

# Taking the Sex out of Trafficking

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The aim of this essay is to test which policies towards the sex industry are most useful in trying to combat human trafficking in women for the purpose of sexual exploitation. This will be done through initial sections on the sex industry and human trafficking as well as their human rights profiles. Various approaches to the sex industry will then be presented, including a specific case study of Sweden and Denmark.

## 1. The Sex Industry

In order to understand the impact of policies towards the sex industry on human trafficking, a few introductory notes on the nature of the sex industry itself are necessary. The sex industry includes, among other things, brothels, sex-, night- and striptease clubs, street prostitution, escort services, internet sale of prostitutes, mail order bride agencies, phone sex operators, sex tourism agencies and creators and distributors of pornographic material<sup>1</sup>. The total financial turnover of the sex industry on an annual basis is very high. Profits from the sector end up in the pockets of e.g. pimps, traffickers and brothels, but indirectly also in the pockets of travel agents, air companies, hotels, restaurants, taxi chauffeurs and various providers of advertising space. Women, men and children in the sex industry more often than not find themselves in appalling working and living conditions, which are generally out of their personal control. These conditions can in some cases constitute slavery-like conditions and forced labour. Some other problems prostitutes encounter are: psychological abuse (threats, name-calling, insults, humiliation, etc.), physical abuse (hitting, kicking, beating, threat of violence, etc.), confiscation of identity papers/passport, fear of being arrested by the police, restrained mobility (cannot

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<sup>1</sup> S. Ekberg, *The International Debate about Prostitution and Trafficking in Women*, available at <http://www.regeringen.se/content/1/c4/22/84/0647d25a.pdf>.

leave working premise, or can only do so under supervision) and isolation (prohibition of normal social contacts, no access to phones or letters)<sup>2</sup>. Trafficked women are usually the most vulnerable of all prostitutes and are likely to encounter several of the above-mentioned problems. Prostitution as such can be conceptualised as an expression of multiple power structures in society. These include, amongst others, men over women, rich over poor, integrated over isolated and citizen over alien.

### *The Sex Industry and Human Rights*

As is clear from the preceding section, many human rights are threatened by the functioning of the sex industry. The most strikingly threatened right in the sex industry is the right to dignity to all human beings. This right is protected by Article 1 of the Universal Declaration on Human Rights. It would be difficult to argue that an ambient where human bodies have no other end than to serve as commercial goods does not provide individuals with dignity. The second is the right not to be tortured, as encoded in Article 5 of the Universal Declaration and Article 7 of the International Covenant on Civil and Political Rights (ICCPR) which involuntary sex could be considered to be. The sex industry often offers close to slavery-like conditions for sex workers. Article 4 of the Universal Declaration and Article 8 of the ICCPR prohibit slavery, servitude and forced and compulsory labour. Sex workers often also suffer from a lack of liberty and security of person (Article 9 of the ICCPR and Article 3 of the Universal Declaration).

### *Legal Approaches to the Sex Industry*

There are several legal approaches to prostitution. Some states see the sex industry as a business sector which individuals enter into on a primarily voluntarily basis. Clients are seen as expressing their right to purchase a product based on the principles of the free market. It is then a natural step to provide a legal framework which allows people to buy and sell sexual services. This has, apart from in the Netherlands, been done in e.g. Denmark, Germany and parts of Australia. It is claimed that legal status for prostitutes provides them with opportunities to conclude civil and labour contracts which would provide them with job security. It is important to point out that providing a legal framework for the sex industry should

<sup>2</sup> M. Wijers, L. Lap-Chew, *Trafficking in Women, Forced Labour and Slavery-like practices in Marriage, Domestic Labour and Prostitution*, Utrecht, Foundation Against Trafficking in Women (STV), 1997, p. 90.

not be equated with an acceptance of all aspects of it. For example, Italy allows street prostitution as long as it does not disturb public order. Brothels and pimping are criminalised. Personally, I would suggest harmonising approaches to the sex industry with approaches to other forms of self-destructive «choices». Even if one claims that some women might «choose» to become prostitutes, there are also people who «choose» to take dangerous drugs such as heroin. This does however not mean that society accepts their addiction and tries to legalise heroin in the name of liberty and self-determination. Analogously, women who are beaten by their husbands or boyfriends often stay with their partners and even defend them. This «choice» does not mean that society sees their decision as good for them or as an expression of their free inner will. In these situations it is the harm to the individual and not the individual's consent which is important, and this should be taken into account also in the case of prostitution.

## 2. Human Trafficking

The currently most recognised definition of what human trafficking within international law is, or trafficking in persons as it is often called, is offered by the third article of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime<sup>3</sup>, also referred to as the Palermo Protocol. The Protocol was drafted in 2000, at the same time as its parent Convention on Transnational Organised Crime<sup>4</sup>. The article states that trafficking in persons:

a) Shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

<sup>3</sup> *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime*, adopted by resolution A/RES/55/25 of 15 November 2000 at the fifty-fifth session of the General Assembly of the United Nations; entered into force on 25 December 2003.

<sup>4</sup> *UN Convention against Transnational Organized Crime*, adopted by Resolution A/RES/55/25 of 15 November 2000 at the fifty-fifth session of the General Assembly of the United Nations; entered into force on 29 September 2003.

b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered «trafficking in persons» even if this does not involve any of the means set forth in subparagraph (a) of this article<sup>5</sup>.

<sup>5</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, Article 3.

<sup>6</sup> Universal Declaration, Article 1.

<sup>7</sup> ICCPR, Article 12.

<sup>8</sup> ICCPR, Article 8.

<sup>9</sup> ICCPR, Article 7.

<sup>10</sup> ICESCR, Article 12.

<sup>11</sup> ICCPR, Article 6.

<sup>12</sup> Convention on the Elimination of All Forms of Discrimination Against Women, adopted and opened for signature, ratification and accession by General Assembly Resolution 34/180 of 18 December 1979.

<sup>13</sup> International Agreement for the Suppression of the White Slave Traffic, signed in Paris, France, on 18 May 1904; entered into force on 8 July 1905.

<sup>14</sup> International Convention for the Suppression of the White Slave Traffic, signed in Paris on 4 May 1910; entered into force on 15 September 1911.

<sup>15</sup> International Convention for the Suppression of the Traffic in Women and Children, signed in Geneva on 13 September 1921; entered into force on 9 March 1927 in accordance with Article 12.

<sup>16</sup> Slavery Convention, signed in Geneva, on 25 September 1926; entered into force on 9 March 1927, in accordance with Article 12.

<sup>17</sup> International Convention for the Suppression of the Traffic in Women of Full Age, signed in Geneva on 11 October 1933; entered into force on 24 August 1934.

<sup>18</sup> Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, approved by General Assembly Resolution 317(IV) of 2 December 1949; entered into force on 25 July 1951 in accordance with Article 24.

It is important here to distinguish human trafficking from human smuggling. Whileas human smuggling occurs with the consent of the person being smuggled, human trafficking is defined by the fact that it always involves some degree of deception or coercion. If a person voluntarily agrees to be smuggled and is then deceived or coerced during the smuggling process, this thus becomes a case of trafficking.

### *Human Trafficking as a Human Rights Violation*

Human trafficking is a phenomenon which includes a long series of human rights violations. Some, but not all, of these are: every human being's right to dignity<sup>6</sup>, the rights to liberty of movement<sup>7</sup>, prohibition of slavery<sup>8</sup>, prohibition of torture, inhuman or degrading treatment<sup>9</sup>, the right to physical and mental health<sup>10</sup>, and even the right to life<sup>11</sup>.

Human trafficking also involves other atrocities like violence, rape, sexual assault and physical and financial exploitation. Several of the rights protected by the Convention on the Elimination of All Forms of Discrimination Against Women<sup>12</sup> (CEDAW) from 1979 are severely violated in the context of human trafficking.

However, there are also several international legal instruments which deal specifically with human trafficking or aspects of human trafficking. These include the International Agreement for the Suppression of the White Slave Traffic<sup>13</sup>, the International Convention for the Suppression of the White Slave Traffic<sup>14</sup>, the International Convention for the Suppression of the Traffic in Women and Children<sup>15</sup>, the Slavery Convention<sup>16</sup>, the International Convention for the Suppression of the Traffic in Women of Full Age<sup>17</sup>, the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others<sup>18</sup> as well as the currently most important legal instrument to combat human

trafficking in all its forms: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime<sup>19</sup> (also referred to as the Palermo Protocol) from 2000.

### 3. Comparative Study of Sweden and Denmark

#### 3.1. Situation in Sweden

Estimating an exact number of prostitutes in any given territory is very difficult. Estimates are thus very rough, but nevertheless give an idea of the level of activity in this field. There are today approximately between 1,000 and 2,000 women who sell sex in Sweden on the streets, in bars, clubs, on the internet and as escorts. Women who sell sex in Sweden are often drug addicts, although many of them have partners and also children. Regarding human trafficking, the National Criminal Investigation Department (Rikskriminalpolisen) estimates that between 400 and 600 women were trafficked into Sweden for sexual purposes in 2003<sup>20</sup>. Of these, 21 were officially reported to the police. Human trafficking is primarily a problem in the bigger cities, but also occurs in smaller communities. Information obtained by police authorities in all Sweden regard primarily women from Estonia, Lithuania, Russia and Poland<sup>21</sup>. The youngest foreign girls who have been encountered by the authorities are around 13 years old<sup>22</sup>. There are also reports that Sweden is being used as a transit country for women being trafficked to e.g. Denmark and Norway<sup>23</sup>.

#### *Official Policies/Efforts in Sweden*

The Swedish government has taken a clearly prohibitionist view on prostitution. It says that «in Sweden, prostitution is considered part of men's violence against women and children»<sup>24</sup>. It further states that «the fact that the abuse is being paid for does not in any way detract from the extreme physical and mental damages that body and soul suffer»<sup>25</sup> and points out that «international research shows that prostitutes have the same emotional damage that war veterans and victims of torture have. They have symptoms such as flashbacks,

<sup>19</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime, cit.

<sup>20</sup> *Människohandel för sexuella ändamål - Lägesrapport 6, januari 31 december 2003*, KUT/A - 492 - 226/04 Report on Human Trafficking by Swedish National Criminal Investigation Department, p. 28.

<sup>21</sup> C. Waldhen, *Riksdagsledamot morhotad*, in «Svenska Dagbladet», 8 June 2003.

<sup>22</sup> *Ibidem*, p. 16.

<sup>23</sup> *Ibidem*, p. 4.

<sup>24</sup> *Prostitution och handel med kvinnor*, available at: [www.regeringen.se/content/1/c6/02/71/17/4a942b4b.pdf](http://www.regeringen.se/content/1/c6/02/71/17/4a942b4b.pdf) (original version: «I Sverige anses prostitution vara en del av mäns våld mot kvinnor och barn»).

<sup>25</sup> *Ibidem* (original: «Att övergreppen sker mot betalning mildrar inte på något sätt de extrema fysiska och psykiska skadorna på kropp och själ»).

anxiety, depressions, difficulties sleeping and stress. Suicide and attempted suicide are common»<sup>26</sup>. The government defines prostitution as «a form of exploitation of women and children and a serious societal problem which seriously damages both individuals and society as a whole»<sup>27</sup>.

In 1999, as part of a bill on «violence against women», Sweden adopted a new legal approach to prostitution. The most important component of this approach was the focus on the demand side of the sex industry, i.e. the buyer. As of 1 January 1999, through law 1998:408, it is illegal to purchase sexual services in Sweden<sup>28</sup>. The punishment for this crime is either a fine or imprisonment for up to six months. Attempts to buy sexual services are also punishable. He or she who promotes or in some way profits from another person selling his or her sexual services against payment are also considered to commit a criminal act. According to Paragraphs 8 and 9 of Chapter 6 of the Swedish Penal Code, this crime is punishable with up to six years of prison<sup>29</sup>. It has however been decided that «it is not reasonable to punish the person who sells a sexual service. In the majority of cases at least, this person is a weaker partner who is exploited by those who want only to satisfy their sexual drives»<sup>30</sup>. This makes Sweden the only country in the world which outlaws the buying while legalising the selling of sex<sup>31</sup>. The non-criminalisation of sex sellers is based on the view that women who work in the sex industry and who want to change their lifestyle should not find it intimidating to contact authorities to ask for help. In particular, «they should not run the risk of punishment because they have been active as prostitutes»<sup>32</sup>. Apart from an initial SKr 1.2 million (130,000 euro), no specific funds have been made available for Swedish law enforcement agencies to implement the law<sup>33</sup>.

The Swedish government stresses however the fact that «criminalisation can never be more than a supplementary element in the efforts to reduce prostitution and cannot be a substitute for broader social exertions»<sup>34</sup>. In fact, although the media often likes to portray prostitution as a problem for law enforcement agencies, Swedish authorities say that they consider and approach prostitution as a societal problem<sup>35</sup>. They say that this can be seen in the way they try to actively prevent women from sliding into prostitution. According to the Swedish government, its work to combat

<sup>26</sup> *Ibidem* (original: «Internationella undersökningar visar att prostituerade kvinnor har samma emotionella skador som krigsveteraner och tortyroffer. De har samma symptom i form av flashbacks, ångest, depressioner, sömnsvårigheter och stress. Självmord och självmordsförsök är vanliga»).

<sup>27</sup> *Ibidem* (original: «prostitution är en form av exploatering av kvinnor och barn och ett allvarligt samhällsproblem som medför allvarliga skador på både individer och samhälle»).

<sup>28</sup> Law 1998:408 is part of a governmental bill on legislative provisions and other measures to counteract violence against women called «Kvinnofrid 1997/98:55», available at [www.kvinnofrid.gov.se/regeringen/faktaeng.htm](http://www.kvinnofrid.gov.se/regeringen/faktaeng.htm).

<sup>29</sup> *Prostitution och handel med kvinnor*, cit.

<sup>30</sup> [www.kvinnofrid.gov.se/regeringen/faktaeng.htm](http://www.kvinnofrid.gov.se/regeringen/faktaeng.htm).

<sup>31</sup> [www.europarl.eu.int](http://www.europarl.eu.int).

<sup>32</sup> [www.kvinnofrid.gov.se/regeringen/faktaeng.htm](http://www.kvinnofrid.gov.se/regeringen/faktaeng.htm).

<sup>33</sup> Interview with Christer Thulin, Swedish Police Force, Malmö Sweden, June 2004.

<sup>34</sup> [www.kvinnofrid.gov.se/regeringen/faktaeng.htm](http://www.kvinnofrid.gov.se/regeringen/faktaeng.htm).

<sup>35</sup> Interview with Christer Thulin, cit.

demand for prostitution is also aimed at combating human trafficking for sexual exploitation. In a speech in 2002, the then minister of gender equality Margareta Winberg<sup>36</sup> said that: «We can never forcefully work against trade in women unless we at the same time work effectively against prostitution»<sup>37</sup>. Winberg also criticises states that have legalised prostitution, saying that «by accepting various forms of prostitution activities, they have created a large local prostitution market that is attractive for traffickers from all over the world. And here we have the connection – without prostitution there would be no trafficking in women»<sup>38</sup>. Gunilla Ekberg is arguing along the same lines, stating that to disconnect trafficking and prostitution would be «particularly faulty because the purpose of the recruitment, transport, sale or purchase by traffickers, pimps, and members of organised crime groups within countries or across national borders is, in the overwhelming majority of cases, to sell these females into the prostitution industry»<sup>39</sup>.

Despite claiming to take trafficking seriously, the Swedish state made human trafficking a crime in its own right as late as 1 July 2002<sup>40</sup> through the law «Brottsbalken 4 kap 1a §». Attempts to commit trafficking crimes or the deliberate hiding of information which could lead to prosecution on these matters are also crimes. As of 1 July 2004 there is a new and improved human trafficking law<sup>41</sup>. The meaning of what human trafficking is has been widened in order to comply with European Council's framework decision from 19 July 2002 concerning the fight against human trafficking<sup>42</sup>. The new law addresses previously not mentioned phenomena such as forced labour, slavery-like practices and the removal of human organs as punishable. The cross-border element as a requirement for human trafficking has been removed and been replaced by a criterion that the trafficker shall have achieved control over the victim. This is primarily in order to address re-trafficking within Sweden, and to address trafficking within Sweden of non-Swedes who have entered Sweden in other forms than trafficking, for example as asylum seekers<sup>43</sup>. The victim's «approval» to the exploitation now lacks importance for the criminal responsibility placed on the perpetrator<sup>44</sup>.

<sup>36</sup> [www.regeringen.se/margaretawinberg/](http://www.regeringen.se/margaretawinberg/).

<sup>37</sup> Speech by Margareta Winberg at a seminar about prostitution and trade in women in Stockholm, 15 May 2002; it can be found at [www.regeringen.se/galactica/service=irnews/owner=sys/action=obj\\_show?c\\_obj\\_id=45159](http://www.regeringen.se/galactica/service=irnews/owner=sys/action=obj_show?c_obj_id=45159) (original: «Vi kan aldrig kraftfullt motarbeta kvinnohandel om vi inte samtidigt arbetar effektivt mot prostitutionen»).

<sup>38</sup> Speech by Margareta Winberg, Stockholm, 5-6 November 2002; see [www.regeringen.se](http://www.regeringen.se).

<sup>39</sup> S. Ekberg, *The International Debate...*, cit.

<sup>40</sup> *Svensk lag mot sexhandel*, in «Svenska Dagbladet», 22 March 2003.

<sup>41</sup> See Ds 2003:45 *Ett heltäckande straffansvar för människohandel, m.m.*

<sup>42</sup> 2002/629/RIF. See European Council's official publication L 203 from 1 August 2002.

<sup>43</sup> *Människohandel...*, cit., p. 9.

<sup>44</sup> See Swedish governmental proposition 2003/04:111.

*Effects/Problems of Policies in Sweden*

According to Christer Thulin of the Swedish police, the number of women actively prostituting themselves has been halved in the period 1998-2004<sup>45</sup>. According to a report from the Board of Social Affairs (Socialstyrelsen), street prostitution has decreased by as much as 90%<sup>46</sup> since the sex purchase law was introduced. In 2002, the police received several indications that the law has had positive effects on the fight against human trafficking. Several women have informed authorities that pimps and human traffickers do no longer consider Sweden to be a good market for their activities<sup>47</sup>. Prostitutes have indicated that pimps and traffickers see countries such as Denmark, Germany, the Netherlands and Spain as more attractive places to locate their activities<sup>48</sup>. Police authorities in the Baltic states have also during several occasions informed the Swedish police that traffickers in their countries do no longer see Sweden as a good market for human trafficking<sup>49</sup>. This trend is also confirmed by the fact that the number of new foreign women who prostitute themselves seems to be very low<sup>50</sup>.

*Evaluation*

The sex purchase law in Sweden has been an effective tool for authorities to crack down on the sex industry and the accompanying problem of human trafficking. Although the sex industry continues to exist, it has decreased in size and this has rendered Sweden an unattractive market for traffickers. Widening the scope of applicability of trafficking laws has also been a positive step from the government. Hopefully this measure will lead to an increased number of arrests and convictions of traffickers.

**3.2. Situation in Denmark**

According to Danish governmental agency Videns- og Formidlingscentret for Socialt Udsatte, Tema Prostitution (VFC), the estimated total number of adults, both men and women, who prostitute themselves in Denmark is somewhere between 5,450 and 7,800<sup>51</sup>, while the Ministry of Equality estimates the number to be around 6,000<sup>52</sup>. The majority of these adult prostitutes are women. The number of prostitutes in Denmark has increased dramatically since 1989 when the estimated number of prostitutes was 1,600. When comparing

<sup>45</sup> *Ibidem*.

<sup>46</sup> *Kännendon om prostitution 2003*, Socialstyrelsen, Stockholm, June 2004, Report from the Board of Social Affairs on the prostitution situation in 2003.

<sup>47</sup> *Handel med Kvinno*, - *Lägersrapport 5, 31 december 2002*, Dnr NSK - 01809, Report by National Criminal Investigation Department.

<sup>48</sup> *Ibidem*.

<sup>49</sup> *Ibidem*.

<sup>50</sup> Interview with Christer Thulin, cit.

<sup>51</sup> A. Kongstad, *En skonsmassig beregning of prostitutionens omfang i Danmark i 2001*, in *Pro-Centret Årsberetning 2001*, that can be found at [www.pro-centret.dk/Udgivelser/Aarsberetninger/Pro2001.pdf](http://www.pro-centret.dk/Udgivelser/Aarsberetninger/Pro2001.pdf).

<sup>52</sup> See official Ministry of Equality web site [www.lige.dk/insats\\_handel\\_plan.asp](http://www.lige.dk/insats_handel_plan.asp).



Denmark to the other Nordic Countries Sweden, Finland and Norway, one sees that Denmark has a much higher frequency of prostitutes than the other countries do<sup>53</sup>. Out of the Nordic countries, Denmark is also the state with the most extensive legal accommodation of the sex industry. Today, there are probably much more than 2,000 foreign women who prostitute themselves in Denmark. The number of women who fit the Palermo Protocol's definition of a trafficked person is hard if not impossible to establish, although it is safe to assume that a majority of the foreign prostitutes in Denmark have been trafficked.

#### *Official Policies/Efforts in Denmark*

Previously, it was legal to sell sexual services as long as it was not a person's primary source of income. Current legislation implies that earning money from sexual services is completely legal as long as the income earned is reported as such to the authorities and thereby taxed. However, prostitution is not considered to have equal status to other occupations. Someone working as a prostitute cannot, for example, receive unemployment benefits or sick benefits based on his/her profession.

According to the Danish state, decriminalisation of the prostitute is aimed at shifting focus from the women selling sex to those who profit from the exploitation of someone else's body. The Danish Penal Code punishes those who procure (§228) and exploit (§229) prostitutes. The maximum imprisonment for these crimes is three years for procurement and four years for exploiting<sup>54</sup>. Purchasing sex from minors is prohibited by §223 and is punished with imprisonment of up to two years.

On 31 May 2002, law §262a was passed by the Parliament to supplement 1260, §261 and §266 which were the laws previously used in trafficking cases<sup>55</sup>. The law was written in order to harmonise Danish legislation with the demands of the Palermo Protocol. The new law means that the maximum penalty for trafficking in human beings in Denmark is now eight years. The law also means that the Danish police is allowed to use unconventional methods such as phone tapping and various forms of confiscation in order to bring forward an investigation into a case on human trafficking<sup>56</sup>.

<sup>53</sup> A. Kongstad, *Trafficking in Women for the Purpose of Prostitution*, that can be found on [www.pro-centret.dk/Udgivelser/Artikel.NSfK.2001.dk](http://www.pro-centret.dk/Udgivelser/Artikel.NSfK.2001.dk).

<sup>54</sup> *Ibidem*.

<sup>55</sup> *Ibidem*.

<sup>56</sup> [www.lige.dk/insats\\_handel\\_plan.asp](http://www.lige.dk/insats_handel_plan.asp).

In addition to legal efforts to combat trafficking, Denmark also drafted a national plan of action in October 2002 to fight trafficking<sup>57</sup>, and the Danish government has earmarked DKr 10 million (circa 1.35 million euro) a year between 2003-2006 to combat trafficking. Danish authorities say that the scope of the plan of action is to include not only the combating of the organised criminal networks which engage in human trafficking, but also to place focus on supporting the victims and on preventing human trafficking<sup>58</sup>.

In Denmark, authorities do not link the problem of prostitution to the problem of drug abuse the way it is in Sweden, despite reports from NGOs that the two problems are closely related in Denmark. The police treats the two phenomena separately. Danish law enforcement agencies do not co-operate with Swedish law enforcement agencies on sex industry issues as legal approaches to the sex industry are so different in the two countries that co-operation is not considered meaningful<sup>59</sup>.

#### *Effects/Problems of Policies in Denmark*

It is no longer criminal to be part of the sex industry in Denmark. Despite this, the Danish sex industry is infiltrated by international organised crime more than ever before according to Aaske Rieck Sorensen of Centre of Equality (Center for Ligestilling)<sup>60</sup>. The Danish state has tried to accommodate the sex industry but has failed to control it. The sex industry is growing rapidly and no one, not even NGOs specialised in the field, seem to know how many prostitutes there are in Denmark and how many of them have been trafficked.

The plan of action against human trafficking has received criticism from various actors. One organisation which certainly does not think that the Plan of action is effective is the Red Cross. Frustrated with government efforts, the Red Cross has invested DKr 1 million (140,000 euro) in improving co-operation between Denmark and countries of origin of the trafficking victims<sup>61</sup>. The Red Cross says that the plan of action is not oriented enough towards international factors and it ignores the trafficking of men and children for non-sexual purposes.

It has recently been discussed whether Denmark should learn from what is perceived by some as a positive experience of

<sup>57</sup> Regeringens handlingsplan til bekaempelse af kvindehandel, published in December 2002.

<sup>58</sup> [www.lige.dk/insats\\_handel\\_plan.asp](http://www.lige.dk/insats_handel_plan.asp).

<sup>59</sup> Interview with Christer Thulin, cit.

<sup>60</sup> See the Danish Police Association's website: [www.politiforbund.dk/show.php?sec=1&area=4&show=1232](http://www.politiforbund.dk/show.php?sec=1&area=4&show=1232).

<sup>61</sup> A. Gylling Trier, *Rode Kors saetter ind mot menneskehandel*, in «Politiken», 14 April 2004.

criminalisation of sex purchases in Sweden. Politicians do not seem to think that this is a good idea. Many politicians seem to think that cracking down on the sex industry will hurt the socially and financially weakest prostitutes first. Minister of Social Affairs Henriette Kjaer says that «it will do more harm than good to criminalise customers. Prostitution will simply move to the Internet or hidden escort services»<sup>62</sup>.

### *Evaluation*

The Danish plan of action to help victims is plausible. The work of NGOs such as Reden is important in order to help victims of trafficking return to a as normal life as possible. However, providing support for victims of trafficking while simultaneously facilitating trafficking by providing a legal framework for the sex industry is counter-productive at best and hypocritical at worst. Despite the sex industry's legal status, the authorities have limited insight into it and even less control over it.

Dealing with the syndrome (in this case human trafficking) without dealing with one of its main causes (the sex industry) can never be a successful strategy in the long run. If human trafficking is to be prevented, demand for sexual services must be tackled. Criminalising the sex industry, including sex purchases, would therefore be a good start to an effective counter-trafficking plan in Denmark. Denmark also needs to comply with the meaning of Articles 6 and 7 of the Palermo Protocol concerning the amount of time a victim is allowed to stay in the country of destination, and conduct further research into the trafficking routes and methods which bring victims to Denmark. Though not directly relevant to the question at hand in this essay, it is also recommendable that Denmark investigates which effects its strict immigration and citizenship policies have on phenomena such as smuggling and trafficking.

<sup>62</sup> K. Nilsson, M. Svinth Rodgaard, *Danske politikere imod forbud*, in «Berlinske Tidene», 4 February 2004 (original «Det vil gøre mere skade end gavn at kriminalisere kunderne. Prostitution vil blot flytte sig til internettet eller til skjulte escort-bureauer»).

## **4. Conclusion**

I have concluded the most effective legal approach to the sex industry to combat human trafficking is a prohibitionist strategy which criminalises all parts of the sex industry apart

from the sex seller. I have come to this conclusion based on my finding that prohibitionist strategies are generally successful in decreasing the size of the sex industry. An example of this is that the sex industry is considerably smaller in prohibitionist Sweden than in «liberal» Denmark, and much smaller than in «ultra-liberal» the Netherlands. There are approximately five times as many prostitutes per inhabitant in the Netherlands as in Sweden<sup>63</sup>. It would be academically incorrect to attribute this difference exclusively to differences in legal approaches to the sex industry, but it would be insensible to ignore it as a co-incident. In a smaller sex industry, there will be numerically fewer trafficked women. Criminalisation renders a sex market unattractive for traffickers, and the number of trafficked women might decrease percentually even more than the sex industry itself. Criminalising sex purchases also sends a loud and clear signal that human bodies are not for sale and encourages a culture where phenomena such as trafficking another person are not acceptable. Not criminalising the sex seller will help local prostitutes and victims of trafficking to contact authorities and receive help to change their situation, rather than depend on the sex industry itself to protect them, as is the case in places where selling sex is criminal.

I disagree with those who say that criminalisation problematises insight into the sex industry for authorities and that trafficking victims might then suffer even greater abuses and that legalisation on the other hand would give insight into the sex industry and an opportunity for authorities to help victims. I think it is naïve of countries which legalise the sex industry to think that they will be able to get anything more than a superficial insight into the operations of a sex industry which continues to remain primarily underground. Active investigative work on behalf of law enforcement agencies are likely to result in greater insight into the sex industry than the occasional check-ups and health controls envisioned where the sex industry is decriminalised.

The criminalisation of the sex buyer is of uttermost importance. The success of traffickers in women for the purpose of sexual exploitation is directly proportional to the demand for prostitutes. A state wanting to decrease human trafficking must therefore act to decrease demand for sexual services. Deterring sex purchases through criminalisation is an

<sup>63</sup> P. Frahm, *Prostitution: Ja till den svenske modell*, available at [www.sf.dk/pernille/index.php?article=4988](http://www.sf.dk/pernille/index.php?article=4988) (essay).

effective measure to decrease demand. If a country is to take trafficking seriously, it has to analyse the usefulness of its own perspective on the sex industry. A functionalist/liberal approach to the sex industry and to buying sex will never be able to work effectively against human trafficking. A functionalist/liberal approach to the sex industry causes it to expand and spiral out of control as it has done in Victoria (Australia), in the Netherlands, and is on its way to doing in Denmark. An expanding sex industry out of the authorities' control is the human trafficker's dream.

Criminalisation of the sex industry and efforts on behalf of law enforcement agencies to combat prostitution must be transnational. The risk otherwise is that sex markets and traffickers move across borders to places where they can operate more easily. This seems to have happened to a certain extent between Sweden and Denmark/Norway and probably Germany. As long as there are countries which provide legal frameworks for the sex industry, traffickers will always find new markets to traffic victims to.

Criminalising the sex industry and in particular sex purchases is a very good start to a preventive strategy to combat trafficking. However, this measure cannot act in isolation. Social inequality and the feminisation of poverty are both root causes of trafficking and are serious obstacles to combating human trafficking which need to be addressed. The unawareness of sex buyers and society in general about the misery most sex sellers, particularly victims of trafficking, find themselves in, and the lack of knowledge many women and girls in countries of origin have about the risks they take when agreeing to be helped to migrate also need to be addressed. Two of the most important non-legal measures to prevent human trafficking are therefore information/education campaigns and efforts to provide equal socio-economic opportunities to everyone. This accentuates the need for law enforcement agencies and social welfare programmes to cooperate in combating trafficking. A suggested action itinerary, which does not aim at being exhaustive, could include:

- Poverty alleviation programmes in countries of origin;
- Transnational campaigns to improve the position of women in society, especially in poor and transitional societies, to render them less vulnerable to trafficking;

- Providing both domestic, migrant and trafficked prostitutes with serious alternatives to prostitution. This involves action such as targeted employment schemes and social security measures, as well as protection for those individuals whose physical or mental integrity is at risk when leaving the sex industry;
- Looking over immigration laws in traditional countries of destination. Many of the victims who provide some initial consent to some aspects of the trafficking process would have never done so if they were able to migrate legally to the country of destination;
- Information campaigns in countries of origin targeting potential victims and the social networks that surround them; Education programmes aimed at the public on issues relating to prostitution and trafficking to increase awareness of the misery and the power structures which fuel trafficking and the sex industry;
- Providing guidelines for public servants and employees of international organisations not to purchase sexual services. This would be particularly important in international operations such as the one in Kosovo, where the international presence has spurred on an existing sex industry and created an out-of-control trafficking market through its extensive purchases of sexual services;
- Providing therapy and counselling for compulsive sex buyers; and
- Last, and most important, human trafficking must be seen as a human rights problem. A shift of focus from border crossing to violence against women increases the chances of the issue being treated as a human rights problem rather than an immigration problem.

Finally I would like to suggest two fields of study which would be interesting to further research. First, an in depth study of male prostitution and trafficking of adult males for the purpose of sexual exploitation would be very useful. The little research that has been conducted on this topic shows that men who sell sex often suffer from the same post-traumatic stress syndromes that many female prostitutes do and engage in similar self-destructive behaviours. To think of a male prostitute as a «happy prostitute» is presumptuous and prejudiced. An in depth study of male prostitution and

trafficking would help to better understand root causes for prostitution and trafficking which are not necessarily gender-based. Secondly, a study of the effects of immigration policies on human trafficking would be highly interesting. A comparative study of two or more countries with restrictive/generous immigration policies could highlight a possible relationship between immigration policies and trafficking.