human Trafficking.

6. Evaluation of the Legislation

In July this year, Ms. Anna Skarhed, Chancellor of Justice presented the findings from Sweden's first formal evaluation of the 1998 ban on the purchase of sexual services. The main report is written in Swedish only. However, there is a summary available in English (TAB B). It is understood that the findings of the review are subject to a 3 month public consultation exercise.

The remit of the evaluation team, headed by Ms. Skarhed, was to evaluate the application of the ban on the purchase of sexual services and the effects the prohibition has had. One starting point for the review was that the purchase of sexual services was to remain criminalised.

It is readily admitted that evaluating the effects of the ban on the purchase of sexual services proved to be a difficult task. This is because prostitution and human trafficking, by their nature, are clandestine activities and use of the Internet as a new arena for prostitution makes it difficult to assess its prevalence. Consequently, knowledge of the scale of prostitution and human trafficking for sexual purposes is limited. This is particularly the case outside Sweden's 3 main cities - Stockholm, Malmo and Gothenburg. Despite these reservations, the enquiry team felt that it was possible to draw conclusions based on the material to which it had access.

The main findings of the evaluation are set out, in detail, at Appendix 1. These include a finding that street prostitution has been halved since the ban and that this represents a real reduction in prostitution over all. The ban is also believed to act as a barrier to human traffickers and procurers considering establishing themselves in Sweden.

Some comment since publication of the evaluation has been sharply critical. Examples of comment in the print media (much of it not mainstream) give an indication of negative reactions. These are summarised at Appendix 2.

Given the clandestine nature of prostitution and human trafficking, it was always going to be difficult to source reliable data to assess the effectiveness of the ban. However, even if allowances were made for this serious constraint and there was sufficient material available to permit conclusions to be drawn, effectively the comments of critics are that the findings are tenuous, inherently biased and even speculative.

As in every other country, it is not possible to be certain about the extent of prostitution and human trafficking in Sweden. What is clear is that Swedish legislation banning the purchase of sexual services springs from that country's own political experience and its views on both sexual rights and gender equality, which evolved over more than 20 years. While not universally popular, the policy appears to enjoy support across the political spectrum in Sweden and the results of post-ban public attitude surveys have been very positive. The ban appears to have a significant symbolic value.

From an Irish perspective, it matters little whether the findings of the evaluation are accepted or not. Any change in our legislation on prostitution would have to be considered with great care and informed by our own experience of the issue, public opinion and by legal and Constitutional principles.

7. Enforcement of Sweden's Ban

According to the evaluation, police operations have "mainly targeted street prostitution and more organised forms of prostitution linked to procuring or human trafficking". It goes on to say that "the police have not ordinarily prioritised, or had the resources for, interventions against the purchase of sexual services via other forms of prostitution". Police officers with whom the inquiry had contact believe these operations have both an immediate and longer-term deterrent effect on prospective purchasers and other promoters/organisers of prostitution.

The majority of prosecutions for infringements of the ban are cases where the purchaser of sexual services made the initial contact in a street setting. Since Sweden's human trafficking legislation was introduced in 2002, there has been a dramatic increase in the number of prosecutions for infringements of the ban on the purchase of sexual services "that originate from procuring and human trafficking cases". The report states that "prevalence of cases varies widely from year to year, depending on the resources invested and the priorities that the police, in particular, have set". When asked during the visit for statistics in this regard, the Justice Ministry gave a range of 90 to 460 cases and said priorities are determined at city level. The report states that one reason why priority is not given to sexual purchase offences is the low penal value of this type of offence.

8. Prosecutions

At the meeting with Ms. Skarhed and Justice Ministry officials, it was stated that 648 persons have been convicted for 850 infringements of the legislation in the 10 year period following the ban. (Sweden's population is approximately, 9.4 million.) It also emerged at meetings during the visit that, despite the ban, re-offending does occur. However, a breakdown of prosecution statistics which might identify the extent of recidivism was not available.

In 8 out of 10 prosecutions for both street and other forms of prostitution the purchaser admits the offence. For this reason, the Justice Ministry believes it is the knowledge of the ban that is important. When the offence is admitted, the prosecutor does not generally bring legal proceedings. Instead a summary fine is imposed. (There is no policy of naming and shaming and offenders can use business addresses for the receipt of correspondence.) Sweden has a system of "day fines" with offenders who can pay more being fined more. A criminal conviction is recorded but this can be expunged after five years. All those prosecuted between 1998 and 2008 were men with a median age of 43, who most commonly paid for sexual services in cash.

A review of judgements and summary fines showed a very high level of uniformity in the choice of penalty and level of fine imposed. In 2001, Sweden's Supreme Court examined the question of culpability in a particular type of case (involving the purchase of sexual services in a car) and established limits on the penalties which can be imposed. Since then, in more than 85% of all prosecutions for individual instances of the purchase of sexual services a penalty of 50 "day fines" has been imposed. The offence is generally reported summarily and judgements seldom refer to any extenuating or aggravating circumstances.

Sexual purchase offences are usually considered to be easy to investigate and relatively uncomplicated to process. The report states that there can be evidentiary problems but almost half of the offences reported have been linked to an individual and a decision has been taken to bring charges, impose a summary fine or grant a waiver of prosecution. Uncertainties that remain concern whether "those who have been exploited" should be considered witnesses or injured parties in court proceedings and the point in time at which the offence of attempt is committed.

On who is an injured party, the evaluation team recommended that an examination be undertaken in each case to determine whether the person providing the sexual service is so directly affected by the offence that s/he should be entrusted with exercising the public function implied by a penal claim. (It was explained during the meeting with the Swedish Justice Ministry that such an approach would not be possible in our adversarial system.)

Attempt is considered difficult to prove with the result that, in cases of street prostitution, the police deliberately wait until the sexual act has begun, and the offence has thus been committed in full, before intervening. On this issue, the evaluation team concluded that it would be impossible and inappropriate to try to pin down in legislation the exact point at which the offence of attempt is committed. It therefore recommended that the problems encountered should be viewed as a matter for interpretation and application.

The evaluation team also felt that there were no evidentiary problems which would warrant any proposed legislative amendments or other measures.

The report recommends that the maximum penalty for the purchase of sexual services be raised from imprisonment for 6 months to imprisonment for 12 months. In the view of the evaluation team, the current level of penalties for certain sexual purchase offences is not proportionate to the seriousness of the crime and there is a need for a more nuanced approach than is possible within the current penalty scale. The evaluation team would like to see more account being taken of aggravating circumstances for the purpose of sentencing, for example, "exploitation of a person with a psychiatric disability, contact being made through a third party or an ordering service, exploitation of one person for several hours by several sex purchasers or exploitation of a young person or a person under the influence of drugs".

9. Extra-territorial Application of the Ban

The evaluation team considered that there is a need to expand the possibilities to prosecute in Sweden sexual purchase offences committed abroad, particularly so that a person representing Sweden's public interests could be prosecuted for purchasing sexual services abroad. It concluded that since the offence is now contained in the Swedish Penal Code, it is reasonable to regard it as universally applicable and not limited to offences committed in Sweden. However, it further concluded that the competence to pass judgement on offences committed outside Sweden is normally conditional on dual criminality. The report notes that the majority of countries do not have a ban equivalent to Sweden's and nor is there international consensus on what methods should be used to combat prostitution. It was felt that allowing the purchase of sexual services to be an exception to the dual criminality requirement for Swedish penal jurisdiction would be a clear deviation from dual criminality principles. Such an exception could not be based on international consensus or a general perception of the crime as particularly serious. Nor could it be justified on grounds of protecting Swedish public or private interests. Consequently, the evaluation team deemed it impossible to propose removal of the dual criminality requirement for the crime of purchasing sexual services.

10. The Need for Social Interventions

The report makes clear that criminalisation can never be considered anything other than a supplement to other efforts to combat prostitution. It particularly emphasises the value and necessity of continued and sustained social measures. It also states that further research is needed in Sweden on who purchases sexual services, and suitable treatment methods. In addition, the report highlights the importance of support for children and young people at risk of ending up in prostitution and more information initiatives to influence public opinion.

11. National Centre Against Prostitution and Human Trafficking

The evaluation team concluded that despite great interest in the issues of prostitution and human trafficking, there is a lack of both continuous follow-up and systematic knowledge of these phenomena. It added that the knowledge available is difficult to grasp, and, in part, difficult to assess, and is shaped by the operational focus and perspective of the agencies and organisations concerned. This makes it impossible to draw entirely reliable assessments and comparisons using the available knowledge. In turn, this hampers efforts at training, methods development and support initiatives. Consequently, the report recommends the establishment of a national centre against prostitution and human trafficking for sexual purposes to create "better conditions for co-ordination, follow-up and knowledge production for the future".

12. The Law on Prostitution in Ireland

Under the criminal law in Ireland, it is not an offence, in itself, to sell sex. In general, it is not an offence to purchase sex either. Consequently, neither party to the transaction is currently criminalised.

In this jurisdiction, the criminal law governing prostitution is aimed at protecting society from the more intrusive aspects of such activity from a public order perspective, while also seeking to protect prostitutes from exploitation. It is not based on moral considerations.

The Criminal Law (Sexual Offences) Act 1993 makes it an offence to solicit in a street or public place for the purpose of prostitution. The offence can be committed by the prostitute, the client or a third party - a pimp, for example. The Act also provides for offences such as organising prostitution, coercing or compelling a person to be a prostitute, knowingly living on the earnings of a prostitute, or keeping or managing a brothel.

In addition, the Criminal Law (Human Trafficking) Act 2008 makes it an offence to knowingly solicit or importune a trafficked person, in any place, for the purpose of prostitution.

13. Would the Swedish Model Work in Ireland?

The Swedish approach is fundamentally different to the law in Ireland and there are many important issues which would need to be examined before such a radical change

in our laws on prostitution could be considered. Foremost among these are legal and constitutional questions, whether there would be sufficient public support for a ban on the purchase of sex, and whether such a ban would be enforceable.

14. Legal and Constitutional Issues

Ultimately, the Attorney General would have to advise whether an offence of purchasing sex would be compatible with the Constitution and consistent with Ireland's legal framework. The discussion which follows concerning potential issues has not been informed by legal advices.

In the context of the legal meaning of consent, if the Swedish approach were adopted, one party only to a two way transaction between consenting adults would be guilty of an offence. The buyer only would be culpable and subject to penalty, with all that that entails. He would have no defence in law and the seller would not commit any offence in respect of the receipt of a consideration for sexual services.

If it infringed fundamental constitutional rights or principles, for example, the right enshrined in Article 38 of the Constitution to a trial in due course of the law, the right to equality before the law (Article 40), and the State's guarantee in its laws to respect, defend and vindicate the personal rights of the citizen, including the rights to liberty and a good name (Article 40), an offence of purchasing sex could be unconstitutional.

These constitutional rights were examined by the Supreme Court in the CC case, which resulted in the absolute offence at section 1(1) of the Criminal Law (Amendment) Act 1935 being struck down. This provided that "any person who unlawfully and carnally knows any girl under the age of 15 years" was guilty of an offence and liable to a lengthy prison sentence. The defendant could not plead any defence and the girl/complainant could not be prosecuted. The court found that the form of absolute liability in the provision was inconsistent with the Constitution.

The Supreme Court considered the total punitive effect of the "relatively minor offence" at section 1(1) of the 1935 Act, arising in particular, from the requirement for a person convicted of the offence to register as a sex offender. The court also remarked that "mere conviction of the offence, apart from any sentence, carries a social stigma". Though enrolment on the sex offenders' register would not be an issue in the case of conviction for an offence of purchasing sex - an offence which would be a lot less serious than the offence struck down in the CC case - there may be concerns about stigmatisation, the potential impact on work opportunities and reputation, and the shame for the individual and his family. An offender might forever be prohibited from travelling, for example, to the US.

Supporters of the Swedish law argue that it would address the demand side of prostitution and that it has the potential to reduce human trafficking for the purposes of sexual exploitation. They also view the shame factor as an important deterrent. However, legislation with the social objective of reducing demand for prostitution, if it were to have the effect of abrogating a defendant's fundamental rights, including the rights to equality before the law and a fair trial, could be viewed as "wholly utilitarian" and unconstitutional.

Establishing an offence of purchasing sex would also give rise to a number of practical difficulties. For example, if the Swedish wording were followed, how would the words "casual", "purchase", "payment", "sexual relation" and "sexual service" be defined? Any offence, for example, would have to distinguish prostitution from a "one night stand", i.e., where there was consensual sex after a casual meeting and one party had spent money on the other.

In the case of indoor prostitution, where most prostitution occurs nowadays, and in the absence of independent witnesses, proving the principal offence could be extremely difficult.

As has been shown to be the case in Sweden, attempted purchase of sexual services could also be very difficult to prove, whether it occurs indoors or outdoors.

As stated above, one of the uncertainties noted in Sweden during their evaluation was whether sellers should be considered witnesses or injured parties in court proceedings. The evaluation team recommended that an examination be undertaken in each case to determine whether the person providing the sexual service is so directly affected by the offence that s/he should be entrusted with exercising the public function implied by a penal claim. This would be inappropriate in an Irish context. The DPP prosecutes cases on behalf of the people and not just in the interests of any one individual. The primary concern of the Office has to be the public interest and not the private interests of the victim. The prosecutor has to ensure that the prosecution and the criminal process are consistent with the interests of justice. This does not mean that the views and interests of the victim/complainant cannot be taken into account when decisions are being taken.

15. Public Opinion

There is no evidence of any widespread support for a change in the law along the lines proposed by the Dignity Project. Also, there are other genuinely held views. For example, sex worker alliances/representative groups would probably object to the label of being "exploited" and argue that selling sex should be a legitimate livelihood option.

As stated above, Sweden's ban on the purchase of sex springs from that country's own political experience and its views on both sexual rights and gender equality, which evolved over a long period. Any proposal to introduce a similar ban here could not be advanced without a broadly-based public consultation exercise.

16. Enforcement

The Swedish experience indicates that enforcement of the ban is resource intensive and that the level of detections is dependent on the allocation of resources and local policing priorities. For these reasons, the level of detections varies over time and between locations.

It is unlikely that outcomes would be any different here. A ban, if it were well enforced, could have beneficial deterrent effects, including deterring human traffickers. However, it might also be argued that policing operations to target the

purchase of sex - which would be a minor offence - would divert law enforcement from operations targeting serious and organised crime, including human trafficking.

These are questions on which the Garda Commissioner would have to be consulted.

17. North/South and East/West Considerations

Any proposal to change the law here would have to consider the potential impact on neighbouring jurisdictions. While it was never an intended consequence of their legislation, Sweden's 1999 ban on the purchase of sexual services was followed by complaints from Norway and its Baltic neighbours about displacement.

18. Recommendations

A. It is recommended that this report be submitted, in the first instance, to the Attorney General for his views.

B. If, following his consideration of the matter, there is any merit in further examination of the issues, the Attorney General might be asked if the Law Reform Commission could be requested to examine the legal and constitutional implications of a ban on the purchase of sex. This could be done in the wider context of a review of our legislation on prostitution and include an international comparative analysis of different legal regimes to combat the phenomenon, not just in the Nordic region. An examination by the Law Reform Commission would have the benefit of being viewed as totally independent. The Commission also has well established arrangements for structured consultations with all the parties interested in any particular issue and this would be very helpful.

Department of Justice and Law Reform
13 October 2010

APPENDIX 1

Main Findings of Swedish Evaluation of the 1999 Ban on the Purchase of Sexual Services

1. Since the introduction of the ban on the purchase of sexual services, street prostitution has been halved.
2. In the last five years, internet prostitution has increased in Sweden, Denmark and Norway. However, the scale of this form of prostitution is more extensive in these neighbouring countries and there is nothing to indicate that a greater increase in prostitution over the Internet has occurred in Sweden than in these comparable countries. This indicates that the ban has not led to street prostitution in Sweden "shifting arenas to the Internet". In light of this, it should be possible to conclude that the halving of street prostitution represents a real reduction, which is mainly attributable to the ban.
3. The internet plays an important role particularly with regard to young people in prostitution. The National Board for Youth Affairs concludes that most young people who are exploited sexually in return for payment came into contact with the purchaser via the internet. The ban on the purchase of sexual services has not had an effect on the exposure of young people on the internet.
4. There is nothing to indicate that the prevalence of indoor prostitution not marketed through advertising, e.g., in massage parlours, sex clubs, hotels, restaurants and nightclubs, has increased in recent years. Nor is there any information which suggests that prostitutes formerly exploited on the streets are now involved in indoor prostitution. People working in the field do not consider that there has been an increase in prostitution since the ban was introduced. Since those involved in prostitution activities typically need to promote themselves in order to come into contact with clients, it is unlikely that prostitution could exist on any great scale and remain entirely unknown. The overall picture is that, 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, at least, not increased in Sweden. Given the similarities in all other respects between the Nordic countries, it is reasonable to assume that prostitution would have increased in Sweden if there had not been a ban on the purchase of sexual services. Criminalisation has therefore, helped to combat prostitution.
5. Although it is hard to assess the exact scale of human trafficking for sexual purposes, the establishment of this kind of crime is considered to be considerably smaller in scale than in other comparable countries. According to the National Criminal Police, it is clear that the ban on the purchase of sexual services acts as a barrier to human traffickers and procurers considering establishing themselves in Sweden.
6. To gauge Swedish public opinion concerning sex purchases, surveys were

conducted before and after criminalisation was introduced. Judging by the results of four population based opinion polls, there has been a change of attitude with regard to the purchase of sexual services that coincides with criminalisation. This marked shift in attitude - not experienced in Norway and Denmark - must be interpreted as meaning that the ban itself has had a significant normative effect. Support is greatest among young people and can be expected to last. In all three surveys since the ban, more than 70% took a positive view of it. The results of pre-ban surveys showed a majority not in favour of criminalising the purchase of sex.

7. A number of misgivings were voiced when the ban was introduced. These included fears that criminalisation would risk driving prostitution underground making it harder to reach out to the vulnerable people involved through social measures, and that the ban would bring an increased risk of physical abuse and generally worsen living conditions for prostitutes. As far as can be judged from the written material and contacts with public officials/people involved in prostitution, these fears have not been realised.
8. Police officers and social workers report that purchasers of sexual services have become more cautious and that the ban has led to a decrease in demand, at least for street prostitution. According to the police, purchasers are afraid to be caught but are more afraid of the offence becoming known to family and acquaintances than the penalties they risk. This view is shared by some of the current and former prostitutes, while others have reported that criminalisation has not affected purchasers because so few are caught and the penalties are so lenient.
9. According to post-ban surveys conducted in Sweden, the proportion of men reporting that they have, on some occasion, purchased sexual services has decreased, and it would seem that fewer men purchase sexual services in Sweden than in the other Nordic countries. In a 2008 survey, a number of those asked also reported that the ban had affected their actions to the extent that they no longer purchased sexual services. All in all, the above must be interpreted as meaning that the ban has had a deterrent effect on prospective purchasers of sexual services.
10. It is clear, and it seems logical, that those who have extricated themselves from prostitution take a positive view of criminalisation, while "those who are still exploited in prostitution" are critical of the ban. This pattern is reflected in many different reports and is also confirmed by the contacts that the inquiry has had with women with experience of prostitution.

APPENDIX 2

Examples of negative comment in the print media

"mediocrity"

"Critical blogging has been brisk, so what makes mainstream media commentators avoid criticising this evaluation, not on ideological grounds but because it is so badly done that it proves nothing at all?"

"...the embarrassing lack of evidence to prove that the law has had any impact at all on the buying and selling of sex. This is not a ideological argument; it doesn't prove that the law is no good; it proves that the evaluation is no good."

" ... crystal clear that the evaluators couldn't find evidence of anything."

"*Sex crimes go down in Sweden*: the new evaluation of the law against buying sex is spreading the message round the world, but the report suffers from too many scientific errors to justify any such claim."

"Stigmatised and criminalised people avoid contact with police, social workers and researchers."

"Street prostitution receives exaggerated attention in the inquiry, despite the fact that it represents a small diminishing type of commercial sex that cannot be extrapolated to all. The inquiry mentions the difficulty of researching 'prostitution on the internet' but appears not to know that the sex industry comes in many different shapes being researched in depth elsewhere (escorts without websites, sex parties, strip clubs, massage parlours, students who sell sex, among others)."

"The evaluation leaned heavily on small-scale data about street prostitution, because that was the easiest to find.....evaluators bolstered their case by claiming that street prostitution had increased in Denmark, where there is no such law, using information from a Copenhagen NGO whose inflated data was exposed in parliament last year. Street prostitution is known, in any case, to constitute a tiny, diminishing part of the whole of commercial sex."

"... police only encounter sex workers in the context of criminal inquiries, the funded groups mostly meet sex workers seeking help, small studies can only indicate possible trends and the Danish statistics on the number of 'active' street workers - used to show that Sweden's prostitution is less - were publicly shown to be very wrong eight months ago."

"The law is claimed to have had a dampening effect on sex trafficking, but no proof is offered. Trafficking statistics have long been disputed outside Sweden, because of definitional confusion and refusals to accept the UN Convention on Organised Crime's distinction between human trafficking and human smuggling linked to informal labour migration. The report claims the law diminishes 'organised crime' without analysing how crimes were identified and resolved or how they are related to the sex-purchase law."

"In this report .. the methodology section is practically non-existent. We know nothing about how .. the evaluation was actually carried out."

"The evaluation gives no account of how the research was actually carried out - its methodology - but is full of background material on Swedish history and why prostitution is bad."

"One single sex worker's sad personal story takes up three pages, while the account of sex workers' opinions is limited to the results of a survey of only 14 people of which only seven were current sex workers."

"Research must try for some kind of objectivity, but the Government's remit to the evaluation team said that 'the buying of sexual services shall continue to be criminalised' no matter what the evaluators found. The bias was inherent."

"This evaluation tells us nothing about the effects of the sex-purchase law."

"...one feminist faction promotes the ideology that prostitutes are always, by definition, victims of violence against women. As victims, they can't be criminals, so their side of the money-sex exchange is not penalised, whereas those who buy are perpetrators of a serious crime. This ideology, a minority view in other countries, predominates among Swedish State Feminists who claim that the existence of commercial sex is a key impediment to achieving gender equality. Such a dogma is odd, given the very small number of people engaged in selling sex in a welfare state that does not exclude them from its services and benefits."

"A Government report from 2007 admitted it was difficult to find out much of anything about prostitution in Sweden."

"Several media commentators took the occasion to attack the law itself, since despite regular Government affirmations that the majority of Swedes support the law, opposition is fierce. In the blogosphere and other online forums non-conforming members of the main parties relentlessly resist a reductionist view of sexuality in which vulnerable women are forever threatened by predatory men."

".. most politicians undoubtedly feel little good will come from complaining about legislation now symbolic of Mother Sweden. The Swedish Institute has turned the abolition of prostitution into part of the nation's brand, what they call a 'multi-faceted package to make Sweden attractive to the outside world'."

"Sweden indisputably ranks high on several measures of gender equality But other policies considered as part of gender equality are much harder to measure It is hardly surprising that the Government's evaluation presents no evidence that relations between men and women have improved in Sweden because of the law. The evaluation's main recommendation is to stiffen the punishment meted out to men who buy sex."

"....citing no evidence, the report maintains there is less trafficking in Sweden because it is now 'less attractive' to traffickers ... Such naive statements argue that without

demand there will be no supply.....reducing a wide range of sexual activities to an abstract notion of violence and brushing aside the many people who confirm that they prefer selling sex to their other livelihood options."

"As for combating trafficking, there is no proof.....different countries, institutions and researchers do not agree on what actually constitutes trafficking. It does not help that fundamentalist feminism refuses to accept the distinction between human trafficking and human smuggling linked to informal labour migration, as enshrined in the UN Convention on Organised Crime."