

Assessing the Implications of the Swedish Prostitution and Trafficking Model

by

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Abstract

The 'Swedish model' of law related to prostitution and trafficking has been hailed by abolitionist feminists as a progressive approach to both problems. It is an approach centered primarily on reducing male demand for sexual services, and at undermining its legitimacy. It is also cognizant of how, in other countries, state support or tolerance of prostitution allows trafficking to flourish. The Swedish approach has been seen as a viable alternative to promoting an industry based on subordination, violence, and exploitation. This thesis argues that the Swedish approach to the problems of trafficking in human beings for the purposes of sexual exploitation and prostitution has been severely undermined by another competing set of laws: draconian immigration policies.

In recent years these policies have been driven not only by national but also by supranational, European Union, imperatives. This has created a situation in which the issue of trafficking is treated as a matter of illegal migration. Criminal law, labor law and human rights protections are all denied to trafficked women, contrary to the requirements of the 'Swedish model'. The result has been that trafficked women are most often forcibly deported from Sweden without adequate measures to ensure their safety in repatriation.

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Terms and Abbreviations

Commission	European Commission
Communication	Communication from the European Commission to the Council and the European Parliament on Trafficking in Women for the Purpose of Sexual Exploitation, 20 November 1996.
(EU) Community	Terms previously used to describe the EU. I will generally use EU or Union as these are the most recent, but when discussing legislation that refers to the European Community, I will use the terms employed in that legislation.
Council	Council of the European Union
Decriminalization	When used in the context of legalization or compared to legalization it means decriminalization of the sex industry under standard business codes. When used in the context of the Swedish model it means that decriminalization of the trade to avoid punishing the more “vulnerable party” while not recognizing the legitimacy of the trade.
EC	European Community
EU	European Union
Europol	European Police Office
EWL	European Women’s Lobby
GAATW	Global Alliance Against Traffic in Women
NCID	National Criminal Investigations Department
NGO	non-governmental organizations

Parliament	Abbreviated form of the European Parliament
RFSU	Swedish Association for Sex Education
SPTM	Swedish Prostitution and Trafficking Model
STOP	EU programme to eliminate trafficking in persons
“the Law”	The 1998 Swedish Act Prohibiting the Purchase of Sexual Services
Trafficking	Trafficking in/of women. If I refer to the other types of trafficking involving human beings or things such as drugs or arms, I will write this in full. Whenever “trafficking” stands alone, it should be taken to mean trafficking in/of women. (The same applies for variants on trafficking such as traffic, trafficked and trafficker.) For the purposes of this thesis I use the UN definition of trafficking listed in this thesis and subscribe to the Swedish interpretation of that definition.
Union	European Union
UN	United Nations

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Introduction

Sexual exploitation for profit is on the rise and faces few effective barriers. While sexual services have long been commodities to be bought, sold, traded and consumed they are now increasingly being traded across borders. This has meant a huge increase in international trafficking in humans for the purposes of sexual exploitation. The United Nations estimates that human trafficking as a business generates gross earnings of US \$5 to 7 billion annually, although the exact figures on the scale of this international industry of sex are impossible to obtain.¹ There are various estimates of the number of women trafficked into the EU from various countries around the world, but few would dispute that up to 500,000 women from former Eastern bloc countries alone are trafficked as prostituted women into Western Europe each year.² These figures are strictly estimates since trafficking statistics are, by definition, unreliable given the invisible nature of trafficking. This, when combined with disagreement around who should be counted in trafficking statistics and who should not, makes the estimation of the scope of the problem difficult. However, despite shortcomings in statistics and varying definitions of “migrant”, it is known that at least 50 million women are international migrants with an estimated 12 million of them in Europe.³

The former UN Special Rapporteur on Violence against Women (an office which has been instrumental in providing analysis and information on these issues to interested parties, governments, NGOs and lobby groups), Radhika Coomaraswamy stated that,

Trafficking in persons must be viewed within the context of international and national movements and migrations that increasingly are being undertaken owing to the [*sic*] economic globalization, the feminization of migration, armed conflict, the breakdown or reconfiguration of the State and the transformation of political boundaries. Problems facing female migrants have been complicated by several factors, including violation of basic human rights in the form of extortion, debt bondage and sexual exploitation. Unfortunately, government efforts to prosecute, convict and punish those responsible, i.e. both officials and traffickers, have amounted to very little.⁴

¹ Ed Holtd, "Anxiety over Growing Trade of Women in Eastern Europe," *Women in Action* 2 (2001): 5.

² *Ibid*, 5-6.

³ United Nations General Assembly. “Review of Reports, Studies and Other Documentation for the World Conference,” report submitted by Ms. Radhika Coomaraswamy, A/CONF.189/PC.3/5, 27 July 2001, 20.

⁴ *Ibid*, 23-24.

One reason for this is that the issue of trafficking tends to be confounded with that of illegal migration in an age of increasingly restrictive immigration policies in rich countries. Radhika Coomaraswamy has stated that ‘The term ‘trafficking’ is used by different actors to describe activities that range from voluntary, facilitated migration, to the exploitation of prostitution [*sic*], to the movement of persons through the threat or use of force, coercion, violence, etc. for certain exploitative purposes.’ In her view, this variation in what is deemed trafficking has hindered meaningful action and she proposes a single clear definition:

Increasingly, it has been recognized that historical characterizations of trafficking are outdated, ill-defined and non-responsive to the current realities of the movement of and trade in people and to the nature and extent of the abuses inherent in and incidental to trafficking...*At the core of any definition of trafficking must be the recognition that trafficking is never consensual.* It is the non-consensual nature of trafficking that distinguishes it from other forms of migration. While all trafficking is, or should be, illegal, all illegal migration is not trafficking. It is important to refrain from telescoping together the concepts of trafficking and illegal migration. At the heart of this distinction is the issue of consent.⁵

For our present purposes it is important to note that the countries of the EU have acted decisively to restrict migration. This is done while EU member states facilitate greater mobility of people within the EU. Set against this backdrop, the issue of trafficking in women is still a very low priority for member states in the European Union. Only 1% of the EU budget goes to fund women’s issues, with a paltry percentage of that going to fund initiatives aimed at tackling the problem of trafficking.⁶

While on the one hand the issue of trafficking is tied up with that of migration, on the other, it is deeply connected with that of prostitution. Many EU member states presently have some form of policy designed to achieve the abolition of prostitution through prohibition. EU member states following such policies are known as abolitionist member states. Legislation on prostitution and the sexual exploitation of women in many EU abolitionist member states has changed over the past fifty years, from penalizing only the prostitutes to punishing purchasers of sexual services in conjunction. Abolitionists are those who view prostitution as an inherently

⁵ United Nations Economic and Social Council. “Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women,” report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, E/CN.4/2000/68, 29 February 2000, 8. Coomaraswamy served from 1994-2003.

⁶ Earl Hadley, "Slavery Appears and Europe Is Silent," *Atlantis* 25.2 (2001): 69-70.

abusive practice/social evil, supporting the prohibition of the act and the punishment of some or all parties involved.⁷ Sweden is an abolitionist member state as is England. Other member states such as Germany and the Netherlands are among member states that support the legalization of prostitution. An important distinction that must be made here when discussing legalization and decriminalization regimes is that there are currently no state models in existence in which all forms of prostitution are legal or decriminalized. Even in legalization models aspects of street prostitution are still illegal. In the case of both the Netherlands and Victoria, Australia mechanisms exist to license brothels with elements of pimping and procuring being illegal.⁸

The SPTM

The Swedish Prostitution and Trafficking Model (hereafter referred to as the SPTM) is a unique set of laws and practices designed in recent years to deal with the problems of prostitution and trafficking in women for the purposes of sexual exploitation. The SPTM is part of a larger gender equality strategy. Under the set laws called *Kvinnofrid*⁹, it is hoped that violence against women can be eliminated in Swedish society. *Kvinnofrid* forms the context for Swedish prostitution law. The Swedish prostitution law criminalizes only the purchasers of sexual services. Advocates of the Swedish prostitution laws claim that they identify the link between prostitution and trafficking in women and children for the purposes of sexual exploitation. Prostitution markets are identified as the major cause of trafficking in women for the purposes of sexual exploitation. State-sanctioned prostitution prevails in countries where elements of prostitution are legal or decriminalized. The most extensive prostitution industries in Europe exist in countries where aspects of prostitution are legalized or decriminalized: Germany; the Netherlands; Denmark; and Italy. In the same European countries the demand for sexual services cannot be satisfied locally and it is therefore filled largely by trafficked women.¹⁰ The SPTM, whose two main components, the strategy against prostitution and that against trafficking, operate

⁷ Wendy Chapkis, *Live Sex Acts: Women Performing Erotic Labor* (New York, NY: Routledge, 1997), 131.

⁸ Julie Bindel, and Liz Kelly, "A Critical Examination of Responses to Prostitution in Four Countries: Victoria, Australia; Ireland; the Netherlands; and Sweden," *Child and Woman Abuse Studies Unit*, (London Metropolitan University, 2003), 12.

⁹ *Kvinnofrid* is a *Violence Against Women Act* package, which was enacted on July 1, 1998. The package included several alterations to laws relating to male violence against women, including a strengthened sexual harassment law and a new offence where repeated instances of male violence against a woman in an intimate relationship are punishable.

¹⁰ Bindel and Kelly, "A Critical Examination of Responses to Prostitution in Four Countries," 7-8.

semi-independently of each other, aims to abolish trafficking in women for the purposes of sexual exploitation by implementing a strategy that creates an environment that is unprofitable, and thus undesirable, for traffickers to bring women into. This view of trafficking contradicts the views of many non-abolitionist states which see trafficking and prostitution as separate issues.

The Swedish government recognizes that it is considered a “transit” country for trafficked women who are to be used for sexual purposes. Sweden is surrounded by European countries that are “sender” countries and “receiver/destination” countries, the latter being countries where prostitution is legal or tolerated. These non-abolitionist nations draw trafficked women into their borders through policies that allow for the existence of highly profitable prostitution markets. The SPTM is designed largely to prevent more victims from entering the country in order to make the Swedish abolitionist experiment a total success. It is also designed to diminish Sweden’s role as a ‘transit’ country. Sweden is troubled by its status as a transit country and hopes to eventually eliminate trafficking in women for the purposes of sexual exploitation through its borders. The Swedish prostitution model has been widely hailed and has also been recently adopted by Croatia and Macedonia. The SPTM has been successful in stimulating discussion about the abolitionist approach versus the legalization and tolerance models within the EU and globally.

Legalization models, which oppose abolitionist ones, allow or sanction the existence of prostitution as a form of legitimate labor or an inevitable social evil that requires regulation to ensure the health and safety of the industry’s workers and customers. Legalization models, whose particulars vary from country to country, have been part of an international trend in response to the failure of the “North American” abolitionist model, moving in the direction of legalization or decriminalization of the sex trade. Generally, the “North American” abolitionist model relies on criminalizing both the buyer and seller of sexual services for public solicitation. The Swedish model is part of an international response, in turn, to the failure of the most prominent of legalization models, the Dutch. This thesis will detail how the Swedish model is designed to achieve many of the goals that the Dutch legalization model was designed to and failed to achieve.¹¹

Legalization approaches are motivated not by a desire to reduce the incidence of prostitution but rather to reduce the levels of exploitation and general abuse within the industry by legalizing it, and therefore opening it to regulation. Under this approach trafficking in women, forced labor, and slavery-like practices are seen as the result of the poor social and legal positions that women as workers and migrants face. These strategies aim to improve the conditions under

¹¹ Chapkis, *Live Sex Acts*, 135.

which sex workers work through recognizing sex work as a legitimate sector of the economy enjoying labor law protection.¹² These approaches do not recognize the link between trafficking and prostitution that the SPTM identifies. The SPTM is built on the assumption that the very existence of legal prostitution creates markets and the demand for “trafficking” in women for the purposes of sexual exploitation, as the SPTM defines it. The Swedish approach defines “trafficking” as occurring in part when force, coercion or abuse occurs on the path to sexual exploitation. However according to its detractors the Swedish approach also seems to conflate all migration for sex work with “trafficking.” Advocates of legalization and formal decriminalization of the sex industry under standard business codes, on the other hand, recognize that “trafficking” is one of many things that can occur in the process of women migrating in response to a market demand for sexual and non-sexual services. One of the goals of the legalization approach to prostitution and trafficking, according to its feminist sex worker advocates, is to shift the balance of power to sex workers by giving them the right to exercise freedom of movement, financial initiative, the right to collect state benefits and pensions, and the right to be visible. They are not seen as passive victims the state needs to “protect”.¹³ This approach has evolved in nations like the Netherlands which, like no other country, has embraced “informal” alternatives to abolition. In the Netherlands prostitution has never been illegal. Brothels, however, were illegal until the ban was lifted on October 1, 2000.¹⁴ Officially brothels were banned in the Netherlands in 1911 to protect prostitutes from exploitation. In practice, the ban has not been enforced in the past 50 years. The ban was lifted to change the law to reflect the desire of the government to exercise more control over the sex industry and counter abuses.¹⁵ In the Dutch case sex workers, and sex worker advocates, recognize that the regulation of the industry must not be done in a way that stigmatizes sex workers as the informal tolerance of the trade did. The old policy of “tolerance”, for instance, also became dangerous for sex workers: without adequate labor protections sex workers find themselves in situations where they are more vulnerable than any other labor group to violence and/or sexual abuse. Contrary to abolitionist models the tolerance, regulation and legalization models stigmatized through registration and

¹² Marjan Wijers, "European Union Policies on Trafficking in Women," *Gender Policies in the European Union*. Ed. M. Rossilli. (New York: Peter Lang Publishing, 2000), 225.

¹³ Ibid, 226.

¹⁴ Netherlands Ministry of Foreign Affairs. “Dutch Policy on Prostitution: Questions and Answers,” 2004, 1.

¹⁵ Ibid, 2.

mandatory health checks. Tolerance, regulationist, and legalization approaches that stigmatize women in the trade are blamed for pushing women in the industry into dangerous situations which mirror the circumstances women face in abolitionist models.¹⁶

The SPTM's advocates argue that it is a strong alternative to approaches involving the decriminalization or legalization of prostitution. As recently as this year the U.S. and the Swedish governments have launched a cooperative campaign designed to prevent prostitution and sex trafficking. Presently, Sweden and the U.S. are engaged in a joint project with Coalition Against Trafficking in Women (CATW) and the European Women's Lobby (EWL) to enhance measures to assist victims of trafficking, challenge the legalization of the sex industry in Europe, and address the male demand for the sexual services of women.¹⁷ The Swedish government has also been actively seeking to export the SPTM to nations within the EU and abroad. The Act Prohibiting the Purchase of Sexual Services (1998:408), the crux of the SPTM, was passed by a parliament containing a large number of female MPs and was lobbied for by an extremely strong women's lobby in Sweden. The SPTM has generated many debates between competing feminist approaches within the EU and abroad. The following issues have been most prominent in these debates:

- What are human rights?
- What rights do and should sex workers have?
- What conditions are women exploited under and which model can best prevent exploitation?
- Can prostitution ever be considered voluntary?
- Can "trafficking" ever be considered voluntary?
- What are the root causes of trafficking in women for the purposes of sexual exploitation and is prostitution one of them?
- What is trafficking?
- What state model best protects and understands the situations the female migrant faces while understanding the nature of migration in general?

The SPTM contends that the conditions in which trafficking in women for the purposes of sexual exploitation will continue to exist as long as states continue to facilitate trade in women through the sanctioning and/or supporting the prostitution industry. The SPTM takes a 'non-

¹⁶ Chapkis, *Live Sex Acts*, 137.

¹⁷ Janice Raymond, "Sex Trafficking is Not 'Sex Work'," *Conscience*, 26.1, (Spring 2005): 1.

voluntary' view of both trafficking and prostitution. The issue ultimately comes down to "consent" and whether or not women can and should be given the right to choose "sex work" as an occupation. There numerous feminists on both sides of this issue and on the issue of how the state should treat the prostitution industry.

This thesis will examine the SPTM more closely by examining not only the competing feminist discourses surrounding trafficking and prostitution but also how these discourses have affected the design of the legislation. It will also examine how the policy has evolved through the enforcement of its laws, its unintended consequences and the criticisms leveled at it from different perspectives. First, it will be argued that the SPTM is successful in that it does succeed in challenging the notion that prostitution is an acceptable or tolerable practice. Second, and as important, is the argument that the STPM is based on two ultimately conflicting sets of laws. The STPM relies on laws that are designed to prevent the purchase of sexual services, while protecting the prostitute from criminal penalties. Immigration laws, however, prevent illegal female migrant prostitutes from having the same protections as legal Swedish citizens practicing prostitution by denying illegal migrant sex workers the "vulnerable" victim status given to Swedish prostitutes.

Methodology

The initial goal of this project was to write a thesis that supported the Dutch legalization prostitution model. I decided I needed to put the model in context by reading non-case specific books on prostitution and trafficking that detailed key points of the Dutch experiment and other relevant models. In reading about prostitution I found that there were other major issues that were linked to it in the literature. I found that I was somehow disturbed by the Dutch model as it seemed to fail to recognize the link between the legalization of prostitution and the growth in trafficking in women to the Netherlands. The similar German legalization model grabbed my interest so I read what a deemed enough sufficient sources to get a general understanding of what the model set out to accomplish and what the model actually was accomplishing. In my preliminary general research I came across the SPTM, which initially interested me enough to want to read a lot more. Since all three of the countries I was looking at are EU member states, I thought it was necessary to review various work done at the EU level concerning trafficking and migration policy. In reading the literature on legalization and abolitionist approaches, I found that opinions were deeply divided and practically no source was balanced as between the two approaches. I was concerned about this initially till I realized that there are two key departure points between the models for me.

First, the SPTM identifies prostitution as an inherently violent industry that must be abolished for the women in it and the women who will be trapped in it the future, while approaches that legalize and decriminalize aspects of the sex industry under standard business codes believe professionalizing the trade will help eliminate violence from the industry. Reading the general literature on the SPTM made me come to the realization that I could not argue in favor of legalization on the basis that prostitution is an inherently violent practice that should not be encouraged by the state. Second, the SPTM identifies the link between profitable and expanding prostitution markets and the growth in trafficking in women for the purposes of sexual exploitation to those markets while advocates of models that call for the legalization or decriminalization of the sex industry under standard business codes claim this model tends to conflate all female migration for sex work with trafficking. After looking at the literature on these arguments I decided that the SPTM was at least acknowledging the link between the demand for sexual services of migrant women and taking a stand on the issue of female migrants being trafficked for the purposes of sexual exploitation. I had decided I wanted to focus primarily on the SPTM.

My primary sources were the documents produced by various branches of the Swedish government in the process of advocating, legislating and executing the SPTM. I obtained many of them from the Swedish government website. Those which were not available there, I was able to obtain by contacting the relevant departments, embassies and consulates in Sweden and Canada.

My primary sources are my Swedish government and European government level documents. I was restricted in number of the Swedish government documents I could read by my failure to read Swedish, which often meant I could had to rely on secondary sources and/or English summaries of key documents. My secondary sources covered debates between advocates of abolitionists and those in favor of legalization or decriminalization of the sex industry under standard business codes. My secondary sources also covered issues on the periphery of these debates that I were necessary for me to gain a deep understanding of the issues surround prostitution and trafficking in women for the purposes of sexual exploitation.

While the Swedish government documents are biased towards promoting the moral reasoning behind the model and the success of the model in keeping prostitution in check, there was also serious recognition of serious flaws in the SPTM that need to be improved to increase the effectiveness of the model. Secondary source literature from sex worker advocates further convinced me that the debate comes down to two key departure points in the literature on prostitution and trafficking. My primary and secondary sources for this thesis provided me a suitable understanding of the noble goals of both models and their various permutations.

Furthermore, the same sources were used by me to identify the numerous flaws in both models. A very small segment of my primary and secondary source literature seemed to hint at the miserable failure of both models in allowing restrictive immigration policies to support the deportation of trafficked women back into potentially dangerous and desperate situations.

Overview

Chapters 1 and 2 provide the historical background and the international context for the SPTM. Chapter 1 focuses largely on the 1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of Others, since the SPTM draws much inspiration and substance from it. The 1949 Convention is a key international document that has supported the creation of various abolitionist approaches to prostitution across the world. While critiques of the Convention's ineffectiveness in protecting the rights of trafficked women and combating trafficking will be examined in chapter 3, along with the critique of the SPTM,¹⁸ Chapter 1 will take the story from the 1949 Convention further in chronological order and also examine some of the other key international documents and events that lead to the eventual creation of the SPTM.

Chapter 2 will focus on the 1998 Act Prohibiting the Purchase of Sexual Services, usually referred to simply as the Law in the documents and the literature.¹⁹ This chapter will explain what the Law, the crux of the SPTM, actually states, the effects the Law is meant to have, and some of the main measures that have been put in place to help the Law achieve these effects. Chapters 1 and 2 are designed to explain how advocates of the Swedish model see the strategy as being built around a tradition of feminist thought and practice which is supported by the majority of feminists within Sweden and is seen to benefit the majority of women in society. Chapters 2 and 3 are designed, in part, to situate the discussion in the broader context of debates about how to deal with the sex "industry", and acknowledge arguments of those who support this approach, including many feminists.

Chapter 3 will review critiques the SPTM. According to critics within Sweden the model has failed to meet some of its goals and or the model needs to be improved. I will also present the argument of others, outside Sweden, who are advocating moving in the direction of decriminalization or legalization of the sex industry under standard business codes. These sex

¹⁸ United Nations Economic and Social Council, "Integration of the Human Rights of Women and the Gender Perspective, 11.

¹⁹ Gunilla S. Ekberg, Special Advisor: Division of Gender Equality. "Best Practices for Prevention of Prostitution and Trafficking in Women: The Swedish Law That Prohibits the Purchase of Sexual Services (1998: 408)," *Ministry of Industry, Employment and Communications*, (2003), 1187.

worker rights advocates criticize the model on numerous moral and ideological grounds. This chapter will also show that the issues of trafficking and prostitution constitute an extremely complex puzzle where determining which approach is the best human rights solution depends on a variety of competing interests, views of feminist theory, views on the sex industry, and views on migration. This chapter will take an abolitionist stand on these debates.

Chapter 4 is designed to show, firstly, how the SPTM is being supported by the sexual education system within Sweden. The sex education system is discussed in large part to show that there is a movement within Sweden which recognizes that support of the Law's future positive normative effects, and improvements in the enforcement of the Law, require future citizens to fully understand the benefits of the Law. The discussion of the sexual education system illustrates that the Law and the SPTM are designed to attempt to evolve and solve problems previous abolitionist models have had in enforcing anti-prostitution and trafficking laws. Chapter 4 will also examine how both the abolitionist SPTM and the approach of states who allow legalized or decriminalized prostitution within the EU have failed to construct a model that protects the rights of women trafficked for the purposes of sexual exploitation and or women migrating for sex work depending on your perspective. Despite the models' apparently incompatible feminist premises, their responses to the problem of trafficking in women for the purposes of sexual exploitation are, in practice, quite similar. In a subsidiary argument, this chapter will highlight measures that are designed to evolve and strengthen the long term preventive effects of the Law within Sweden. The chapter concludes by showing that Sweden is attempting to solve the problems it, and all other European trafficking models, have had within the EU in dealing with rising numbers of asylum seekers by hijacking the issue of "trafficking" to keep "undesirable" migrant women out of the country.

The conclusion will summarize the findings of the thesis with regards to how both the SPTM and decriminalization/legalization approaches within the EU have had problems arising from the intersection of repressive immigration policies towards a disadvantaged class of migrant women and various conflicting human rights approaches towards the problems associated with trafficking and prostitution. The conclusion will ultimately state that prostitution is reprehensible practice that needs to be approached from a Swedish abolitionist framework, while taking into account the need to harmonize draconian immigration policies with the obligation to protect illegal migrant women from deportation into potentially dangerous situations.

Contribution to the Field

This thesis will contribute to three fields: the literature on trafficking in women, feminist theory, and on policy in this area, and the study of law within the European Union. I aim to show, firstly, the conditions that made the SPTM possible as a policy. I hope to address aspects of feminist theory which consider why trafficking occurs and continues to flourish and what is at stake in it for participants in the sex trade and society in general. I aim to show, secondly, that EU law contributes to the human rights violations trafficked women suffer.

CHAPTER 1- Historical Justification and Explanation for the Creation of the SPTM

1.1 Introduction

Sweden was not always an abolitionist state. Prostitution was regulated by the state in Sweden between the years 1847 and 1918. Prostituted women were required, for example, to submit to medical examinations and carry cards that certified that they were in good health. In 1918 women were granted the right to universal suffrage, which no doubt was part of a first wave feminist movement that prompted the government of the time to abandon this policy. From that time to the implementation of the Law and the birth of the SPTM in 1998 there has been a battle within Sweden on how the prostitution industry is to be dealt with. How prostitution was dealt with both practically and legally in Sweden from the period of 1918-1998 is a subject that is underrepresented in the literature on the SPTM. Literature on the SPTM is clear on the fact that the SPTM's creation is in large part due to the fact that the laws governing prostitution and trafficking were vague, impractical, and in need of modernizing to fit the current sociopolitical climate in Sweden.²⁰

The Swedish government defines trafficking and prostitution as human rights issues, which is why this chapter starts out by outlining the basis for all Swedish human rights policy. Second, this chapter outlines the basis for the creation of the SPTM in international law. Third, this chapter outlines how the model evolved through legislation to meet its abolitionist objectives. This chapter concludes by examining some of the government measures that support the SPTM's intent to attack the legitimacy of the male demand for purchased sexual services. The sexual education programme is left for a later chapter, since it is not officially a measure directed by the Swedish government.

1.2 Respect for Human Rights and the Rule of Law

The Swedish government feels it has taken a lead in accepting international laws and conventions and adapting these standards to Swedish law. The Swedish government sees its role as involving not just formal compliance with these international laws, but also the implementation of substantial measures to achieve their aims. Nevertheless, anti-prostitution laws existed in Sweden long before international laws and human rights conventions. This begs the question

²⁰ Ekberg, "Best Practices for Prevention of Prostitution and Trafficking in Women," 5.

why see the latter as a cause of the former? The answer is that the Swedish government used the latter to justify the creation and implementation of the SPTM.²¹ The promulgation of the international conventions, combined with the Swedish government's historic support for them, meant that they came to constitute important milestones towards the SPTM. The Swedish government stresses that human rights are universal specifically citing the rights enshrined in the 1948 Universal Declaration of Human Rights (UDHR) and confirmed by the 1993 Vienna Conference. One of the most important results of the 1993 Vienna Conference on Human Rights was the recognition of women's rights as human rights. This recognition extended state accountability for violence to the private sphere. The Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993 states that the human rights of women/children are an inalienable, integral and indivisible part of universal human rights. The declaration urges that the elimination of violence against women in both the public and private spheres is necessary. It addresses the issue of "international trafficking" for the purposes of sexual exploitation as a form of gender-based violence calling for its elimination through international co-operation in economic and development fields and through national legislation. Swedish abolitionists assume that most trafficking is for the purposes of sexual exploitation. Prostitution is considered a form of gender based violence within Sweden; therefore the process of feeding this market through trafficking is assumed to be a form of gender specific sexual violence.²²

According to the Swedish government these international human rights apply to everyone without distinction of any kind, and they are to be respected everywhere in the world irrespective of country, culture or specific situation. The protection of these rights is the responsibility of the Swedish government when women reside in its territory or otherwise come under its jurisdiction or influence. The Swedish government accepts this responsibility in the functioning of its judicial systems, legislation, education, social support networks, and development aid programs and polices, etc.²³

Sweden is not alone in being criticized for failing to apply and enforce human rights protections through law. How seriously the Swedish government takes its responsibility for legal

²¹ Ministry for Foreign Affairs, Government Communication 2003/04:20, Human Rights in Swedish Foreign Policy, 2003, 37.

²² Marjan Wijers and Lin Lap-Chew, *Trafficking in Women Forced Labour and Slavery-Like Practices in Marriage Domestic Labour and Prostitution*. (Utrecht: STV, 1997), 24.

²³ Ministry for Foreign Affairs, Government Communication 2003/04:20, Human Rights in Swedish Foreign Policy, 2003, 6.

enforcement of its own laws as well as these international conventions can be seen in a recent initiative against 'impunity'. Sweden's Ministry for Foreign Affairs pointed out in a recent Communication to Parliament on 30 October 2003 that the one of the main obstacles in the implementation of any policies protecting human rights is the "fight against impunity", defining impunity in section 4.3.2 entitled "The fight against impunity" as follows:

Impunity, i.e. the state's failure to prosecute crimes and punish the perpetrators, occurs in all parts of the world. Such crimes are usually committed by the representatives of the government, for example the police or armed forces, or with the tacit consent of the government. Impunity is a major obstacle to the establishment of democracy and the rule of law. It is important that an individual whose rights have been violated has the right and opportunity to appeal to a court of law and that the person who has committed the violation is prosecuted and punished. Sweden will continue to combat impunity and will seek to establish and maintain respect for the rule of law.²⁴

Officially the Swedish government acknowledges that combating trafficking in human beings for the purposes of sexual exploitation should be undertaken as a political priority. The SPTM is part of a larger strategy to achieve gender equality. Gunilla Ekberg, special advisor to the Division of Gender Equality, Ministry of Industry, Employment and Communications, and active advocate of the Swedish Law Prohibiting the Purchase of Sexual Services (1998:408) claims that starting with the UDHR:

"Any society that claims to defend principles of legal, political, economic and social equality for women must reject the idea that women and children, mainly girls, are commodities to be bought and sold. To do otherwise is to allow that a separate class of females, especially women who are economically and racially marginalized, is excluded from the universal protection of human dignity enshrined in the body of international human rights instruments developed during the last fifty years."²⁵

The Universal Declaration of Human Rights is the basis for much of the Swedish government's human rights policy and Ekberg's view is similar to Radhika Coomaraswamy's, the Former Special Rapporteur on Violence against Women, who stated, in connection to the UDHR and state responsibility:

The State becomes directly responsible for an act of one of its actors, even if such an act was undertaken outside the scope of the State actor's official capacity. States are also

²⁴ Ibid, 38.

²⁵ Ekberg, "Best Practices for Prevention of Prostitution and Trafficking in Women," 1.

responsible for the actions of non-state actors that are carried out on the State's behalf. As such, in the context of trafficking, a state is responsible for acts committed by its own actors, be they immigration officials, border patrols or police. 'States have a responsibility to provide protections to trafficked persons pursuant to numerous international and regional instruments.'²⁶

While the clarity of the Swedish government's perspective on impunity is commendable it has been argued that its trafficking policy has not fought against impunity through a failure to prosecute even a paltry portion of offenses related to trafficking to the fullest extent of the law. The Government claims that it is actively engaged in this fight and that Sweden does, and will continue to, combat such impunity in order to establish and maintain the respect for the rule of law.²⁷ This chapter and the next will show how Swedish trafficking strategy is aimed at addressing this issue through various measures that support the Law. In order to implement this part of the SPTM the Swedish state has undertaken to recognize, and live up to, its international and regional commitments.

Not only does Sweden present itself as seriously concerned with the problem of trafficking in women for the purposes of sexual exploitation, it also cites the importance abolishing slavery and slavery-like practices. Sweden sees prostitution is a form of sex slavery and gender specific violence against women. Sweden claims that it is in line with the UN on this objective since slavery and slavery-like practices have been denounced in numerous legislative and policy documents supported by Sweden, such as the International Slavery Convention of 1926, the Supplementary Convention of 1956, the ILO Forced Labour Convention No. 29 and the ILO Convention No. 182 on the Worst Forms of Child Labour as well as other human rights instruments like the International Covenant on Civil and Political Rights. These conventions help popularize the notion that prostitution is a practice that most women are trapped into. The fact that it is recognized by these and other international documents that prostitution is a form of sexual slavery that is supported by the male demand for sexual services no doubt paved the way for introducing the Law within Sweden.²⁸

²⁶ United Nations Economic and Social Council. "Integration of the Human Rights of Women and the Gender Perspective," 18.

²⁷ Ministry for Foreign Affairs, Government Communication 2003/04:20, Human Rights in Swedish Foreign Policy, 2003, 37-38.

²⁸ Ministry for Foreign Affairs. "Trafficking in Women and Children in Asia and Europe". 2004. Accessed on 17 August 2004. <http://norsk-larerlag.no/projects/trafficking/trafficking.doc> , 30.

1.3 The 1949 Convention to “the Law”

Much abolitionist national legislation that now exists in many western states against pimping, procuring and living off the earnings of a prostitute came into existence during the 1950s, which is seen by many as a testament to the importance of the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, which was created by states to justify their creation of or continued support for abolitionist models. The 1949 Convention addresses both trafficking and prostitution issues. For the next several decades this Convention helped create an understanding in which prostitution was more akin to slavery than labor. However, the 1949 Convention is one of the many UN Conventions that does not have effective monitoring or enforcement mechanisms. Advocates of abolitionist states like Sweden argued that a monitoring committee was necessary. Many countries that ratified the 1949 Convention violated the portion of Article 6 that states that ratifying Parties must “repeal or abolish any existing law, regulation or administrative provision” that was used to register women in prostitution. Sweden did not violate Article 6 of the Convention. The purpose of abolitionists supporting the promotion and enforcement of the 1949 Convention was, simply put, to prevent ratifying countries from recognizing prostitution as work, or as a legitimate economic sector, since labor laws entail the administrative control, recognition, and regulation of prostitution. The Preamble of the 1949 Convention states that “prostitution and the accompanying evil of trafficking for the purposes of sexual exploitation are incompatible with the dignity and worth of the human person.”²⁹

Sweden did not smoothly move into an abolitionist approach after the 1949 Convention. While, as mentioned before, the exact legal situation which came to prevail after that date is unclear, we do know that in 1972, a group of parliamentarians proposed that Sweden should institute state-run brothels to respond to the growing male demand for “unlimited” access to sexual services. At about the same time, the government was seriously looking at the Sexual Crimes Report, which was proposing increasing tolerance for rape. Decades after the 1949 Convention, therefore, this view of sexual liberation on male terms hindered the development of the Swedish abolitionist model. It took a further twenty six years to change the course of public thinking enough to enact the Law, which formed the crux of the abolitionist SPTM in 1998.³⁰

²⁹ Janice Raymond, "State-Sponsored Prostitution," Seminar on the Effects of Legalization of Prostitution Activities, Stockholm, 5-6 November, 2002, 11.

³⁰ Maria-Pia Boethius, "The End of Prostitution in Sweden". 1999. Accessed on 9/22/2004 at http://www.sweden.se/templates/Article___2295.asp, 6.

The 1949 UN Convention was the only international document to deal thoroughly with the problems of trafficking and prostitution until the adoption of the *Protocol to Prevent, Suppress and Punish Trafficking in Person, Especially Women and Children, 2000*.³¹ It recommended punishment for procurement, enticement or leading away another person for prostitution, even with that person's consent.

Under the 1949 Convention, countries were required to adopt preventive measures, including supervision of employment agencies, to provide temporary health care for trafficked persons, and to assist with repatriation costs if necessary.³² While ratified by few countries, the 1949 Convention has served as a model for Swedish legislation.³³ For example, Swedish legislation under *Kvinnofrid* in 1998 implemented the provisions of Article 2 of the 1949 Convention that bound ratifying countries to punish any person who "knowingly lets or rents a building or other place or any part thereof for the purpose of the prostitution of others."³⁴ The Convention was and continues to be controversial. While abolitionist states favored it because it provided that consent of the trafficked person is irrelevant to the prosecution of the exploiter,³⁵ those who favor legalized prostitution and "consensual migration for sex work" opposed the same provision.

Advocates of the abolitionist model argue that the trend towards legalizing, decriminalizing and tolerating elements of the sex industry and narrower definitions of trafficking, which require proof of coercion or force, have made the conviction of traffickers very difficult and will continue to greatly benefit transnational criminal networks.³⁶

In 1989 the European Parliament challenged the 1949 Convention by insisting that "force" be regarded as the crucial factor in trafficking and called upon the European Commission and EU Member States to: "'Take action at an international level to draft a new UN convention to

³¹ Jo Doezema, "Who Gets to Choose? Coercion, Consent, and the UN Trafficking Protocol," *Gender and Development* 10.1 (2002): 24.

³² Ministry for Foreign Affairs. "Trafficking in Women and Children in Asia and Europe," 2004. Accessed on 17 August 2004. <http://norsk-larerlag.no/projects/trafficking/trafficking.doc>, 30.

³³ Doezema, "Who Gets to Choose?," 24.

³⁴ Esohe Aghatise, "Trafficking for Prostitution in Italy: Possible Effects of Government Proposals for Legalization of Brothels," *Violence Against Women* 10.10 (October 2004): 1147.

³⁵ Donna Hughes, "The Natasha Trade: The Transnational Shadow Market of Trafficking in Women," *Journal of International Affairs* 53.2 (2000): 648.

³⁶ *Ibid*, 649.

supersede the obsolete and ineffective Convention on the Suppression of Traffic in Persons and of the Prostitution of Others (1949)'.³⁷

Nevertheless, despite the historical and factual inconsistencies that exist in assessing the effects of the 1949 Convention many abolitionist feminists within Sweden and elsewhere argue that the 1949 Convention remained a strong tool uncompromisingly condemning the exploitation of women through prostitution for over 50 years.³⁸

The 1979 Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), ratified by three quarters of the world's states,³⁹ specifically dealt with the human rights of women, obliging State parties to take all appropriate measures to eliminate all forms of discrimination against women.⁴⁰ Article 6 of the Convention dealt with prostitution and trafficking in women using the same wording as the 1949 Convention calling upon states parties to take all necessary steps to suppress all forms of trafficking in women, the exploitation of women, and the prostitution of women. The 1979 Convention clearly supported the abolitionist view of prostitution according to advocates of the Swedish model.⁴¹

1.4 The Culmination of Years of Lobbying, the Crux of the SPTM

On 29 May 1998, the Swedish Parliament passed a law that made it illegal to purchase "a temporary sexual relationship". This Act, which is currently seen and promoted as the crux of the SPTM was the culmination of almost a decade of work by feminist groups and center-left politicians.⁴² It is important to understand that the Law was passed as a part of a broad package of laws entitled *Kvinnofrid* that is officially translated as "Violence Against Women" but in actuality means something like "Serenity for Women".⁴³

³⁷ Wijers and Lap-Chew, *Trafficking in Women Forced Labour and Slavery-Like Practices in Marriage Domestic Labour and Prostitution*, 25.

³⁸ Raymond, "State-Sponsored Prostitution," 13.

³⁹ Swedish Ministry for Foreign Affairs, "Poverty and Trafficking in Human Beings: A strategy for combating trafficking in human beings through Swedish international developmental cooperation," Stockholm, 2003, 21.

⁴⁰ Wijers and Lap-Chew, *Trafficking in Women Forced Labour and Slavery-Like Practices in Marriage Domestic Labour and Prostitution*, 23.

⁴¹ Swedish Ministry for Foreign Affairs, "Poverty and Trafficking in Human Beings," 21.

⁴² Don Kulick, "Sex in the New Europe: The Criminalization of Clients and Swedish Fear of Penetration," *Anthropological Theory* 3.2 (2003): 199.

⁴³ *Ibid*, 201.

In 1971, Sweden saw the appointment of a Committee that was given the task of filing the Sexual Crimes Report. Of the eight appointees seven were men and one was a woman. Sweden at the time was seen as a haven for free love and forms of prostitution were legal in Sweden at the time. The report supported the view that the state should be involved as little as possible in the sexual actions between consenting adults. This “tolerance” also encompassed rape. The Report proposed that rapists be merely fined if their crime was judged to be “less serious”. This deadly blow to the sexual integrity of Swedish women jolted them awake.⁴⁴ As a result of intense lobbying by feminists in 1977 the Minister of Justice in the centre-right government stopped the Sexual Crimes Report that tolerated various forms of rape in the name of sexual liberation. The Swedish government, in response, appointed both a new Sexual Crimes Committee with a female majority and commissioned a special Prostitution Report by another new committee, also lead by women. In 1981, the Prostitution Report released its findings. It was the most profound and comprehensive review of prostitution ever carried out in Sweden. This official government report concluded that prostitution is about violence against, and the oppression of females, drugs, crime, power, subjection, the objectification of women, and about men who buy access to the most vulnerable women. The findings of the report went against traditional male views on male entitlement to unlimited access to the female body, which explains why it took over twenty years to implement its findings.⁴⁵ The Prostitution Report did not change the law as forms of prostitution continued to legal within Sweden. The report did lead to new awareness about what needed to be done within Sweden to abolish prostitution.⁴⁶ The result was the intense lobbying for the Law that continued in the 1980s by Swedish feminists who have consistently argued that men who purchase sexual services from prostituted women should be criminalized and that the women and girls engaged in prostitution should be seen as victims of male violence who have the right to assistance to escape from the abuses of prostitution, while avoiding criminal punishment themselves.⁴⁷ In 1986, the National Organization for Battered Women’s Shelters (ROKS) made the demand for the Law part of its official plan of action, which

⁴⁴ Boethius, "The End of Prostitution in Sweden", 2-3.

⁴⁵ Ibid, 3.

⁴⁶ Ibid, 4.

⁴⁷ Gunilla Ekberg, "The Swedish Law That Prohibits the Purchase of Sexual Services." *Violence Against Women* 10.10 (October 2004): 1191.

it presented to female parliamentarians every year till the Law was passed. At the time of the initial 1986 presentation 40% of parliamentarians were women.⁴⁸

In the 1994 elections Swedish voters put more women into the Riksdag than any other parliament in the world. Forty one percent of Riksdag members were now female. These members helped commission yet another Prostitution Report (the third) entitled “The Commerce of Sex”, SOU (standing for Swedish Official Government Report) 1995:15. The result was a government bill called “Serenity for Women” also known as Kvinnofrid, SOU 1997/98:55. When this bill was passed the percentage of women in the Riksdag was up to 43.⁴⁹ Thanks to the intense lobbying of these dedicated feminists, combined with the assistance of female politicians from across party lines the Law was brought to parliament, and approved with little opposition, and entered into force on 1 January, 1999.⁵⁰

1.5 Addressing Demand at the International Level

Sweden is seen, and sees itself, as an “evolved’ abolitionist state in dealing with matters associated with trafficking in human beings for the purposes of sexual exploitation. Along with over 80 other countries Sweden signed the Protocol to Suppress, Prevent and Punish Trafficking in Persons, Especially Women and Children (The Trafficking Protocol) in Palermo, Italy in December of 2000.⁵¹ The 2000 UN Protocol is designed, among others things, to create stiffer penalties that fit the crime of trafficking, to promote penalties that are designed specifically for the crime of trafficking, and to promote police and judicial cooperation across borders in the face of new organized forms of trafficking such as trafficking in women and children for mail-order bride industries and for sex tourism.⁵² The Protocol is a key international instrument in reinforcing the Swedish Law prohibiting the purchase of sexual services by stipulating that states must address the demand for sexual services which results in women and children being trafficked. Article 9.5 states that:

⁴⁸ Ekberg, "Best Practices for Prevention of Prostitution and Trafficking in Women," 4.

⁴⁹ Boethius, "The End of Prostitution in Sweden," 5.

⁵⁰ Ekberg, "The Swedish Law That Prohibits the Purchase of Sexual Services," 1191.

⁵¹ Doezema, "Who Gets to Choose?," 20.

⁵² Janice Raymond, "The New UN Trafficking Protocol," *Women's Studies International Forum* 25.5 (2002): 492.

Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children that leads to trafficking.⁵³

Chapter 2 will discuss some specific Swedish efforts to implement article 9.5.

1.6 From “Forcible” Deportation to Temporary Protection and Assistance

Trafficked women are, in practice, denied entry or eventually forcibly deported under the provisions of the Aliens Act (1989:529), Chapter 4 “(Refusal of entry and expulsion)”, section 2, paragraph 2 which states that an alien may be refused entry, “If [sic] he intends to earn his living in Sweden or in any other Nordic country and there is no reason to assume that he will not be supporting himself by honest means or that he will be carrying on activities for which a work permit is required without actually possessing such a permit.”⁵⁴ While deportation of sex workers supports the SPTM’s resistance to migratory flows of trafficked women it does not take into account the status of the trafficked woman as a vulnerable victim under the Law. Therefore, the forcible deportation of victims of trafficking to a possibly dangerous or desperate situation violates the intention of the Law to take into account the vulnerable situation of the seller of sexual services, which forms the primary basis for the SPTM. The Aliens Act sets out the rules for aliens concerning entry into, departure from, residence in, and employment in Sweden, the conditions under which asylum can be granted, and the conditions on which an alien may be refused entry, or expelled from the country. The Act is supposed to be applied in such a way that the liberty of aliens is not restricted more than is necessary in each individual case.⁵⁵

In July 2002, the parliamentary *Committee on the Reception of Close Relatives* presented its proposal for changes to the Aliens Act. The results were the SOU 2002:13, *The Immigration of our close relatives*, and SOU 2002:69, *Smuggling of human beings and victims of trafficking in human beings*. The latter provided for residence permits of shorter and larger durations for victims of trafficking in human beings in Sweden by the National Migration Board. The Aliens Act was also accordingly adapted. Chapter 2, Section 13 states that the victim of trafficking has

⁵³ United Nations. "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime," (2000), 6.

⁵⁴ Ministry of Labour, ALIENS ACT (1989) and ALIENS ORDINANCE (1989:547) with amendments 1st October 1990, Stockholm, 1990, 15.

⁵⁵ Ibid, 7.

the following rights: "A time-limited residence permit may be granted to an alien, if it is with regard to execution of the preliminary investigation or trial proceedings can be considered justified."⁵⁶

The Aliens Act is still used in practice to forcibly deport women trafficked into Sweden who are victims of crime. According to section 10, sub-section 5 of the Aliens Act it is not a requirement that the foreigner enters the country or intends to enter Sweden illegally for the said person to be guilty of a criminal offense. In other words, it is a crime to violate Swedish borders even if one does so under coercion. This is where the Law and immigration laws contradict each other. Under the Law the trafficked woman is the victim of sexual exploitation and should not be punished criminally for her vulnerable status, while immigration laws are designed and implemented to prevent the entry, or facilitate the deportation of trafficked women and aliens whether or not the safety of the woman in question is at issue. Section 10 of the Aliens Act is concerned with protecting borders. Under this section, "aliens" lacking a passport and or those permits required for entry are to be deported.⁵⁷

The committee in its wisdom also decided that victims granted a residence permit of limited duration should be entitled to the same health care and medical attention as is enjoyed by foreigners seeking asylum. As mentioned earlier in this chapter, according to current regulations other support is the responsibility of the police or social services in the municipality in which the trafficked woman resides. The Swedish Government is making efforts to rectify the ambiguity associated with social support for trafficked women. In 2003, the government presented a Bill to the Parliament, with proposals for different legal and social measures to protect and assist victims of trafficking in women.⁵⁸

In Sweden efforts to deter trafficking are done largely through repressive measures like criminal penalties that include jail time, fines and deportation. The Aliens Act and the Swedish Penal Code have historically dealt with this problem. In the case of the Aliens Act it eventually became clear within Sweden that it became ineffective after the economic fallout from the fall of Communism and the abolishing of many border checks through the 1989 Schengen Accords. In response to ineffective and out of date penalties, in 2002 the Committee on the Reception of Close Relatives was given the task of submitting a report to make the legislation clearer as well as

⁵⁶ The National Criminal Investigation Department, *Trafficking in Women, Situation Report No. 5, Jan 1—Dec 31, 2002, RKP KUT 2003:1b, Stockholm, 2003, 11.*

⁵⁷ *Ibid*, 25.

⁵⁸ Ekberg, "Best Practices for Prevention of Prostitution and Trafficking in Women," 3.

carrying out a review of the penalties that are laid out in the Aliens Act on the basis of the level of culpability of the acts in question.⁵⁹

1.7 Adaptation of Criminal Penalties

There were no specific penal provisions designed to address trafficking in humans prior to 1 July 2002. Prior to 1 July 2002 cases of trafficking were being judged solely in accordance with the provisions of the penal code that concerned punishments related to criminal activities that occurred during the process of trafficking. Recognizing that the act of trafficking itself is a serious crime and punishing it accordingly was seen by some advocates of the Swedish model as a necessary step in creating an environment intolerant of the practice of trafficking. The penal provisions that were brought into existence in 2002 under the 'Act Prohibiting Human Trafficking for the Purpose of Sexual Exploitation', states that anyone who, with the help of certain illegal or improper means, induces a person to be trafficked to another country for the purposes of sexual exploitation can be sentenced to a term in prison of no less than 2 years and no more than ten if convicted.⁶⁰ According to the Committee on the Reception of Close Relatives, 1 July 2002 marked a turning point in the history of the Swedish trafficking model because the Swedish government now acknowledged the difference between smuggling in humans and trafficking in humans. Smuggling in humans is identified under the Aliens Act as a crime against the state on the grounds that the initiative was taken by the foreigner who desires to be smuggled, not by the smuggler. Trafficking in humans, however, is identified as a crime against the person who is trafficked on the basis that she is exploited in such an enterprise and is, then, a victim of crime.⁶¹ This fact opens the door to addressing problems associated with restrictive refugee and asylum policies that punish trafficked women. The Swedish government also moved to subject traffickers for the purposes of sexual exploitation to stiffer penalties after 1 July 2002. Prior to 2002, cases of trafficking in human beings for the purposes of sexual exploitation were prosecuted under Chapter 6, section 8 and Chapter 6, section 9 of the Swedish *Penal Code*, often under the provisions for gross procuring.⁶²

⁵⁹ Anhörigkommitténs slutbetänkande Människosmuggling och offer för människohandel, SOU 2002:69, Stockholm 2002. (Smuggling of Human Beings and Victims of of Human Trafficking, final report of the Committee on the Reception of Close Relatives, 2002, English Summary), 23.

⁶⁰ Ibid, 25-26.

⁶¹ Ibid, 26.

⁶² Ekberg, "Best Practices for Prevention of Prostitution and Trafficking in Women," 2.

The Committee on Sexual Offenses which is different from the previous Sexual Crimes Committee was given the primary task of reviewing the provisions for sexual crime in chapter 6 of the Swedish Penal Code. In 2001 the Committee issued its report proposing special provisions which would impose criminal liability for the crime of trafficking in persons and children for sexual purposes.⁶³ One of the measures supported by the Committee in its proposal was making the person who compels another to engage in a sexual act by means of unlawful coercion criminally liable.⁶⁴ Chapter 4, section 4 of the Penal Code states:

A person who, by assault or otherwise by force or by threat of a criminal act, compels another to do, submit or omit to do something, shall be sentenced for unlawful coercion or to a fine or imprisonment for at most two years. Anyone who to such an effect exercises coercion by threatening to prosecute or report another for a crime or give detrimental information about another, shall also be sentenced for unlawful coercion, provided that coercion is wrongful.⁶⁵

This measure implemented in 2002 recognizes the fact that trafficker(s)/trafficking networks take advantage of transnational migration paths by exploiting a vulnerable class of migrant women. Recognition of the vulnerability of migrant women, and developing specific penalties for those who profit and exploit that vulnerability, is an important step in the evolution of the Swedish model.

1.8 Summary

This chapter provided a chronological outline of some of the key measures and events that lead to the creation of the SPTM.

⁶³ 1998 års Sexualbrottskommitté, *Sexualbrotten*, SOU 2001:14, Stockholm 2001. (Sexual Offences, Report of the Committee on Sexual Offences, English Summary, 2001.), 583.

⁶⁴ *Ibid*, 586.

⁶⁵ Legislationonline. "Swedish Penal Code (1999)(excerpts)," 2004 Accessed on 9/7/2004. www.legislationonline.org/view.php?document=55245&ref=true, 1.

CHAPTER 2- The Crux of the SPTM

2.1 Introduction

The theoretical crux of the SPTM according to the Swedish government and advocates of the model is the Law. This chapter will examine the desired effects of the 1998 Act, and some of the structures that have been put in place to support it. The chapter will compare the effectiveness of the Law in combating sexual exploitation and as an alternative to the legalization and decriminalization approaches within the EU. First, this chapter introduces the Law. Second, this chapter argues that the Law is a necessary measure in attacking the inherently violent and culturally harmful practice of prostitution. The observed effects of tolerance or acceptance of a culture of prostitution are given as reasons why Sweden has embraced the Law.

2.2 Introduction to “the Law”

The *Act on Prohibiting the Purchase of Sexual services (1998: 408)* entered into force on 1 January, 1999. The English translation of the Law states, “A person who obtains casual sexual relations in exchange for payment shall be sentenced - unless the act is punishable under the Swedish Penal Code – for the purchase of sexual services to a fine or imprisonment for at most six months. Attempt to purchase sexual services is punishable under Chapter 23 of the Swedish Penal Code.”⁶⁶

The offence comprises all forms of sexual services.⁶⁷ In Sweden many advocates of the Law define the prostitution industry as including brothels; sex-, night-, and strip-tease clubs; street prostitution; escort services; internet marketers of prostituted women and children; phone sex operations; sex tourism agencies, as well as the creators and distributors of pornography, which the Law covers. The Law, in practice, is being applied on the basis that to protect women who are engaged in situations where they lack the choice to exit the sex industry, or are being forced or coerced into staying in the sex industry consent can only exist where a series of viable alternatives exist. Third party beneficiaries, such as travel agencies, hotels and air companies that

⁶⁶ “Act on Prohibiting the Purchase of Sexual Services.” SFS 1998:408 Swedish Code of Statutes, 1998, p. 1.

⁶⁷ Ministry of Industry, Employment and Communications. “Prostitution and Trafficking in Women Fact Sheet,” Stockholm, July 2004. XBS Grafisk Service. Accessed on 9 August 2004. <http://www.sweden.gov.se/content/1/c6/02/69/78/a2ee17cf.pdf>, 1.

benefit from the prostitution of women and children in tourism are included under the Law.⁶⁸ Prostitution is seen as a form of violence against women under the Law which is part of a larger package of laws called *Kvinnofrid*, which were enacted on July 1, 1998.⁶⁹ The laws prescribed stiffer penalties for wife battering, expanded the definition of rape, replaced the term 'female circumcision' with 'genital mutilation', and redefined the term 'sexual harassment' and issued prescribed penalties.⁷⁰ The government bill that presented the package stated, in its first sentence, that the purpose of the "Serenity of Women" laws was to 'counteract violence against women, prostitution, and sexual harassment in the workplace'.⁷¹

2.3 Fighting Against a Culture of Prostitution

The Law is not only a cornerstone of Swedish efforts to create a democratic society where women and girls can live lives free of all forms of male violence, but it is the crux of the SPTM.⁷² In proposing the Act to Prohibit the Purchase of Sexual Services, the Swedish government emphasized the Law's intent to protect the sellers of sexual services from further punishment, stating that,

By prohibiting the purchase of sexual services, prostitution and its damaging effects can be counteracted more effectively than hitherto...The government considers, however, 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. (Ministry of Labour, 1998, p. 55).⁷³

In Sweden prostitution is identified officially as a form of male sexual violence against women and children. One of the desired effects of the Law is to identify prostituted women and children as victims of male violence so they do not suffer legal penalties. According to Gunilla Ekberg the Law can be applied to male prostitutes but in practice it has not been.

⁶⁸ Ekberg, "The Swedish Law That Prohibits the Purchase of Sexual Services," 1210.

⁶⁹ Ekberg, "Best Practices for Prevention of Prostitution and Trafficking in Women," 4.

⁷⁰ Kulick, "Sex in the New Europe," 202.

⁷¹ Ibid, 201-202.

⁷² Ekberg, "The Swedish Law That Prohibits the Purchase of Sexual Services," 1187.

⁷³ Ibid, 1188.

In Sweden the Law and the current SPTM is largely based on the fact that trafficking in human beings for the purposes of sexual exploitation and prostitution are seen as issues that cannot, and must not be separated; both are perceived as harmful practices that are intrinsically linked.⁷⁴ The Law is seen as a preventative mechanism in deterring trafficking through creating an environment that is unprofitable and intolerant of prostitution. Furthermore, Sweden believes it is important to address the root causes of trafficking at both the international and domestic levels. In the bulk of the literature I have listed in my bibliography relating to trafficking in women for the purposes of sexual exploitation there has been a lot written about women's increasing poverty putting women and children in situations where they are increasingly vulnerable to sexual exploitation; economic policies of international lending organizations that demand structural adjustment policies in developing nations that force these nations to cut back the social safety net and employment; repressive immigration policies that create the conditions necessary to make traffickers an attractive option in facilitating the global migration of a desperate class of people; foreign military presence which not only generates sex industries but causes them to flourish in many parts of the world; and racial stereotypes and myths that promote the sexual exploitation of "exotic" women, mainly on the internet.⁷⁵ These are all structural factors identified by "root cause" advocates including many who support the Law. The Swedish law has some extraterritorial reach into countries that have similar legislation on trafficking and prostitution. This means that Swedish citizens can be charged and convicted of a crime in another country, if that country has similar anti-prostitution legislation.⁷⁶

Contrary to the detractors of the Law, the SPTM takes the view that legalization or formal decriminalization is one of the main root causes of trafficking in persons for the purpose of sexual exploitation. Legalization of the prostitution sector does not remove the dangers of street prostitution and is a 'pull factor' for traffickers. Systems of legalization thus fail to adequately protect the safety of both local and foreign prostitutes while increasing the numbers of women brought into the inherently violent profession.⁷⁷ Advocates of the Swedish model argue that the Law takes into account the vulnerable situation of the trafficked women unlike countries

⁷⁴ Ibid, 1189.

⁷⁵ Jean D'Cunha, "Legalizing Prostitution: In Search of Alternative from a Gender and Rights Perspective," Seminar on the Effects of Legalization of Prostitution Activities, Stockholm 5-6 November, 2002, 31-32.

⁷⁶ Ekberg, "Best Practices for Prevention of Prostitution and Trafficking in Women," p. 6.

⁷⁷ Bindel and Kelly, "A Critical Examination of Responses to Prostitution in Four Countries," 14-15.

like Holland that give perpetrators the benefit of the doubt when it comes to the burden of proof on issues like “consent”.

Coercion to engage in prostitution is a reality for many women, whether the coercion is absolute (i.e., occurred under threat of physical abuse or even death) or took less drastic forms such as deceptive job ads. Many purchasers of sex do so despite being aware of these women’s vulnerable situation, and often make their purchase based on that vulnerability. In the case of the Netherlands human rights questions are subject to labor and competition laws.⁷⁸ Women are placed in a context where they are in an increasingly competitive industry where customer satisfaction is required for continued employment. Legalization in this context has resulted in the lowering of prices for the consumer while exerting pressure on to the sex worker to ‘promote harmonious economic relations between the parties’ as its first priority, and not the safety of the seller of sexual service.⁷⁹ That is not to say that concern for the safety of the prostitute would be greater if prostitution wasn’t legal.

The highly contentious term “state sponsored prostitution” is applied to refer to any system that recognizes and legitimizes any form of the legalized or regulated sex industry.⁸⁰ In many countries there has been a trend towards embracing a “culture of prostitution” with systems of legalization or decriminalization of brothel prostitution. Interpol and the Dutch national police confirm that the Netherlands is a prime destination and home for child sex abusers, also known as pedophiles. Claims that legalization of prostitution would reduce child prostitution have not proven true, with police suspecting that child prostitute abusers choose the Netherlands because of its prostitution-promoting environment. The pedophile lobby is also very strong in the Netherlands, lobbying for the “right of children to sexual self-determination.” The lobby has had several legal victories, one of which has been to make sexual abuse of children older than age 12 actionable only in cases where a parent or child reports the crime.⁸¹

Within the EU as a whole the lobby for legalizing prostitution is substantial. The Netherlands and Germany both legalized prostitution and brothels in 2000.⁸² According to Jenny

⁷⁸ Jenny Westerstrand, "Prostitution and the Cunning Patriarchy - Towards a New Understanding," Seminar on the Effects of Legalization of Prostitution Activities, Stockholm 5-6 November, 2002, 54.

⁷⁹ Ibid, 54-55.

⁸⁰ Raymond, "State-Sponsored Prostitution," 10.

⁸¹ Janice Raymond, "Prostitution on Demand: Legalizing the Buyers as Sexual Consumers," *Violence Against Women* 10.10 (October 2004): 1165.

⁸² Donna M. Hughes, "Best Practices to Address the Demand Side of Sex Trafficking," accessed on 10/11/2004 at http://www.uri.edu/artsci/wms/hughes/demand_sex_trafficking.pdf, (August 2004), 26.

Westerstrand, this has created a situation in the Netherlands where economics trump human rights:

The shift in focus is obvious. Economic interests become guidelines in an area that concerns commercialized access to women's bodies, an area where violence, threats and coercion are commonplace. The judgment shows that via the Dutch legalization of prostitution, a very widespread and culturally integrated and accepted phenomenon – prostitution – has been invited to take its place in the legal system shifting women's human rights to the economic playground.⁸³

According to long time lobbyist and advocate of the Law Sven-Axel Månsson, legalization strengthens the stigmatization of women involved in prostitution with the following consequences:

The female body and sexuality would have to be exploited even more in a legalized market: competition would be as intense as it is in any other legitimate commercial market, where to be successful means screaming the loudest, offering the most dangerous, the most original products. The whore/Madonna concept, which is to say the view of female sexuality as bad and good, would be strengthened. The stigma of a whore would be made into a legalized commercial tool.⁸⁴

Is this plausible? Competition from illegal prostitutes is intense and puts pressure on legal prostitutes to leave the legalized sector where profits have become low by carving out their own specialized niche market in the illegal sex industry. In the Dutch case, only 5-10 per cent of the prostitutes pay taxes, according to the Prostitution Information Centre in Amsterdam.⁸⁵

Many hold up Victoria, Australia as a "global best practices model" for legalized brothel prostitution internationally. Legal since 1984, brothel prostitution has created a situation in Victoria where police estimate that today for every 100 legal brothels there are 400 illegal ones. This has occurred in many other regions that legalize or decriminalize the sex industry, since illegal brothels move around and are difficult to detect. Police often have no official role in monitoring legal or illegal brothels once the trade has been legalized or decriminalized. While many feminists have outlined problems with police being given this role, the fact remains that the illegal sex industry has flourished and will continue to flourish where there is virtually no threat

⁸³ Westerstrand, "Prostitution and the Cunning Patriarchy," 54.

⁸⁴ Maria Jacobson, "Why do men buy sex? The Interview: Professor Sven-Axel Månsson, Sweden," *NIKK magasin* 1, (2002): 25.

⁸⁵ Bindel and Kelly, "A Critical Examination of Responses to Prostitution in Four Countries," 16.

of criminal penalty.⁸⁶ Using Victoria as an example of what is happening globally in situations where the state supports prostitution through either legalization or decriminalization of the prostitution industry the statistical evidence shows that the traffic in women to both illegal and legal brothels is always an inevitable result. Reports from the Netherlands, Germany and Australia have indicated that legalized prostitution leads to increased prostitution, trafficking and organized crime.⁸⁷ “Sex Entrepreneurs” find it impossible over time to source women locally to supply an expanding industry and trafficked women are more vulnerable, which makes them more profitable.⁸⁸ However according to Sven-Axel Månsson it is not as simple as demand being the driving force:

The exploitation of poor women leads to a large supply and competition. This in its turn, increases the risk of exposure and [*sic*] as a consequence, more ‘extreme’ services are offered, among other places on the internet. It is the market that is the driving force. Demand is defined by the services produced, not vice versa, which contradicts certain popular traditional market theories.⁸⁹

The facts show that in Victoria and other regions supporting elements of the prostitution industry trafficked women are increasingly placed both in legal and illegal brothels. Often what happens is that the women are working in the legal brothels, which are often as unsafe as the illegal brothels. The claim that legalization makes working conditions worse for individual sex workers when compared to abolitionist models isn’t plausible. The fact that legalization offers no guarantee of freedom from the abuses inherent to prostitution for women engaged in it and increases the scale/volume of women in both the legalized and illegal sex industries are reasons why legalization is harmful to more women than most abolitionist approaches. Legalized prostitution markets result in more trafficked women that are often held in debt bondage with the profits from their sex enslavement not even going to them. Many would argue that sexual enslavement is too strong a term. However the Victoria example shows that, when prostitution is normalized, increasing numbers of the most vulnerable women, the trafficked woman or child in this case, is subject to serious human rights violations including beating, fist-fucking, burning,

⁸⁶ Sheila Jeffreys, "Prostitution Culture: Legalized Brothel Prostitution in Victoria, Australia," Seminar on the Effects of Legalization of Prostitution Activities, Stockholm 5-6 November, (2002): 22.

⁸⁷ Donna Hughes, "Men Create the Demand; Women Are the Supply Lecture on Sexual Exploitation," Accessed on 15 May 2004. <http://www.uri.edu/artsci/wms/hughes/demand.htm>, p. 5.

⁸⁸ Jeffreys, "Prostitution Culture," 23.

⁸⁹ Jacobson, "Why do men buy sex?", 25.

scaring, unwanted anal sex, and numerous other forms of degradation and torture.⁹⁰ Legalization results in more women entering the profession illegally: as the market expands to meet growing demand, the supply must also increase in proportion. The increased competition results in a diversification of perverse, violent and degrading services to attract clients searching for new forms of domination to experience. The Swedish government sees these all as reasons why a culture of prostitution damages the possibility of creating a society in which relationships are based on equality, respect and honesty between men and women. This is the goal of the Law which, as mentioned, is part of a larger set of laws called *Kvinofrid* that are designed to eliminate male violence in all forms against females.⁹¹ The government operates on the assumption that without the demand for women and children for prostitution purposes, the global prostitution industry would not be able to survive, flourish, and expand.⁹²

2.4 Social Consequences of Prostitution

Chapter 3 will examine various critiques of the Law including one that states that Sweden denies women the right to sexual and financial autonomy by refusing to recognize the prostitution industry as a legitimate form of labor that should be protected as such through labor laws. One of the responses to this is, of course, that prostitution is not a labor issue but a cultural one. If a society forms a consensus that prostitution severely damages the possibility of creating relationships of equality and respect between women and men in the home, the workplace and other areas of life, it has the right to attempt to abolish it.

A society that supports the idea that sexual services are commodities to be bought and sold and that women are objects rather than human beings is a society that bonds through the marginalization and exploitation of an already disadvantaged class of migrant women. To be fair many legalization advocates do not feel prostitution is a good thing; most argue that legalization is the least flawed approach to deal with a social problem. Legalization is often employed because abolitionist approaches are seen as failing to protect prostitutes and brings with it a series of other problems for women. This ignores the fact that legalization results in more women being engaged in both the illegal and legal sex industry where abuses highly prevalent.

⁹⁰ Jeffreys, "Prostitution Culture," 23-24.

⁹¹ Ministry of Industry, Employment and Communication. "The Swedish Government's National Plan for Gender Equality," 2004. Vol. N4009, 7.

⁹² Ekberg, "Best Practices for Prevention of Prostitution and Trafficking in Women," 1.

The prostitution industry depends, in good part, on bonding in business contexts. In areas that condone the sex industry it is common for men to bond and make business deals in an environment where women are paid to place their 'naked shaved vaginas in front of men' who leer at them, and or receive other backroom 'sexual services'. In these environments one has to doubt if a woman can achieve any form of equality.⁹³ In this kind of a culture it can be argued that men grow up being socialized into believing that certain women are to be bought and sold. Girls grow up in a world where they learn that they are a form of meat for men to buy. Boys are taught that this is acceptable because the girls wouldn't do/allow it if they didn't like it.

What are the consequences of this? Research done on purchasers and buyers of sexual services indicates one consequence of this form of socialization is alienated human beings incapable of forming healthy relationships. Legalization results in normalized alienation of the spirit of the human being creating fractured psyches and producing alienated sexualities, which raises the demand for more bizarre alienated forms of sex based on 'differentness'.⁹⁴ It needs to be recognized that one of the root causes of trafficking in persons is that the sex industry takes this 'differentness', also known as 'exotica' and 'mystery', and presents it to men through a series of media as a vehicle for fulfilling their fantasies. Women in the global sex market are often profiled in a stereotypical way with racist overtones. African women, for instance, are portrayed/ marketed as "wild, untamed", and are an example of animalization, whilst representations of 'humble' Asian women are designed to stimulate fantasies of domination among the purchasers of sexual services.⁹⁵ A large number of these men are referred to as 'Fiddlers'. A 'Fiddler' is usually a younger man who is not capable of maintaining real relationships and who regards sex as any other form of consumption. His approach to sex is a "McSex" view defined by pornography and violence.⁹⁶

The most common vehicle for the promotion of sexual exploitation worldwide is the World Wide Web.⁹⁷ The internet provides an anonymous network where perpetrators can support each other through shared experiences, legitimized behavior, and can advise their fellow men on

⁹³ Jeffreys, "Prostitution Culture," 25.

⁹⁴ D'Cunha, "Legalizing Prostitution: In Search of Alternative from a Gender and Rights Perspective," 31.

⁹⁵ Jacobson, "Why do men buy sex?" 25.

⁹⁶ Ibid, 25-26.

⁹⁷ Ibid, 32.

how to find specific women to abuse.⁹⁸ According to Sven-Axel Månsson “Fiddlers” within Sweden are finding sexual services easier to access now. Men do not need to go out onto the streets to procure sexual services now they can just log on at home. Men are using the internet to arrange physical sex with women or pay to watch sexual acts, forms of rape, degradation, violence and torture from their computer screens. While there are numerous differences between pornography and prostitution the fact remains both industries rely largely on the desire of men to either perform or watch the domination, abuse, and subjugation of women.⁹⁹ The Stockholm police recently estimated that the number of women selling sex via the internet is between 200-250 women in all of Sweden.¹⁰⁰ Currently Sweden has designed an internet outreach programme to encourage women to seek help in exiting the sex industry. The programme amongst other things has sent electronic postcards to women who offer their sexual services on the internet. By mid-2002 nine personal contacts were generated through the 731 postcards that were sent out. The results may seem meager but the fact that there are examples of women who have kept the card from the prostitution team until the day they “feel it is time” to quit prostitution and seek assistance shows the approach must not be scrapped and simply further developed to reach more women.¹⁰¹

2.5 Supporters and Detractors of “the Law” Within Sweden

The Swedish government recognizes that work against trafficking and prostitution requires a broad holistic perspective and the political will to act in a wide range of policy areas. The government also recognizes that in order for any such strategy to be effective it requires the involvement and collaboration of a broad spectrum of groups from the public and private sectors. In Sweden, this work is done not only by the Swedish Government and the public authorities, but also by the Swedish women’s movement, the shelter movement, and other nongovernmental organizations (NGOs).¹⁰² The importance of Sweden’s strong women’s movement offering support for the Law and the supporting strategy cannot be understated, though 80% of the

⁹⁸ Donna Hughes, "The Internet and the Global Prostitution Industry," *Women in Action* 1 (1999): 73-74.

⁹⁹ Jacobson, “Why do men buy sex?”, 25.

¹⁰⁰ Socialstyrelsen. “Prostitution in Sweden 2003: Knowledge, Beliefs & Attitudes of Key Informants,” 2004, 29.

¹⁰¹ *Ibid*, 29-30.

¹⁰² Ekberg, "The Swedish Law That Prohibits the Purchase of Sexual Services," 1190.

population in general supported the Law, the effects of the Law and the governments' efforts to support the Law. In fact, the support grew from the first year of the Law's implementation at 76% to 81% two years later. The proportion of respondents has remained at 8 in 10 in favor since then, while 14% oppose it, 6% 'don't know'.¹⁰³

A survey conducted by the National Institute of Public Health in 2002, found that every eighth man older than 18 years of age in Sweden, approximately 13%, have at least once, bought a person's sexual services within Sweden or outside.¹⁰⁴ This number shows the need for the SPTM. It is reasonable to argue that many of these men are against the government attacking their assumed right to pay for access to sexual services. The study dismissed the image of the typical buyer being a lonely deviant. The facts showed that in actuality these purchasers are individuals representing a diverse cross-section of Swedish men of all ages from all classes, and that in actuality the typical buyer is more likely a well-paid, well-dressed, financially stable, educated male who may or may not be married with children. This is, of course, in stark contrast to the women and children they buy.¹⁰⁵

The SPTM is only possible because of the broad support for it within Sweden. There is also a growing lobby within Europe. In 2001 the European Women's Lobby (EWL) adopted a new motion at their general assembly calling on their organizations to lobby their respective governments to adopt laws similar to the Law Sweden has.¹⁰⁶

In nations that have legal prostitution like Germany, and nations that have quasi-legal prostitution like Italy, the research indicates that there is a higher percentage of use and regularity of use of sexual services amongst men. Remember in Sweden 13% of men had used prostitution at least once, whereas the data listed below on nations with forms of legalized prostitution survey for men who regularly used prostitutes. The increased regularity of use documented below could be because it is easier to measure use in a legalized market over an abolitionist environment. Recently at a conference in Alba, Italy, for instance, it was reported that 1 of 6 (or almost 17%) of Italian men regularly use women in prostitution. Stated differently this signals that in Italy 9

¹⁰³ Ministry of Industry, Employment and Communications. "Prostitution and Trafficking in Women Fact Sheet," 1-2.

¹⁰⁴ Ekberg, "The Swedish Law That Prohibits the Purchase of Sexual Services," 1194.

¹⁰⁵ Ministry of Industry, Employment and Communications. "Prostitution and Trafficking in Women Fact Sheet," 2.

¹⁰⁶ European Women's Lobby. "New Motion Criminalizing Prostitution Adopted at the 2001 EWL's General Assembly: Make It a Crime to Buy Women in Prostitution and Develop Strong Policies against Pimping," 2001. Accessed on 10/21/2004, 1.

million men use an estimated 50,000 women in prostitution regularly. German criminal psychologist, Adolf Gallwitz stated that 18% of German men regularly pay for sex. A German doctoral thesis in process finds that one million prostitute-users buy women daily in Germany for sexual activities.¹⁰⁷ The results of these surveys seem to indicate that an increased percentage of men are proud of the fact that they use women as “sexual commodities”. This is a pattern that seems to result from the sanctioning of a prostitution industry that creates a global sex market for women and children. The differences in the attitudes towards gender and sex roles within legalization countries that are compared to Sweden could be a cause for the different beliefs about sex and the purchase of sex. The Swedish government and many women’s rights and human rights groups in Sweden are actively against the notion that prostitution could be described as a viable job through formal decriminalization and/or legalization, through unions of “sex workers” and through campaigns that provide condoms to women but fail to provide them with alternatives to prostitution.¹⁰⁸

2.6 Dispelling the Notion of “Choice” and the Safety of the State Supported Sex Trade for Migrant Women

Advocates of the SPTM go beyond trying to keep prostitution out of Sweden by actively attacking Germany and the Netherlands for moving towards the formal legalization of the sex industry. Advocates point out that there is plenty of evidence that these “pimp” states support recruiting women into the “profession”. Sven-Axel Månsson argues that the Netherlands and Germany equate prostitution with other industries supporting the ‘absurd’ practice of directing unemployed people to the ‘profession’, in the same way they would for any other job.¹⁰⁹ The Netherlands, for instance, is one of the first countries in the world to officially recognize voluntary adult prostitution as a “normal occupation.”¹¹⁰

The success of the prostitution lobby is evident in Europe as the Netherlands, Germany, Austria, Denmark, Greece, and Switzerland have various forms of legalized or decriminalized prostitution. Italy recently debated moving from legalized brothels to full scale legalization of

¹⁰⁷ Raymond, "Prostitution on Demand," 1166.

¹⁰⁸ Ibid, 1177.

¹⁰⁹ Jacobson, “Why do men buy sex?”, 24.

¹¹⁰ Netherlands Ministry of Foreign Affairs. “Dutch Policy on Prostitution: Questions and Answers,” 2004, 1.

prostitution.¹¹¹ A small segment of the prostitution lobby often cites the fact that prostitution is a way for females to gain financial autonomy and even give full expression to their deepest sexual fantasies. Specifically speaking of women trafficked for the purposes of sexual exploitation now, this view of prostitution completely lacks any critical view of the realities of male power in a society that is supposedly based on free will. In order for free choice to truly exist for migrant woman there needs to be a series of viable alternatives made available. Often the choice that migrant women are faced with before her entry into a trafficking network for the purposes of sexual exploitation is starvation, death, persecution, or selling one's body for a shot at survival. In reality what kind of a choice is that for these women and girls?¹¹² Those who advocate the SPTM argue that they are not harming women by taking away the choice of a woman to sell her sexual services. SPTM advocates state that those who think prostitution should be a free choice fail to recognize the gendered nature of migration that creates vulnerability which compromises "consent" in the case of migrant women. Former Special Rapporteur Ms. Radhika Coomaraswamy echoed these sentiments stating that presently many migrant women lack viable choices:

In terms of the economic push and pull factors in trafficking, women are especially discriminated against in the global migration process as there are only limited possibilities for legal and regular jobs for migrant women. Women can often only choose between irregular domestic work or the illegal sex industry. Once they are in, they have to face different discriminatory stereotypes, such as being a prostitute and an illegal migrant doing domestic or sweatshop work.¹¹³

If prostitution is truly a free choice why is it that it is mostly the migrant women and girls who have the fewest alternatives who are the ones who end up in prostitution? In fact, a recent U.S. survey states that almost 90% of women involved in prostitution would leave if they could.¹¹⁴ Why is this? International studies show that prostituted women often suffer from the same serious psychological injuries as war veterans and survivors of torture, such as anxiety, depressions, flashbacks, stress and often struggle with suicidal tendencies.¹¹⁵ Legal brothels have

¹¹¹ Aghatise, "Trafficking for Prostitution in Italy," 1153.

¹¹² Gunilla Ekberg, "The International Debate About Prostitution and Trafficking in Women: Refuting the Arguments." Seminar on the Effects of Legalization of Prostitution Activities, Stockholm 5-6 November, 2002, 4.

¹¹³ United Nations General Assembly, "Review of Reports, Studies and Other Documentation for the World Conference," 25.

¹¹⁴ Ekberg, "The International Debate About Prostitution and Trafficking in Women," 5.

¹¹⁵ Ibid, 6.

been identified as unsafe all over the world by many researchers. For instance brothel prostitution is legal in Germany, one of the biggest countries surveyed on the issue of sex worker safety. Of the German respondents, 59% of “sex workers” told researchers that they did not think that legal prostitution made them any safer from rape and physical assault.¹¹⁶ It has also been shown that the legalized prostitution industry that so many like to define as a legitimate money-making enterprise is one that puts more women in the field of street prostitution. One of the goals of legalization of the sex industry has been to reduce street prostitution and to protect women from its dangers. The saturation of illegal migrant women into legalized prostitution markets means more women are forced into street prostitution which is famous for being an arena loaded with the abuses inherent to the profession. Women engaged in prostitution are at a dramatically increased risk of suffering from serious health conditions like cervical cancer, chronic hepatitis, STD’s, and traumatic brain injury (TBI) to name just a few. TBI has also been documented in torture survivors and battered women. TBI is a result of being beaten, hit, or kicked in the head, strangled, or having one’s head slammed into objects such as a head board.¹¹⁷ Other documented conditions common to “sex workers” are post-traumatic stress disorder (PSTD), depression, and substance abuse.

The assumption that decriminalizing or legalizing prostitution will move prostitution indoors, where it will be safe isn’t based in reality. The SPTM is against this notion largely because no research has demonstrated that legal or quasi legal prostitution decreases illegal (street and brothel) prostitution. As mentioned earlier, citing the Victoria, Australia case, it has the opposite effect. In the first year after legalization, there was a 300% growth of illegal brothels in Victoria, Australia with illegal brothels still flourishing decades later.¹¹⁸ Pimps are defined by law as those individuals or organizations that support themselves financially from the earnings of prostitution. Thus, when a state benefits financially from taxing the earnings of prostitutes in legalized or decriminalized prostitution, it is justifiable to bring the notion of pimping into the debate, hence the term pimp-states.¹¹⁹

¹¹⁶ Melissa Farley, “Bad for the Body, Bad for the Heart’: Prostitution Harms Women Even If Legalized or Decriminalized,” *Violence Against Women* 10.10 (October 2004): 1096.

¹¹⁷ *Ibid*, 1097-1098.

¹¹⁸ *Ibid*, 1099.

¹¹⁹ *Ibid*, 1117-1118.

In many areas prostitution has been tolerated or legalized. In these areas prostitution has been taxed to fill the coffers of the state, while profiting local industries that support or rely on the business of sex tourism. Often, those promoting these policies and “inevitable” existence of the sex industry are government officials and business men who profit from the existence of the sex industry. Many of these men do this to profit from the earnings of prostituted women and/or the money of the tourists that travel to see them while preserving the right for themselves and all other men to have constant access to female bodies.¹²⁰

In some countries, profits from the sex sector are included in estimates of its economic activity. For example, in the Netherlands, the sex industry constitutes 5% of the GDP. Many women engaged in prostitution in the Netherlands have gone on record as saying that although prostitution has been promoted as an occupation that can improve their lives they do not support government involvement in the trade. Prostituted women primarily view Dutch legalization as a way to tax their earnings. According to the Association of Entrepreneurs of Relax-businesses (VER) the number of Dutch women who want to work in legal prostitution is limited.¹²¹ Many women feel that their health has not benefited or that they are not offered more protection under legalized or decriminalized prostitution.¹²²

In Germany it is illegal for an employer of a prostitute to create conditions that threaten the independence of the woman to determine her own employment conditions. In practice, in Germany, migrant “sex workers” rarely work alone. There is usually a person who takes money from clients, rents her a room/apartment, runs the club, etc. A question that is being debated by abolitionist and sex worker advocates is whether or not women who migrate legally or illegally have been allowed to obtain work contracts that entitle them to wages, social security, and workers’ rights just like any other profession, while having to pay taxes just like any other profession.¹²³ Some advocates of the abolitionist view would state that focusing on labor regulations and unionizing prostituted women makes as little sense as unionizing battered women.¹²⁴

¹²⁰ Ibid, 1088-1089.

¹²¹ Bindel and Kelly, “A Critical Examination of Responses to Prostitution in Four Countries,” 65.

¹²² Farley, “Bad for the Body, Bad for the Heart,” 1089.

¹²³ Femmigration: Legal Agenda for Migrant Prostitutes and Trafficked Women. “Sex Work: Germany,” 2004. Accessed on 24 May 2004. http://www.femmigration.net/work/work_germany.html, 6.

¹²⁴ Farley, “Bad for the Body, Bad for the Heart,” 1089.

Evidence shows that most of Sweden's neighbors with policies that support or tolerate the sex industry have seen a substantial increase in the number of women who are engaged in it. Since 1998 much of the evidence indicates that the SPTM has resulted in the number of women engaged in the sex industry remaining constant around 1,500. In the Netherlands which has 16 million people as compared to Sweden's 8.5 million the current legal regime which relies largely upon the legalization of brothels has resulted in at least 25,000 women engaged in the sex industry. Estimates of the numbers of women engaged in the sex industry prior to legalization are wide ranging but the general abolitionist consensus surrounding the Dutch model is that legalization has increased the growth of the sex industry through trafficking¹²⁵ It is clear the SPTM has failed in eradicating the sex industry within Sweden but has been a success in containing it.

2.7 Socializing Compliance through Promoting "the Law" and Improving Enforcement

The Swedish trafficking and prostitution laws, like all Swedish laws, are extra-territorial. Swedish citizens, therefore can be charged, prosecuted, and convicted under Swedish laws for having committed a crime in another country, if that country has legislation similar to Sweden. According to the Penal Code, Chapter 2, section 2,

Crimes committed outside the Realm shall be adjudged according to Swedish law and by a Swedish court where the crime has been committed: 1. by a Swedish citizen or an alien domiciled in Sweden; 2. by an alien not domiciled in Sweden who, after having committed the crime, has become a Swedish citizen or has acquired domicile in the Realm or who is Danish, Finnish, Icelandic, or Norwegian citizen and is present in the Realm or who is a Danish, Finnish, Icelandic, or Norwegian citizen and is present in the Realm; or 3. by any other alien, who is present in the Realm, and the crime under Swedish Law can result in imprisonment for more than six months. The first paragraph shall not apply if the act is not subject to criminal responsibility under the law of the place where it was committed or if it was committed within an area not belonging to any state and, under Swedish law, the punishment for the act cannot be more severe than a fine. In cases mentioned in this section, a sanction may not be imposed which is more than the severest punishment provided for the crime under the law in the place where the law is committed. (Law 197:812).¹²⁶

The section listed above points out a major loophole in the SPTM. Swedish law recognizes the practical difficulties in punishing perpetrators outside the jurisdiction of the state.

¹²⁵ Bindel and Kelly, "A Critical Examination of Responses to Prostitution in Four Countries," 12.

¹²⁶ Ekberg, "The Swedish Law That Prohibits the Purchase of Sexual Services," 1212.

The Law has been applied recently to deal with Swedish police officers who were stationed abroad in Bosnia, Kosovo, and Macedonia. The men were convicted of using prostituted women and comparing them as “trophies”. As a result of these convictions the men were no longer allowed to serve in peacekeeping operations and were discharged from the military.¹²⁷

In 2003 Swedish police reported that only two persons had been convicted of trafficking in human beings for sexual purposes and nine that had been convicted of crimes similar to trafficking in human beings like procuring, grave procuring, rape, serious sexual coercion, abduction, unlawful deprivation of liberty, etc. This evidence indicates the lack of resources and political will to enforce laws related to trafficking in human beings. Trafficking laws are more difficult to obtain convictions under than prostitution law in Sweden, which is why many offenders are tried under the Law.¹²⁸ On the prostitution side, in 2003, 500 men were charged under the Law, a 300% increase in the number of charges from 2002. This is because of a major Internet investigation that resulted in a further 575 having been charged with an offence in 2003. Since implementation of the Law in 1999 street prostitution in Stockholm has dropped by more than two-thirds. Prior to the Law, between 350 and 400 female prostitutes were working the streets in Stockholm.¹²⁹

While the Law is often criticized on the grounds that its enforcement is lacking, a subject I will go into in chapters 3 and 4, the Law was also designed for its normative function in that it creates an environment that is unreceptive to traffickers. The Swedish government has argued it is unfair to judge the criminal laws on trafficking and prostitution on the basis of the number of convictions related to the number of crimes. If high conviction rates were the only acceptable standard for judging laws, rape laws, laws against other forms of male violence against women, and laws addressing financial crimes would have to be discarded. However, the absence of enforcement is seen as an important issue within Sweden by advocates of the SPTM.¹³⁰

¹²⁷ Ekberg, "Best Practices for Prevention of Prostitution and Trafficking in Women," 7.

¹²⁸ The National Criminal Investigation Department Trafficking in Human Beings for Sexual Purposes, Situation Report No. 6, Jan 1--Dec 31, 2003, RKP KUT. 2004:2b, Stockholm 2004, 3.

¹²⁹ Bindel and Kelly, "A Critical Examination of Responses to Prostitution in Four Countries," 25.

¹³⁰ Ekberg, "The Swedish Law That Prohibits the Purchase of Sexual Services," 1209.

There is also a desire within Sweden and the Swedish government to export the Law and the measures that support it to other states as an example of a “best practices”.¹³¹ Since the Law has come into effect inquiries have flooded in from all over the world about the Law and how it is supported within Sweden. Recently France and Finland have been debating using the Swedish model.¹³² Beyond the fact that several countries are debating addressing the demand and supply sides of sex trafficking and prostitution, the Law has been exported to Macedonia and Croatia which have recently passed new laws that criminalize men who purchase sexual services. Macedonia and Croatia are both Balkan countries that are considered sending, transit, and destination countries for victims of sex trafficking. The presence of soldiers and peacekeepers has created an environment in which prostitution and trafficking have flourished. In this environment the demand for prostitution could not be met locally, which is why women are trafficked into these countries. Macedonia and Croatia have passed laws criminalizing buyers of sex acts if they know the woman has been trafficked. The Macedonian law states, ‘A person, who uses or procures the sexual services of a person with the knowledge that that person is a victim of trafficking in human beings, shall be punished with imprisonment of six months to five years.’ The Croatian law states, ‘Whoever uses or makes it possible for another person to use sexual favors, or uses the person known to be a trafficking victim of other illicit purposes, shall be sentenced to imprisonment of one to five years.’ Advocates for addressing the demand side of trafficking and prostitution like Donna Hughes argue that the shortcoming of these laws is that in order to have committed a criminal act the man must know that the woman is a victim of trafficking. The bulk of the research on purchasers of sex indicates men rarely make decisions on purchasing a sex act(s) based on the likelihood of the victim being trafficked.¹³³

Sweden has by most accounts severely slowed the increase of women trafficked into or through its borders for the purposes of sexual exploitation preserving its status as a “transit” country. The bulk of the evidence obtained in Sweden indicates that Sweden is a transit country for women who are to be used for prostitution in inter alia Norway and Denmark. The most recent evidence from the year 2003 indicates that probably between 400-600 women were victims of trafficking in human beings for the purposes of sexual exploitation in Sweden. This estimate is

¹³¹ Ministry of Industry, Employment and Communication. "The Swedish Government's National Plan for Gender Equality," 2004. Vol. N4009, 7.

¹³² The National Criminal Investigation Department, Trafficking in Women, Situation Report No. 5, Jan 1—Dec 31, 2002, RKP KUT 2003:1b, Stockholm, 2003, 33.

¹³³ Hughes, "Men Create the Demand," 25.

higher than the previous years 2000-2002 estimate of between 200 and 500 women for each year. The National Criminal Investigation Department (NCID), which made the assessments, claims that the increase in the estimates does not necessarily mean an increase in the number of victims of trafficking in human beings but rather indicates that assessments made in previous years may have been too low.¹³⁴

Some of Sweden's neighbors are considered "receiver" countries with pro-prostitution legislation have experienced a dramatic increase in trafficking. Advocates of the SPTM see this as a success based on the fact that Sweden has not seen the same dramatic increases in trafficking its neighbors have. The fact that Sweden has remained a "transit" country is a testament to the deterrence the Law creates. One such example is Denmark where it is believed that close to 6,000 women are engaged in prostitution, which is up from 1600 in 1989 with over half of those women coming from abroad. Denmark's numbers of prostituted/trafficked women dwarf the numbers of its neighbor Sweden, which as mentioned probably has in the neighborhood of 1500 women in the sex industry.¹³⁵ Denmark has not taken a strong abolitionist stand like Sweden. Advocates of the Swedish model argue that Denmark's failure to do so has resulted in Danish legislation that supports the flourishing of the sex trade. The Danish state does not meet the qualifications of a "pimp state" outlined earlier. In Denmark a new law legalizing adult prostitution came into effect on 1 July 1999. This law makes it illegal to purchase sex from anyone under the age of 18; contravention is punishable by a maximum of two years in prison. Reportedly, Denmark has simultaneously increased its efforts to prevent the sexual exploitation of minors, to help women who want to leave the sex trade and to stop trafficking of women for the purpose of forced sexual labor. However, the condoning of exploitation of adults has led to Denmark becoming a destination country for trafficked women prostitutes.¹³⁶ Denmark is not a "pimp state" but by allowing voluntary prostitution to exist without penalty, it has created a situation where numerous women are trafficked through Sweden to Denmark for the purposes of sexual exploitation.

There is evidence to suggest that trafficking in persons is increasing in all regions of the world with few traffickers being apprehended. Sweden is clearly of the belief that more effective

¹³⁴ The National Criminal Investigation Department Trafficking in Human Beings for Sexual Purposes, Situation Report No. 6, Jan 1--Dec 31, 2003, RKP KUT. 2004:2b, Stockholm 2004, 3.

¹³⁵ Ekberg, "The Swedish Law That Prohibits the Purchase of Sexual Services," 1206.

¹³⁶ United Nations Economic and Social Council. "Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women," 30.

law enforcement of the Law within Sweden and abroad would create a disincentive for traffickers and therefore have a direct impact on demand.¹³⁷ Sven-Axel Månsson is one of many advocates of the Law who is of the belief that the Law is not the problem with the SPTM. Månsson argues that the SPTM is having problems primarily due to the failure of the legal and judicial systems to enforce the Law. It has been recognized that the Law's guardians, the police, are often more likely to protect those who buy sex because of male bonding, traditional male values, and the fact that the police force is a male-dominated institution. There are currently efforts under way within Sweden to retrain and educate enforcers of the Law on why it is crucial that the Law is supported through enforcement.¹³⁸ Chapter 4 will go into further detail about how the sex education system in Sweden is being used to ensure the next generation of men and women understand and support the Law. Changing values takes time. Those who lobbied for the Law and the measures that support it must continue to support it in the hopes of continuing to create an environment that is not only unreceptive to sexual exploitation but also a society that does not tolerate corruption from those who would circumvent enforcing the Law.¹³⁹

The National Criminal Investigation Department (NCID) has been given the job of being the National Rapporteur on the problems associated with illegal migration by the Swedish government. The NCID is of the view that it is necessary for other nations to allow Sweden to export their model to them. Advocates of the Law within Sweden believe that when police in the native or "source" countries of the victims give priority to trafficking in human beings, the possibilities of stopping the perpetrators at the recruiting stage increase.¹⁴⁰ In Sweden the goal of the Law is to prevent the victimization of women and children through gender specific violence inherent in prostitution; in Sweden the police are told not to commit any sort of criminal act in order to investigate sexual crime. One of the problems with enforcing the Law is that physical surveillance is extremely expensive and often requires several months in order to catch some pimps/traffickers in human beings. Another is that trafficked women are often used and abused in prostitution during these long surveillance periods while police are securing evidence. The NCID has made the recommendation that police can avoid this by using certain "special"

¹³⁷ United Nations Economic and Social Council. "Recommended Principles and Guidelines on Human Rights and Human Trafficking: Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council," E/2002/68/Add.1, 9.

¹³⁸ Jacobson, "Why do men buy sex?", 23.

¹³⁹ Bindel and Kelly, "A Critical Examination of Responses to Prostitution in Four Countries," 27.

¹⁴⁰ The National Criminal Investigation Department Trafficking in Human Beings for Sexual Purposes, Situation Report No. 6, Jan 1--Dec 31, 2003, RKP KUT. 2004:2b, Stockholm 2004, 36.

surveillance methods. If these methods were used the sexual exploitation of many women could be stopped at an earlier stage and the testimony of the women exploited would not constitute such a central part of the evidence against the pimp(s)/trafficker(s). Police officers could be called upon to testify about the criminal activities and allow the woman to avoid the psychological burden and the possible physical retaliation at the hands of the traffickers.¹⁴¹ These measures, in theory, would free up more money for surveillance resulting in more arrests. Having the police testify rather than the victim would result in more convictions for several reasons including the fact that the victim is often intimidated, in shock from abuse suffered at the hands of her abuser(s), deported, etc. Enforcement improvements including those outlined above are required to improve the effectiveness of the Law which currently relies on normative/stigmatizing effects and not criminalization in itself to create an environment unfavorable to prostitution.

The NCID acknowledges that the deportation of victims back into desperate or threatening situations is a key problem that plagues the Swedish model and all other trafficking models in existence. Within Sweden there are no exact numbers on how often this happens but the bulk of the literature pertaining to Sweden in my bibliography indicates that this practice has been standard operating procedure within Sweden from the creation of the SPTM on. Many advocates of the Swedish model support the 1949 Convention along with the 69 countries that signed the document. It has been argued by the former Special Rapporteur on Violence against Women that,

The 1949 Convention allows states to punish women who have been subjected to international trafficking by sanctioning their expulsion. In accordance with article 19 (2), States Parties are called upon to repatriate persons referred to in article 18 who desire to be repatriated or who may be claimed by persons exercising authority over them whose expulsion is ordered in conformity with the law. Under the later parts of this clause, trafficked women, who do not have legal residence in the country, are likely to be deported. In the process of deportation, trafficked women may be subjected to detention (protective or punitive) and/or forced 'rehabilitation'.¹⁴²

Sweden has had problems in harmonizing immigration policy with the non-punitive intentions of the Law.

The NCID is officially of the opinion that the Law serves as an effective barrier against traffickers of human beings. Since the passing and enforcement of the Law interrogations of women involved in the sex industry and intercepted phone calls from traffickers indicate that

¹⁴¹ Ibid, 37.

¹⁴² United Nations Economic and Social Council. "Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women," 12.

traffickers and purchasers of sexual services are both deterred by the Law, and traffickers would rather go to other more lucrative markets like Norway and Denmark.¹⁴³ The NCID is not alone in being of the opinion that Sweden is a “transit” country for trafficked women. The bulk of the literature listed in my bibliography indicates that very few sources within and outside Sweden consider Sweden to be a “destination” country for women trafficked for the purposes of sexual exploitation. Many advocates of the SPTM recognize that Swedish legislation on trafficking and prostitution opposes “destination” countries like Denmark, Germany, Holland and Spain that have been identified as far more attractive environments for traffickers in human beings and pimps.¹⁴⁴

2.8 Supporting “the Law” through the 2000 UN Trafficking Protocol

The possibility for success in exporting the model was increased when, in November 2000, the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* was adopted in Palermo, Italy, supplementing the UN Convention against Transnational Organized Crime. The definition reached was a compromise between various abolitionist and non-abolitionist approaches. Advocates of the SPTM claim that it created an international instrument that supported the Swedish definition of trafficking. The fact that the legitimacy of male demand for migrant women is being questioned in international documents is encouraging for the future export of the Law. Sweden played a strong role in advocating for the creation of this convention.¹⁴⁵ The following language was then agreed upon in Article 3.¹⁴⁶

(a) *“Trafficking in persons” 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 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:*

¹⁴³ The National Criminal Investigation Department, *Trafficking in Women*, Situation Report No. 5, Jan 1--Dec 31, 2002, RKP KUT 2003:1b, Stockholm, 2003, 38.

¹⁴⁴ *Ibid*, 34.

¹⁴⁵ Ministry for Foreign Affairs. "Trafficking in Women and Children in Asia and Europe," 2004. Accessed on 17 August 2004. <http://norsk-larerlag.no/projects/trafficking/trafficking.doc>, 7.

¹⁴⁶ United Nations. "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime," (2000), 2.

- (b) *The consent of the 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 the 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 means set forth in subparagraph (a) of this article:*
- (d) *"Child" shall mean any person under eighteen years of age."*

Article 9.5 of the Protocol is important since it supports the Law in that it states that, "States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking." Implicit in this statement is the fact that the international community is beginning to recognize that prostitution is a root cause of trafficking in persons for the purposes of sexual exploitation.¹⁴⁷

While the debates about how this definition has been interpreted by some states will be covered in chapter 3, in Sweden this definition is used in conjunction with the Law as it criminalizes every step in trafficking human beings: recruiting, transport, procuring, keeping and reception of persons for the purpose of exploiting them in different ways.¹⁴⁸

The Swedish government feels it has complied with article 9.5 by passing the Law and through supporting different initiatives, including a national awareness-raising campaign in 2002-3, that were designed and put into place to discourage men from buying women and girls for prostitution purposes. The Swedish Campaign achieved its overall objective of increasing awareness and knowledge of trafficking and prostitution in women through the education and training of government and other public authorities, NGOs, the media, and the public. The campaign implemented innovative measures directed towards buyers and potential buyers of prostituted women and children in Sweden, as well as those men who travel to neighboring countries and other continents specifically for the purpose of buying and exploiting prostituted women and children. In addition the Swedish campaign drew attention to the conditions of women and children who are victims of prostitution and trafficking.¹⁴⁹

¹⁴⁷ Ibid, 6.

¹⁴⁸ The National Criminal Investigation Department Trafficking in Women, Situation Report No. 3, Jan 1--31 Dec 31, 2000, RKP KUT 2001:3b, Stockholm 2001, 4.

¹⁴⁹ Ekberg, "The Swedish Law That Prohibits the Purchase of Sexual Services," 1202.

2.9 Summary

Does the law fulfill the expectations of the Swedish women's movement that lobbied for it? The majority of the evidence seems to indicate that the answer is a firm "yes". The Law has created a climate where women who want to exit the sexual slavery of prostitution can feel comfortable to do so, and in some cases women themselves bring their buyers to justice.¹⁵⁰ Representatives of the Pros-Centre in Stockholm, a group assisting women in leaving prostitution, describe the positive effects the Law had on their clients. Of the 130 persons with whom they had contact during the past 3 years, 60% have left prostitution permanently, and many of these women point to the Law as an incentive in their having sought assistance.¹⁵¹ In Sweden the Law is supported by the majority of the population. These Swedish citizens do not want red light districts in their country and are strongly against the notion that prostitution is an acceptable form of labor for the women involved in it. Through the support of the Law the Swedish citizenry is also making a statement that prostitution must not be seen as an inevitable social practice for men to enjoy. The SPTM and the Law specifically are designed to focus the discussion onto the link between state-supported legalization or formal decriminalized prostitution and the dramatic increases in trafficking in women/children for the purposes of sexual exploitation to those states. In Germany it has been observed that a dramatic increase in the numbers of foreign prostitutes and the illegal sex industry has occurred with Germany's move towards the Dutch legalization model with 75% of Germany's approximately 200,000 prostitutes being foreigners.¹⁵²

The discourse surrounding the Law supports a view that the majority of women can be empowered through attacking the assumed male right to access to the female body. Those who advocated for the Law recognize existing power relationships are in favor of men and will continue to be as long as the State sanctions or allows for sexualized violence that supports the view that masculinity is equated with power and domination while femininity is equated with subordination and passivity.¹⁵³ Women have exercised empowerment by lobbying for the Law, passing the Law, supporting the Law, and the measures that reinforce it. The Swedish

¹⁵⁰ Ibid, 1204.

¹⁵¹ Ibid, 1204-1205.

¹⁵² Hughes, Donna, et al. "Fact Book on Global Sexual Exploitation: Germany." Coalition Against Trafficking in Women Factbook on Global Sexual Exploitation: Coalition Against Trafficking in Women, (2004), 2.

¹⁵³ Ekberg, "Best Practices for Prevention of Prostitution and Trafficking in Women," 1.

Government recognizes the need for the continued use of information campaigns in supporting the Law due to the fact that efforts by advocates of gender equality are being undermined by the dissemination of sexualized images and the exploitation of women in pornographic representations on the internet. Marketing practices are increasingly placing young women and children in increasingly sexualized roles with unknown effects on the public.¹⁵⁴

The flaws in enforcing the Law through the police and the legal system are recognized. Within Sweden, efforts are underway to address these problems through clarifying and strengthening the Law and continued education/training of police on the logic behind the Law. The SPTM's intersection with immigration policy has continued to create problems for illegal migrant women suffering the misfortune of being trafficked into Sweden for the purposes of sexual exploitation. These efforts contribute to the evolution and refinement of the SPTM and are the subject of the next two chapters.¹⁵⁵

¹⁵⁴ Ministry of Industry, Employment and Communications. "The Swedish Government's National Plan for Gender Equality." 2004. Vol. N4009, 9.

¹⁵⁵ Jacobson, "Why do men buy sex?", 23.

CHAPTER 3- The Flaws in the SPTM

3.1 Introduction

This chapter will defend the prostitution side of the SPTM against the critiques of sex worker advocates that argue the view that prostitution is not a social evil in itself but rather the violence that occurs within the profession is. As mentioned earlier these advocates are arguing for decriminalization or legalization of the prostitution industry under standard business codes in the hopes of reducing incidences of violence within the profession.

Furthermore, this chapter argues that Swedish asylum and migration policies circumvent the intent of the Law to protect victims of trafficking. The other sections of this chapter argue that the SPTM needs to be modified to eliminate or decrease situations in which women are subject to exploitation. This line of reasoning will examine the contention that the intention of the SPTM to not to punish “vulnerable” migrant sex workers is violated by the forced deportation of women to potentially unsafe situations.

3.2 Flaws in “the Law”

An objective of this chapter is to critically examine some of the flaws in the Law, the logic behind the Law, and some of the measures and theory that support the Law from competing feminist approaches and perspectives.

One of the main critiques of the Law is its language. In other words what constitutes prostitution and non-prostitution under the Law? One question that has been asked by those critics of the Law is why is paying for a casual sexual relation regarded as criminal while payments made in connection with a more long term sexual relation are not.¹⁵⁶ Various feminists within Sweden ask whether enforcement of the Law is really possible considering that under the Law contact with a prostitute is not illegal and neither is sex. Lobbying to change the Law so that it clearly prevents the purchase of all forms of sex by purchasers and third parties is under way. These efforts were assisted by work done through the Ministry of Justice in 2003 to prepare a report on legislative amendments and other measures necessary for Sweden to ratify and fulfill its obligations under the UN *Protocol to Prevent, Suppress and Punish Trafficking in Persons*,

¹⁵⁶ Tove Petterssoneva Tiby, “Production and Reproduction of Prostitution,” *Journal of Scandinavian Studies in Criminology and Crime Prevention*, (2002): 161.

especially Women and Children. These measures are designed in part to strengthen the Law.¹⁵⁷ The National Rapporteur has observed that it is not just the enforcement of the Law that is the problem, but also the lack of respect given to the intent of the Law which is questioning male demand to purchase sexual services. The enforcers of the Law have protected husbands from the consequences of their wives knowing about their purchase of sexual services by showing an attitude of empathy for the perpetrators of procurement¹⁵⁸:

It has been observed that the judicial system has had a considerate attitude towards purchasers of sexual services. This attitude has been demonstrated by the fact that summons to interrogations have been sent to their place of work instead of their home that is the most usual procedure. Such actions indicate certain sympathy within the judicial system concerning the men that are suspected of purchase of sexual services. This is an unusual consideration that aims at protecting the suspect from social consequences that could be a result of his actions.¹⁵⁹

What is illegal is purchasing or attempting to purchase “a temporary sexual relation”¹⁶⁰ – a specific action that is extremely difficult to prove, particularly when both parties deny it occurred,¹⁶¹ often due to the fact that both parties have a strong incentive to do so. This practical difficulty of enforcement has dogged the Law since its passage. This is a crucial basis for arguments in favor of decriminalization to be outlined later in this chapter. The National Council for Crime Prevention reported in a recent study that during the first year of the Law’s existence, 91 police reports were filed throughout Sweden. Most of the investigations into those 91 cases were discontinued on the grounds that there was insufficient evidence to press charges. By the beginning of 2000, only 7 of those cases had gone to court. Of those 7 cases, 6 defendants were found guilty and 1 was acquitted (4 of those found guilty confessed, 2 pleaded not guilty and were convicted). The guilty men were fined sums of between 1600 and 13600 Kroner, which in practice means the penalty for purchasing sex is more or less equivalent to the penalty for petty

¹⁵⁷ Ekberg, “Best Practices for Prevention of Prostitution and Trafficking in Women,” 3.

¹⁵⁸ I should note this quote is an example poor grammar that occurs in many Swedish Government documents that have been either translated to English or produced in English by individuals who are still learning the language.

¹⁵⁹ The National Criminal Investigation Department, *Trafficking in Women, Situation Report No. 5*, Jan 1—Dec 31, 2002, RKP KUT 2003:1b, Stockholm, 2003, 34.

¹⁶⁰ The Literature on the SPTM is unclear why this wording for the Law was chosen and why it remains unmodified despite proposals and lobbying for changes in the wording of the Law.

¹⁶¹ Kulick, “Sex in the New Europe,” 203.

shoplifting. The Law isn't enforced because it is expensive, time consuming and difficult to do so under the current construction of the Law and the Swedish judicial system.¹⁶²

The Swedish National Council for Crime Prevention conducted a follow up study of the Law, and found that 50% of prosecutors questioned felt that the customers of prostitutes who are regular clients could not be convicted in accordance with the Law. The other 50% did not consider this type of relation to be regarded prosecutable being that it was not of a casual or temporary nature. Prosecutors have also called for a clarification of what should be deemed a "causal sexual relation"¹⁶³ under the Law. It has been proposed by The Sexual Crime Committee that the Law be reworded so that a person cannot avoid criminal responsibility under the ban on the purchase of sexual services by allowing the service to be purchased them by another party. It has also been proposed by the Committee that the prohibition should also apply to a person who makes regular visits to a prostitute.¹⁶⁴ The Sexual Crime Committee recognizes the Law is problematic concerning the fact that men that have been brought to trial to testify in trials with respect to trafficking in human beings are not willing to do so due to fear of self incrimination. Chapter 36 Section 6 of the Code of Judicial Procedure states that 'a witness is allowed to refuse to speak about a circumstance that would reveal that the witness or someone close to him has committed a criminal or infamous action.'¹⁶⁵

3.3 Asylum and Migration Policy

When one looks at trafficking law and policy it is impossible to do so without looking at asylum and migration policy. It is important to look at the effects asylum and refugee policies have on trafficked migrant women. Migrants are often forced to go seek out traffickers as a result of restrictive immigration laws and policies directed at asylum seekers and those applying for refugee status. Refugees almost by definition are defined as not trafficked. However, the SPTM defines all "sex work" and all migration for "sex work" as non-consensual and hence the relevance of the term sex trafficking when "sexual exploitation" of the female migrant is involved. Sweden's official stance on migration and asylum policies is they will continue to draw

¹⁶² Ibid, 203-204.

¹⁶³ Tiby, "Production and Reproduction of Prostitution," 156.

¹⁶⁴ 1998 års Sexualbrottskommitté, Sexualbrotten, SOU 2001:14, Stockholm 2001. (Sexual Offences, Report of the Committee on Sexual Offences, English Summary, 2001), 592.

¹⁶⁵ The National Criminal Investigation Department, Trafficking in Women, Situation Report No. 4, Jan 1--Dec 31, 2001, RKP KUT 2002:1b, Stockholm, 2002, 29.

attention to international conventions and agreements on human rights in the framework of international cooperation on asylum and migration.¹⁶⁶

Historically, the basic instruments in international law which have guided Sweden in protecting the rights of refugees coming to Sweden are the 1951 Convention relating to the Status of Refugees and its Additional Protocol of 1967 combined, recently, with the European Convention on Human Rights and the UN Human Rights Convention to provide additional protection.¹⁶⁷

Radhika Coomaraswamy, former UN Special Rapporteur on Violence Against Women stated that states must, "Adopt and implement guidelines recognizing gender-related persecution as a basis for women to claim refugee status, in addition to signing and ratifying the 1951 Convention on the Status of Refugees and the 1967 Protocol thereto, and implement the 1991 UNHCR Guidelines on the Protection of Refugee Women."¹⁶⁸

The United Nations High Commissioner for Refugees (UNHCR) is the main international organization that initiates global efforts to protect the world's refugees. Sweden cites the fact that it is one of the largest contributors to the UNHCR and is an active partner in its efforts to assist and protect refugees. Sweden also chaired the Executive Committee (ExCom), the UNHCR's advisory body, in 2002. In 2001 and 2002, as chair, Sweden played an active role in UNHCR global consultations in order to systematically review and strengthen the protection of refugees and the practices developed since the implementation of the 1951 Convention in 22 April 1954, in accordance with Article 43.¹⁶⁹ In practice this has resulted in international discussion and implementation of notable measures relating to the protection of refugees such as the *Agenda of Protection* which is directed at states in the UNHCR.¹⁷⁰

¹⁶⁶ Ministry for Foreign Affairs, Government Communication 2003/04:20 Human Rights in Swedish Foreign Policy, 2003, 14-15.

¹⁶⁷ Ibid, 14.

¹⁶⁸ United Nations Economic and Social Council. "Integration of the Human Rights of Women and the Gender Perspective," 36.

¹⁶⁹ Office of the High Commissioner for Human Rights. "Convention Relating to the Status of Refugees Adopted on 28 July 1951 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and a Stateless Persons Convened under General Assembly Resolution 429 (V) of 14 December 1950: Entry into Force 22 April 1954, in Accordance with Article 43," 1950. Accessed on 10/7/2004, 1.

¹⁷⁰ Ministry for Foreign Affairs, Government Communication 2003/04:20 Human Rights in Swedish Foreign Policy, 2003, 14.

In negotiations on EC Directives that affect immigration policy the Swedish government's official position is based largely on international "human rights standards."¹⁷¹ The Treaty of Amsterdam strengthened the EU's efforts to improve the coordination of its migration and refugee policy, reinforcing the Convention relating to the Status of Refugees. With the entry into force of the Treaty of Amsterdam in 1999, asylum and migration issues were integrated into EU law. The treaty was part of work being done at the EU level to develop common procedures and standards for dealing with asylum and refugee seekers.

Swedish law does not assume that countries that have accepted the 1951 Convention and the later Additional Protocol of 1967 have abided by the principles enshrined in the said agreements. Instead, there is a strategy for handling some of the practical difficulties this causes in working through migration and trafficking problems. Sweden seeks to tackle trafficking by continuing to offer the social safety net provided for in the Convention, by encouraging governments who have not yet signed the Convention and the Additional Protocol to do so, and through developmental cooperation and other forms of assistance to ensure that there is an effective examination of procedures and refugee reception established in the countries that have acceded to the Convention.¹⁷²

Sweden and other nations have interpreted sections of the 1951 Convention as supporting the blocking of migrant prostitutes. In the case of Sweden, critics argue, for instance, that Article 26, "Freedom of movement", of the Convention, violates the rights of "sex workers". Article 26 states, "Each Contracting State shall accord refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory subject to any regulations applicable to aliens generally in the same circumstances." In practical terms, anyone residing in Sweden illegally, or with a tourist visa, is denied the right to move around Sweden to supply or fill a demand for sexual services, and is deported for such an endeavor.¹⁷³ The abolitionist model is supported by denying the right to freedom of movement to sex workers. Prostitution is not recognized as a viable profession or as a legitimate form of work and thus any migrant practicing sex work is illegally residing in Sweden.

¹⁷¹ Ibid, 14-15.

¹⁷² Ibid, 15.

¹⁷³ Office of the High Commissioner for Human Rights. "Convention Relating to the Status of Refugees Adopted on 28 July 1951 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons Convened under General Assembly Resolution 429 (V) of 14 December 1950," 9.

3.4 Interpretation, application, deportation and lack of responsibility for the victim

A huge part of the problem with the SPTM is that it is compromised by its intersection with immigration issues. The core problem is that the SPTM highlights the prostitute as a victim of abuse who is not to be punished, whereas the Aliens Act sees her as an illegal immigrant. The Swedish government makes precedent-setting decisions on the application of the Aliens Act 1980,¹⁷⁴ and the Social Services Act 1980 that both pre-date the recognition of the fact that trafficking in women for the purposes of sexual exploitation is a serious problem in Europe. It is necessary to understand how the Social Services Act of 1980 has historically been applied to understand the interpretation and application of the Swedish Aliens Act. Simply put, currently in Sweden the government relies on both these acts when dealing with women who are trafficked to Sweden for the purposes of sexual exploitation. The problem is that in practice in most cases the Aliens Act has been applied to deport the victim of trafficking without taking into account their vulnerability to danger at home and their status as a victim of sexual exploitation. Recognizing the fact that the trafficked woman is identified as a victim of crime under Swedish law is an important part of addressing problems in the Aliens Act. This fact creates an opening to modify immigration laws to better protect the human rights of trafficked women.

While the trafficked woman in Sweden is either on a temporary residency permit awaiting her day in court to testify against her abuser(s) or awaiting deportation, she is under the provisions of Chapter 2 section 2 of the Social Services Act, which has given the municipalities the main responsibility for providing assistance and supporting the victims.¹⁷⁵ There are often differences between local police and local social services over who should pay for support during a criminal investigation. Not only is it unclear who should pay, but also what different units are required to do in terms of support. The question of which agency is responsible for offering victims social support is so unclear that none of the authorities have money allocated for it.¹⁷⁶

¹⁷⁴ Ministry for Foreign Affairs, Government Communication 2003/04:20 Human Rights in Swedish Foreign Policy, 2003, 15.

¹⁷⁵ The National Criminal Investigation Department Trafficking in Human Beings for Sexual Purposes, Situation Report No. 6, Jan 1--Dec 31, 2003, RKP KUT. 2004:2b, Stockholm 2004, 34-35.

¹⁷⁶ Stiftelsen Kvinnoforum. "Social Support to Women, Girls and Boys Victims of Trafficking, Overview of the Situation in Sweden, English Version: Stiftelsen Kvinnoforum, Funded by Eu/Stop and the Swedish Ministry of Health and Social Affairs," 2002. Accessed on 11 August 2004. <http://www.kvinnoforum.se/papers/socsupport2002rtf>, 6.

Welfare service agencies have argued that they cannot provide for victims of trafficking due to the lack of clarity regarding who is responsible for the individual victims.¹⁷⁷

3.3 “Trafficking” and “Voluntary Migration for Sex Work”

Many women’s rights advocates, governments and international organizations argue that abolitionist models like the Swedish model are harmful to women. Critics of abolitionist approaches argue that abolitionist models, consider all migration associated with prostitution “trafficking”, and all “trafficking” to be for the purposes of prostitution.¹⁷⁸ These advocates argue that women can choose to be prostituted, that prostitution is a form of “work” that should be respected like any other, and that “trafficking” in women is only a problem when women are forced and coerced. Thus, “voluntary” trafficking, where a woman is assisted by traffickers to go from one area to another for “work”, is to be renamed “migration for sex work”.¹⁷⁹ Advocates of this view include many “sex workers” who have been lobbying for years for the formal decriminalization of all aspects associated with adult prostitution resulting from individual decision, and regulation of third parties according to standard business codes.¹⁸⁰ According Marjan Wijers, one place where prostitution and prostitutes are decriminalized is the State of New South Wales, Australia. Advocates of this region’s policy state that it is devoid of any moral judgment against prostitution, because of the danger of stigmatizing and marginalizing sex workers. Advocates of this view state that it supports the rights of women involved in the trade to self-determination, and the protection of their rights as workers under labor law. It must be stated that approaches that advocate or allow for voluntary prostitution to exist do in certain circumstances reduce violence against women engaged in the profession. However as Chapter 2 stated even women in states that have implemented measures with the goal of making prostitution a safe occupation have failed to do so. The fact remains that women in prostitution in partly legalized or decriminalized prostitution markets still suffer violence and abuses in the legal sector. As mentioned the legal sector often results in increased demand and results in the growth

¹⁷⁷ Ibid, 10.

¹⁷⁸ Priscilla Alexander, "Feminism, Sex Workers, and Human Rights," *Whores and Other Feminists*. Ed. Jim Nagle. (New York: Routledge, 1997), 90.

¹⁷⁹ Ekberg, "The International Debate About Prostitution and Trafficking in Women," 6.

¹⁸⁰ International Committee for Prostitutes Rights. "International Committee for Prostitutes' Rights World Charter and World Whores' Congress Statement," *Sex Work Writings by Women in the Sex Industry*. Ed. Frederique Delacoste and Priscilla Alexander, (1998), 305.

of an unregulated and often more dangerous illegal sector of the sex industry. While abolitionist approaches like the Swedish approach may be doomed to marginalizing a small sector of voluntary prostitutes they protect a much larger group of women from being trapped in an occupation over where over 90% of the women engaged in it would choose to leave it if given a viable alternative.¹⁸¹ What it ultimately comes down to is an issue of coercion versus consent with Sweden refusing to acknowledge the views of advocates of sex workers and sex workers. To do so, according to the Swedish Government and advocates of the Law, is to allow for harmful “unintended” consequences that come from accepting the “culture of prostitution” outlined in Chapter 2. As mentioned earlier Sweden supports article 3 section (b) of 2000 UN Trafficking Protocol which states that the consent of the victim of trafficking is irrelevant.¹⁸²

Another set of arguments against the SPTM concerns the rights of migrants. According to critics of the abolitionist model, traffic in women should not be attacked through a model that stigmatizes sex work but by prosecuting the violations that occur during trafficking.¹⁸³ Part of the reason for the abuse is not that prostitution is inherently violent or evil itself but rather the stigma associated with being a so-called “sex worker” is. The stigma associated with being a sex worker is seen as a cause of abuse towards sex workers by sex worker advocates¹⁸⁴ In the case of migrant women the stigma of being an illegal alien is added to further marginalize the women involved. These women are denied the right to freedom of movement and occupation on the grounds that “voluntary” prostitution doesn’t exist for any women under the Swedish model, with the difference being citizens practicing prostitution are not punished criminally, while illegal sex workers are expelled for violating borders. Trafficking in women, as the former Special Rapporteur on Violence against Women understands and defines it, is an extremely violent form of movement, which must be prohibited by nation states.¹⁸⁵ Jyoti Sanghera, the new Special Advisor on Trafficking for the UN Commission on Human Rights views listed below are not

¹⁸¹ Ekberg, “The International Debate About Prostitution and Trafficking in Women,” p. 5.

¹⁸² United Nations. "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime." (2000), 6.

¹⁸³ Marjan Wijers, "Women, Labor and Migration: The Position of Trafficked Women and Strategies of Support," *Global Sex Workers: Rights, Resistance, and Redefinition*. Ed. Kamala Kempadoo and Jo Doezema. (New York: Routledge, 1998), 74.

¹⁸⁴ Ekberg, "The International Debate About Prostitution and Trafficking in Women," 6.

¹⁸⁵ United Nations Economic and Social Council. “Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women,” 6.

plausible. The statement outlined below is not endorsed by the UN because of its implausibility. International conventions support mobility for political refugees, but do not support it for so-called economic migrants. All states have a vested interest in tightly controlling all forms of immigration. That is why this thesis cites Coomaraswamy more extensively than Sanghera, as her work has not been diminished in the same way by the United Nations and all nation states refusal to support her personal views. Sanghera has stated,

The right to freedom of mobility is a fundamental human right enshrined in the Constitutions of most countries. Trans-border mobility is supported by Article 13(2) of the Universal Declaration of Human Rights (UDHR), which accords everyone the 'right to leave one's country'. Article 12 of the International Covenant on Civil and Political Rights (ICCPR) further reinforces the right to freedom of movement within and across borders, and the right to choose one's residence. Coupled with these, 'the right to a nationality' outlined in Article 15 of the UDHR, which is upheld as the 'right to have rights', should ideally provide adequate protection to migrants against the vulnerabilities emanating from mobility and statelessness as well as provide them with access to other fundamental rights in the civil, political, economic and cultural realms. Therefore, a young woman desirous of migrating, for whatever reasons, in order to pursue her fate and fortunes across borders should be able to do so whilst being sufficiently equipped with human rights. As she traverses borders on her journey, she should feel assured that she is a resident of this planet and not alien, and by virtue of being a human being she is entitled to some fundamental human rights and protections, regardless of her nationality.¹⁸⁶

Both supporters and detractors of the SPTM would argue that the failure of existing economic, political and social structures to provide equal opportunities for women to work has contributed to the feminization of poverty, which in turn has caused the feminization of migration into low paid and largely dangerous gender specific industries like the prostitution industry, as women are forced to leave their homes in search of viable economic alternatives. Women are often denied "quality" migration opportunities available to men, which creates a situation where women are increasingly vulnerable to being trafficked for the purposes of sexual exploitation.

Advocates of legalization argue that the SPTM must be deemed a failure in that it does not recognize that the key element that distinguishes "trafficking" is the non-consensual nature of trafficking. The migration of all women across Swedish borders to fill the demand for "sexual services" is assumed to be "trafficking" in all situations since under the SPTM women are "incapable" of consenting to sex work when they are in the process of migrating or have already

¹⁸⁶ United Nations Division for the Advancement of Women (DAW). "The New Borderlanders: Enabling Mobile Women and Girls for Safe Migration and Citizenship Rights," prepared by Jyoti Sanghera, CM/MMW/2003/CRP.3, 14 January 2004, 4.

migrated and illegally reside in Sweden.¹⁸⁷ As mentioned earlier this resistance to migratory flows is done to prevent the growth of an industry that harms the majority of women involved in it, and to prevent trafficking which is a consequence of the expansion of the sex industry. As mentioned earlier this assumes that consent to prostitution should not be given. Consent is denied in the name of protecting the vast majority of women who do not and would not want to live a life trapped in the sex industry.

3.5 Lobbying for “Consent”: The 2000 UN Palermo Protocol

The SPTM position on consent was mentioned in Chapter 2 and is largely supported by the Swedish government’s interpretation of the 2000 UN Trafficking Protocol. Part of the problem is that the position on “consent” expressed in the Protocol was the result of an uneasy compromise between two opposed lobbies. Perhaps the strongest advocate of the ‘neo-abolitionist’ view internationally is the Coalition Against Trafficking in Women (CATW), founded by Kathleen Barry in 1988. CATW is a NGO which obtained “Category 2 Consultative Status” in the United Nations Social and Economic Council in 1989. The organization has considerable influence and support the intent of the Law and the questioning of male demand for sexual services within Sweden. CATW supports other states adopting the Law. Their “Convention on the Elimination of All Forms of Sexual Exploitation of Women,” defines prostitution as a form of sexual exploitation just like rape, genital mutilation, incest and battering. Sexual exploitation is defined as “a practice by which women are subjugated to sexual slavery through the abuse of women’s sexuality and /or violation of physical integrity as a means of achieving power and domination including gratification, financial gain, and advancement.” Prostitution is explicitly named as a violation of women’s human rights, and is also held responsible for “subordinating women as a group.” Government delegations, backed by CATW stated that any definition of trafficking had to include situations in which a human being both consented to travel and consented to do sex work, even if no force or deception was involved.¹⁸⁸

This abolitionist position was opposed by the Human Rights Caucus. The Human Rights Caucus’s objectives are: putting human rights on the international agenda; developing detailed contributions on how human rights can be implemented within specific frameworks; raising

¹⁸⁷ United Nations Economic and Social Council. “Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women,” 4.

¹⁸⁸ Jo Doezema, “Forced to Choose: Beyond Voluntary V. Forced Prostitution Dichotomy,” *Global Sex Workers: Rights, Resistance, and Redefinition*. Ed. Kamala Kempadoo and Jo Doezema. (New York: Routledge, 1998), 37.

awareness of NGOs and the public on the importance of addressing human rights in the 'information society'. The Human Rights Caucus is currently made up of 27 national and international organizations. The Caucus lobbied that the position expressed above by CATW had its root in the assumption that a woman's consent to undertake sex work is meaningless. Other governments supported by rights advocates stated that supporting the abolitionist position was wrong; rights advocates argued that to support an abolitionist definition of trafficking that essentially attempts to define consent to sex work for women and children as the same thing is extremely harmful to women. The Human Rights Caucus stated:

'Obviously, by definition, no one consents to abduction or forced labor, but an adult woman is able to consent to engage in an illicit activity (such as prostitution, where this is illegal or illegal for migrants). If no one is forcing her engage in such an activity, then trafficking does not exist... The Protocol should distinguish between adults, especially women, and children. It should avoid adopting a patronizing stance that reduces women to the level of children, in the name of 'protecting' women. Such a stance historically has 'protected' women from the ability to exercise their rights.' (Human Rights Caucus 1999, 5).¹⁸⁹

Thus the Swedish model is deemed guilty by sex worker rights advocates of reducing the rights of women to the level of children. Under Swedish law, 'children under 15 years of age can... never consent to sexual acts with the effect of exonerating the child from criminal liability'. Children have no 'right to sexual self-determination'.¹⁹⁰ The result of the 1998 Act Prohibiting the Purchase of Sexual Services is that it takes away rights of sex workers and female migrants making them helpless children in the eyes of the Swedish State.¹⁹¹

Some sex worker rights critics of the Protocol question why the international community is focusing on a definition of trafficking that does not support what sex workers want, a system where prostitution is decriminalized so that women are protected through labor law, subject to the same benefits and taxes as any other profession, and are not subject to any government regulation that stigmatizes their profession or person. Most States presently have either an abolitionist or regulationist system. Regulationist systems stigmatize sex workers through measures such as sex worker registration and mandatory health checks. According to Jo Doezema any system that equates prostitution with being a social evil marginalizes sex workers:

¹⁸⁹ Doezema, "Who Gets to Choose?", 21.

¹⁹⁰ 1998 års Sexualbrottskommitté, *Sexualbrotten*, SOU 2001:14, Stockholm 2001. (Sexual Offences, Report of the Committee on Sexual Offences, English Summary, 2001.), 584.

¹⁹¹ Kulick, "Sex in the New Europe," 203.

For regulationists, the prostitute was a fallen woman, whose personal pathology or inclination to vice, weakness, stupidity, and/or vanity led inevitably to life as a prostitute. Abolitionist ideology firmly fixed the prostitute as a victim. The image of the prostitute as agent, who willingly chooses her occupation, was unimaginable in either of these models. 'Prostitution as a matter of personal choice and a work as work' is a concept developed by sex workers that radically contradicts both the regulationist and abolitionist versions of prostitute reality. To equate or collapse the very different analysis of the regulationists and prostitutes' rights supporters denies the radical implications of sex workers' politics.¹⁹²

Ultimately the language of the Protocol was highly contested from start to finish. Radhika Commaraswamy, the UN Special Rapporteur on Violence against Women in her position paper submitted to the UN Ad Hoc Committee drafting the Protocol, argued that the terms "victims", and "sexual exploitation" should not be included in the Protocol and questioned "whether all activities in the sex industry constitute 'sexual exploitation' per se, or whether only sex work under exploitative or slavery-like conditions could qualify as 'sexual exploitation'."¹⁹³

What the Protocol actually prescribes in the area of victims' rights and social support are open-ended. According to Jo Doezema and other sex worker advocates, the Protocol makes an implicit distinction between 'coerced' and 'non-coerced' migration for prostitution, while it does very little in terms of human rights protections for trafficking victims, and nothing at all for (migrant) sex workers who were not coerced into prostitution. The Protocol leaves the way open for governments to treat sex work as labor, but it also in no way prevents governments from persecuting, criminalizing, and denying equal protection of the law to sex workers in the name of fighting 'trafficking'. Furthermore, governments are given more rights to resist migratory flows and prosecute offenders.¹⁹⁴ Again what the argument ultimately comes down to on the international stage is whether one believes prostitution is a violation of human rights.

3.6 Is the Sex Industry Defendable?

Prostituted women who choose to work at home or abroad are defined as passive, helpless, degraded victims, and abolitionists contend that any prostitute who claims otherwise is brainwashed or has a false consciousness. Prostituted women are furthermore referred to by

¹⁹² Doezema, "Forced to Choose," 39.

¹⁹³ Raymond, "The New UN Trafficking Protocol," 496.

¹⁹⁴ Doezema, "Who Gets to Choose?," 24.

organizations and states supporting abolition as “dehumanized”, “degraded” and “debased”.¹⁹⁵ If we think this characterization may be true, then is the sex industry defensible on any level? One sex worker, Nina Hartley described the range of positives that a career in the sex industry had given her and others: enhanced self-image, sexual variety, exhibitionism, fantasy fulfillment, and economic gain.¹⁹⁶ The real irony, many sex workers and sex worker rights advocates feel, is that sex workers are denied human rights publicly. Rights are denied to sex workers officially in the name of the protection of women, public order, health, morality, and the reputation of dominant persons or nations. Many who take this view favor decriminalization which was a view shared by the European Parliament in June of 1986 when it called upon member states to take the following necessary legal steps in view of the existence of prostitution:

- to decriminalize the exercise of this profession ,
- to guarantee prostitutes the rights enjoyed by other citizens,
- to protect the independence, health and safety of those exercising this profession...
- to reinforce measures which may be taken against those responsible for duress or violence to prostitutes...
- to support prostitutes’ self- help groups and to require police and judicial authorities to provide better protection for prostitutes who wish to lodge complaints...

Ensuring concrete implementation of those steps would require finding the violations in each State, and requiring each state to issue detailed reports on how each objective is being met.¹⁹⁷

The SPTM denies women these rights by pushing prostitution underground because of the fear of punishment or, in the case of the migrant “sex worker”, deportation. According to some, while the Law initially reduced street prostitution, the passage of the Law corresponded to an increased number of sex advertisements on the Internet. The number of brothels – which in practice seems to mean apartments on the periphery of large cities, in which Baltic women work, often, it seems, are under oppressive conditions – appears to have increased since the Law was passed. Some prostitutes interviewed in the mass media have reported that women with drug problems have been driven to desperation and even suicide by the Law, since they have been unable to put advertisements on the Internet to make up for the clients they lost as a result of the

¹⁹⁵ Alexander, "Feminism, Sex Workers, and Human Rights," 83.

¹⁹⁶ Nina Hartley, "In the Flesh: A Pornstar's Journey," *Whores and Other Feminists*. Ed. Jim Nagle, 1997, 58.

¹⁹⁷ International Committee for Prostitutes Rights. "International Committee for Prostitutes’ Rights World Charter and World Whores’ Congress Statement," 317.

Law. This contradicts work done by the police and trafficking teams, which as mentioned earlier state internet ads have gone up. Detractors of the Law argue that social workers agree the Law has made it more difficult for them to reach prostitutes. Police have reported that their efforts to prosecute pimps and traffickers has been made more difficult because clients, who before the passage of the Law were sometimes willing to serve as witnesses, are now disinclined to cooperate, since they themselves are guilty of a crime.¹⁹⁸

The SPTM is compared to the “indulgent” Dutch model in a variety of literature and international forums. Many of the critiques listed above have been highlighted by advocates of the Dutch model. It is my contention that while the Swedish model has its flaws and needs improvement, the Dutch model has failed. Over the past two decades, various governments, certain UN agencies and some NGO’s have lobbied for policies that promote the idea that prostitution is voluntary and sex trafficking is forced. The reality has shown that prostitution and sex trafficking are “habitually co-dependent.” The Netherlands is an example of a group of countries that prohibited sex trafficking while legalizing or decriminalizing aspects of the sex industry in an attempt to make the trade safer, to eliminate the illegal sex sector and child prostitution. As mentioned in chapter 2, the model fails to achieve these goals and in fact increases many of these problems and the number of women involved in the sex industry. The Dutch have responded to this failure by starting to close down their main tolerance zones. The Dutch now are starting to recognize these places do not protect women or control the influence of organized crime. In 2004, Amsterdam’s mayor stated that Amsterdam’s infamous prostitution zone, the “Tippelzone”, had become a haven for traffickers and dangerous for women.¹⁹⁹ In 2003, the Mayor summarized the choice between maintaining the Dutch model and moving back towards an abolitionist direction best by stating that the situation was “a devil’s dilemma” because “it appeared impossible to create a safe and controllable zone for women that was not open to abuse from organized crime.”²⁰⁰ For all the SPTM’s failures critics and advocates alike generally recognize the model has contained the sex industry and at worst allowed trafficking in women for the purpose of sexual exploitation to slightly increase. When compared to nations adopting non abolitionist policies like the Netherlands there has been a noted dramatic increase in the number of women trafficked from “sender” regions like the CEEC [Central and Eastern European Countries] to these regions according to the IOM. Just in the area of child prostitution

¹⁹⁸ Kulick, "Sex in the New Europe," 204.

¹⁹⁹ Raymond, “Sex Trafficking is Not ‘Sex Work’”, 1.

²⁰⁰ Bindel and Kelly, “A Critical Examination of Responses to Prostitution in Four Countries,” 13.

in the Netherlands, Child Right has reported that there are now more than 15,000 children (primarily little girls) that are being used in prostitution, which is an increase of 11,000 since 1996. Simply put, legalization is a “pull factor” for traffickers of women/children and exaggerates many of the very problems it was designed to solve.²⁰¹

Few advocates of the prostitution industry and no sex worker, no matter how much they love their job, will argue that there is no room or need for great improvement in the sex industry. However they feel they have a right to choose their own occupation. Most if not all sex workers will admit to not being immune to Sex Worker Burnout Syndrome (SWBS). The symptoms vary: depression, tiredness, problems in relationships, feeling like people want to drain your energy, feeling grumpy, low-self-esteem, frustration, not wanting to be touched, a feeling of being trapped or stuck, being overly emotional, feelings of dissatisfaction with one’s life, hopelessness, self-destructive behavior, and more. The syndrome can last anywhere from a day to years.²⁰² The Government of Sweden had a right to take a ‘paternalistic’ approach in protecting its citizens from the harms that come with the sex industry. Denying sex workers the freedom to chose their own occupation and marginalizing those who do through abolitionist policies is an inevitable part of the process.

3.7 Criminalization of Migration

One of the strongest critiques levied at the Swedish trafficking model is that it hijacks “trafficking” as an excuse to impose draconian immigration polices to keep out “undesirable aliens”. Foreign women who have been found working as prostitutes in Sweden are generally deported under Chapter 4, section 2, paragraph 1 of the Aliens Act if it is determined that they do not have the legal financial means to stay in Sweden. Though police and immigration officials are under no unconditional obligation to make the decision to deport the trafficked woman, since prostitution is not considered an ‘honest way’ to earn a living in Sweden, a foreigner engaged in the industry who may have the financial means to stay in Sweden, may still be deported. Once a decision has been made, the deportation is to be executed as soon as possible according to Chapter 8, section 12 of the Aliens Act. This makes investigation into trafficking more difficult,

²⁰¹ Ibid, 15.

²⁰² Annie Sprinkle, "We've Come a Long Way and We're Exhausted," *Whores and Others Feminists*. Ed. Jim Nagle. (New York: Routledge, 1997), 66.

and often the cases are discontinued due to lack of evidence.²⁰³ Victims are deported before they get a chance to testify saving the state the expense of a trial and social support during their stay in Sweden. Under Swedish law, women trafficked for the purposes of sexual exploitation are victims of crime and violence. This fact should be used to justify protecting the human rights of trafficked women by exempting them from deportation by granting them either permanent refugee or asylum status. Another viable option is for the Swedish state to take an active role in ensuring the safe repatriation of victims of trafficking.

In a report financed by the Swedish Ministry of Foreign Affairs, the government states that the clear increase in the number of women engaged in street prostitution from the Baltic States is a direct result of visa requirements being abolished, creating a “grey zone” between trafficking and migration for sex work for these migrant women. The Swedish government’s proposed solution to this “invasion of foreign prostitutes” is stricter border control through specifically training the relevant individuals on how to detect trafficking and through the enforcement of “repressive” immigration laws regulating “trafficking”.²⁰⁴ The Act Prohibiting Human Trafficking, which came into force 1 July, 2002, was used a couple of years ago to deny a 24 year-old Lithuania woman asylum. This is a typical example of using trafficking legislation to impose repressive immigration policies. The woman applied for asylum in Sweden in order to escape her pimp. She feared she would be subject to threats and acts of vengeance if she returned home. After being denied asylum the woman was forced to return home, likely to the same poverty and gang of recruiters she was running from.²⁰⁵

Sweden’s Norrbotten police argue that traffic in women has increased substantially since 2001, when Sweden became part of the Schengen zone. However, the effects of the Schengen admission rules on Sweden are contested, even within Sweden. The National Audit Bureau says that measures like the Schengen Information System (SIS) register, which is a computerized register that is available to competent personnel in all states in the Schengen zone, are required in order to make it more difficult for traffickers to act across Swedish borders. The NCID claims

²⁰³ The National Criminal Investigation Department, *Trafficking in Women, Situation Report No. 4, Jan 1--Dec 31, 2001*, RKP KUT 2002:1b, Stockholm, 2002, 29.

²⁰⁴ The Foundation of Women's Forum/Stiftelsen Kvinnoforum. "Trafficking in Women for the Purpose of Sexual Exploitation: Mapping the Situation and Existing Organisations Working in Belarus, Russia, the Baltic and Nordic States, a Report on Trafficking in Women for the Purpose of Sexual Exploitation," Stockholm, 1998. Stiftelsen Kvinnoforum. Accessed on 14 May 2004. <http://www.kvinnoforum.se/papers/traffickingreport.html>, 13.

²⁰⁵ Ingmarie Froman, "Sweden's Fight against Trafficking in Women," 2003. Accessed on <http://www.sweden.se/>, 5/14/2004, 3.

that unlike many other European countries, Schengen admission has made travel easier while not resulting in increased entry of women from Thailand, Africa, and South America for purposes of sexual exploitation.²⁰⁶ This view has been questioned by the Swedish National Audit Office (RRV) which has studied the controls over persons entering Sweden at various border crossing points. The study came to the conclusion that closer cooperation between officials inside Sweden where trafficking is occurring or suspected is required. The RRV observed shortcomings at border posts with respect to citizens entering from the Schengen zone.²⁰⁷ The RRV hinted that trafficking has increased through Swedish borders with the issuing of more tourist visas since the admission of Sweden into the Schengen rules. The typical modus operandi has been for women to travel into Sweden on Finish Schengen tourist visas, which means they can travel into Sweden legally. Women are often given mobile phones by their trafficker(s), which are equipped with telephone numbers of customers. These enterprises are often run by criminals with links to biker gangs and organized crime.²⁰⁸

Whether or not Sweden admits it, “trafficking” is defined by various Swedish government agencies first and foremost as an issue of illegal migration and/or residence rather than an issue of violence against women. When women are seen as “aliens” instead of victims, the gender specific nature of the human rights violations that occur during the process of trafficking disappear from sight as the trafficked woman is forced underground by her “alien” status. The crime becomes an infraction against the state, the state is the “victim” of migrants who want to enter illegally and of trafficker(s) who assist them in circumventing state borders.²⁰⁹

Specifically one has to ask whether or not the deportation of victims of trafficking is truly following the line of reasoning under which women within Sweden are not subject to criminal penalties for practicing prostitution as the Law states. The vulnerable party is not to be punished under the Law. The Law needs to be harmonized to include situations that illegal trafficked female migrants face. Western European countries all claim they are not immigration countries. For this reason labor migration into the European Union is very restricted. It is such a regime

²⁰⁶ The National Criminal Investigation Department Trafficking in Women, Situation Report No. 3, Jan 1--31 Dec 31, 2000, RKP KUT 2001:3b, Stockholm 2001, 34-35.

²⁰⁷ Riksrevisionsverket, Samverkan i gränskontrollen, Riksrevisionsverket 2001:1, Stockholm 2001. (Cooperation in the Border Control, report by the National Audit Office, English summary, 2001).

²⁰⁸ The National Criminal Investigation Department, Trafficking in Women, Situation Report No. 5, Jan 1--Dec 31, 2002, RKP KUT 2003:1b, Stockholm, 2003, 6.

²⁰⁹ Wijers and Lap-Chew, Trafficking in Women Forced Labour and Slavery-Like Practices in Marriage Domestic Labour and Prostitution, 32.

which creates a society where the immigration laws appear to benefit traffickers. Traffickers will always find ways to circumvent laws, increasing the dependence of migrant women on these third parties. Possible ways to address the symptoms of this problem include granting victims of trafficking refugee or asylum status, and the “destination” state taking an active role in ensuring the successful safe repatriation of trafficking victims.²¹⁰

Sex-workers’ rights advocates argue that in order to protect the human rights of migrant women we have to stop using the terms “sex worker” and “prostitute” interchangeably. “Sex worker” is a term that indicates that those using it view prostitution as an income-generating enterprise or form of labor for men and women, and not necessarily as an identity, social or psychological characteristic of those engaged in the occupation. Sex worker advocates argue against the stereotypical views perpetuated about sex workers being weak, debased, psychologically tortured souls that are incapable of making their own decisions.²¹¹ Abolitionist models do not envisage the situation where large numbers of voluntary sex workers exist. The SPTM and other abolitionist models do not initiate legal proceedings against trafficker(s): when the trafficked women do not reflect the stereotypical image of a helpless woman incapable of exercising free will, assuming agency and responsibility for agreeing to work as a prostitute.²¹² If a woman is a “sex worker” then in theory she is a worker just like any other. Sex workers are denied rights within the SPTM based on their status both as an “alien” and as a “whore”.

Sex worker rights advocates argue that women are denied their right to freedom of movement and the right to choose an occupation on the basis of their status in Sweden. One such example is of another 24-year-old woman from Lithuania who started in prostitution as a survival strategy to support her daughter. This woman was then forced by her original recruiters to continue prostituting herself with large amounts of her earnings going to her male traffickers. Swedish police then raided the brothel and returned her to her native country where her pimps/traffickers immediately captured her to sell her once again. The men forced her out of her house with violence in the middle of the night kicking and hitting her for protesting. The woman tried to jump out of the window and was dragged out kicking and screaming with only the underwear she had on. The woman then applied for asylum in Sweden because she was afraid of her pimps and possible reprisals that she could be subjected to in her native country. She was

²¹⁰ Wijers, "Women, Labor and Migration," 71-72.

²¹¹ Kamala Kempadoo, "Globalizing Sex Workers' Rights," *Global Sex Workers: Rights, Resistance, and Redefinition*. Ed. Kamala Kempadoo and Jo Doezema. (New York: Routledge, 1998), 3.

²¹² Wijers, "Women, Labor and Migration," 73.

held in custody by virtue of the Aliens Act for a short period and did not want to be released, as she felt safer at the camp. The application for asylum was rejected and the woman had to return to her native country. It should be noted that the story is not an exception; it is disturbingly commonplace within Sweden.²¹³

Contrary to the contention of this thesis and the general consensus within Sweden sex worker rights advocates feel the discourse needs to shift within Sweden to support women in the sex industry to empower themselves by demanding improved working conditions, legal status, information campaigns designed to promote understanding of what sex workers want rather than the usual discourses of “the evils of prostitution”, and finally to demand that human rights are not taken from them by “feminists” who do not understand the effects the legislated morality of the new SPTM has on their lives.²¹⁴

Sex worker rights advocates argue the Swedish model misses the point that it is not a matter of preventing migration and/or prostitution, but to prevent all kinds of situations in which women can become dependent.²¹⁵ Pushing the profession underground places women in a situation where they are at increased risk of abuse. Within Sweden, some government authorized teams that were created specifically for tackling problems associated with prostitution have got the impression that women who advertise their services on the Internet take much greater risks than those involved in street prostitution. These government created teams has stated that the former engage in much more unprotected sex and offer “rougher” services. The assumption is that women who advertise sexual services via the Internet are probably alone and inexperienced, and may therefore be uncertain about how and where to set limits. In contrast, women who begin their prostitution careers on the street are usually educated in such matters by experienced women. The relevance is that under the SPTM women are denied the opportunity to form bonds with fellow “street” prostitutes and are forced underground where their inexperience is exploited.²¹⁶ In practice, Sweden takes after the international community in this respect choosing, until recently, to deny victims of trafficking protective programmes, on the basis that international experience has shown they are very costly. The costs for this type of programme

²¹³ The National Criminal Investigation Department, *Trafficking in Women, Situation Report No. 5*, Jan 1--Dec 31, 2002, RKP KUT 2003:1b, Stockholm, 2003, 25.

²¹⁴ Licia Brussa, "The Tampep Project in Western Europe," *Global Sex Workers: Rights Resistance and Redefinition*. Ed. Kamala Kempadoo and Jo Doezema. (New York: Routledge, 1998), 257.

²¹⁵ *Ibid*, 259.

²¹⁶ Socialstyrelsen. "Prostitution in Sweden 2003: Knowledge, Beliefs & Attitudes of Key Informants," 2004, 26.

tend to increase each year as increasing numbers are accepted into the programme with few leaving it.²¹⁷

In the criminalization of migration two key themes in international relations – security and globalization – intersect with constructions of gender and sexuality.²¹⁸ Deportation, it can be argued, is a form of penalization no better than criminalization. In the European context, the European Parliament places police and judicial cooperation at the disposal of member states “under the first pillar of EU competence” to attack trafficking in women. Sex worker advocates are angered that the EU refuse, “to legalize prostitution” at the European Parliamentary level. Also disconcerting to advocates for the rights of female migrants is the EU’s “crime crusade”, which entails the harmonization of judicial and criminal laws’ against organized crime. This work, focusing on trafficking as an issue of organized crime ignores the rights of the trafficked victim who will mostly likely never see her abuser(s) convicted, and is likely to be deported. There needs to be a balance between victims rights and work done at the EU level that encompasses measures that decrease pressure on women who seek to immigrate including, for example, “surveillance mechanisms to detect the prostitution networks”; the removal of “expulsion orders” that force women to return home irrespective of the conditions at home or in the country of immigration; and the reversal on the policy of refusing to allow women who have immigrated to obtain residence permits or apply for asylum. If permits cannot be granted on the grounds that a woman does not have the right to refugee status on the basis of violence suffered there needs to be arrangements made to ensure her safety in her native country or elsewhere.²¹⁹

The discourse that surrounds “trafficking” is used to position the trafficked woman as a victim of crime and the decision about how to respond to her is almost always present to deport her. Enforcement is thus usually limited to deporting women in nations where “trafficking” is criminalized.²²⁰ In the case of Sweden the appearance that criminalization of traffickers is an effective strategy is kept up by convicting small numbers of traffickers and allowing a few women the right to a temporary residency permits while they await their day in court.

²¹⁷ The Committee of Individual Safety. "A National Program on Individual Safety-English Summary of SOU 2004:1," The Department of Justice, 2004, 26.

²¹⁸ Andrea Bertone, "Sexual Trafficking in Women: International Political Economy and the Politics of Sex," *Gender Issues* 18.1 (2000): 39.

²¹⁹ *Ibid*, 42.

²²⁰ *Ibid*, 43.

Testimony against traffickers often serves the interests of the state and not the interests of the victim. In the case of Sweden, the NCID reports that the political will to combat trafficking within Sweden is severely lacking:

‘An obvious discrepancy exists between the political will to combat trafficking in human beings and the priorities given by the police to cope with this criminality. Examples [*sic*] of this [*sic*] is that in certain cases [*sic*] negative attitudes within the judicial system can be perceived towards putting one’s resources in the work against trafficking in human beings as the victims ‘are only prostitutes’ and ‘they want to do what they do’.²²¹

Sweden, like many other member states, has failed to adequately fund measures like temporary residency permits which, in themselves, are a mere patchwork solution. Witness protection and repatriation projects, which I will detail in chapter 4, are under way within Sweden as a possible alternative solution to the problem.

3.8 Using “the Law” and “Statistical Success” to make the Trafficked Woman Invisible

The NCID has made the assessment that between 400 to 600 women have been victims of trafficking in human beings in Sweden in 2003. This number is seen as being extremely low when compared to other European nations. There is also evidence to show most of the women trafficked to Sweden for the purpose of sexual exploitation are on route to a “destination” country for trafficked women.²²² The NCID argues Sweden is a “transit” country for more profitable prostitution markets like Norway and Denmark. The NCID recognizes that the number of women trafficked into Sweden for the purposes of sexual exploitation is higher than the number reported in previous years, but insists that this does not necessarily mean that there has been an increase in the number of victims of trafficking but in effect an increased information flow resulting from successful information campaigns and reports made by the Trafficking Team in Gothenburg and investigations made in the county of Stockholm.²²³ One questions how reliable these statistics/estimates can be given that they are produced by a Trafficking Team within the National

²²¹ The National Criminal Investigation Department, Trafficking in Women, Situation Report No. 5, Jan 1--Dec 31, 2002, RKP KUT 2003:1b, Stockholm, 2003, 32.

²²² The National Criminal Investigation Department Trafficking in Human Beings for Sexual Purposes, Situation Report No. 6, Jan 1--Dec 31, 2003, RKP KUT. 2004:2b, Stockholm, 2004, 3.

²²³ Ibid, 3-4.

Criminal Intelligence Service, which presently consists of 3 persons (2.75 offering full-time services), one more than in 2002.²²⁴

There is a movement within Sweden that questions these estimates. This movement states that the number of women and girls arriving from abroad to be used in prostitution and other forms of sexual abuse show no signs of decreasing with a majority of women originating from the surrounding geographical area, and an increase in the numbers from those EU states where there is only the need for easily obtained tourist visas when entering Sweden. Some within and outside Sweden also question Sweden's self assessed status as a "transit" country. In their view Sweden is a destination country for women who are trafficked for the purposes of sexual exploitation with the following countries being the most common countries of origin: Estonia, Latvia, Lithuania, Poland, Bulgaria, Rumania, and the Czech Republic.²²⁵ It is evident to some that there are hundreds of victims, or maybe many more unaccounted for in the statistics given by the NCID. The NCID is the so called "forerunner" within Sweden, given the responsibility of being National Rapporteur with regard to issues of trafficking in women, while having the operational aim and direction to combat 'cross-border criminality' with national and international co-ordination.²²⁶ In assessing how effective it can be, it must be a disconcerting fact that of the 4.5 million aliens arriving to Sweden each year around 3.5 million do so via border-crossings where the controls are poor or non-existent. Moreover, since the Schengen treaty was signed in 2001 a closely related "grey-zone" of criminal activities has emerged. It is estimated that in Sweden over 1000 girls, mainly from Baltic countries, Poland and the Balkans, arrive to work as 'aupairs'. The business is well-organized and generates large sums of money. The Swedish government does not have any control of the industry as the families where the girls are staying often do not pay any taxes, nor report that they have the girls staying. Sexual harassment is reported in numerous cases, however, and the girls are vulnerable and have neither the rights nor possibilities to protect themselves sufficiently. Slavery-like working conditions with extremely low salaries are common. Recruiters charge both the girls, for providing them with families and forged documents, as well as the families.²²⁷

²²⁴ Ibid, 8.

²²⁵ Kvinnoforum. "A Resource Book for Working against Trafficking in Women and Girls Baltic Sea Region." 3rd edition, Stockholm, FEB 2002, 1.

²²⁶ The National Criminal Investigation Department Trafficking in Women, Situation Report No. 3, Jan 1--31 Dec 31, 2000, RKP KUT 2001:3b, Stockholm 2001, 26.

²²⁷ Kvinnoforum. "A Resource Book for Working against Trafficking in Women and Girls Baltic Sea Region." 3rd edition, Stockholm, FEB 2002, 4.

Those who argue the SPTM has been a “statistical success” are guilty of keeping the victims it is supposed to be protecting marginalized and invisible. Sweden favors the creation and use of more “repressive” border controls, including the Schengen Information System (SIS). Information about persons that have been turned away, persons that have been expelled, wanted or missing persons, lost passports and stolen vehicles are examples of data entered into the SIS. All persons, including Swedish citizens, who arrive in Sweden from a third country (non-EU member state), and all those who depart from a third country are controlled in the SIS.²²⁸

At present, little is being done to combat the commercial exploitation of trafficked women on the internet. Global sexual exploitation is on the rise; thanks to the intertwining of new technologies that have allowed the online merger of prostitution and pornography there is little regulation on the internet. This makes it ideal for traffickers and promoters of sexual exploitation to use it for their purposes.²²⁹

In the case of Sweden, a study conducted in Stockholm in 2002, found that of men aged 16 to 25, almost 10% had at some time “paid for a sexual service”. The study also found that the traditional method of obtaining such a “service” off the street or through a friend was being replaced by teen-aged boys who can gain access to prostituted women while sitting at home by their computers.²³⁰ How can the SPTM claim to have aggressively attempted to abolish trafficking in women for the purposes of sexual exploitation by questioning the legitimacy of demand for prostitutes when all that large numbers of Swedish citizens have to do to find the sexual services they desire is to log on? The point is that access to sexual services is becoming easier with growing internet use. Due to relatively low risk and high profits, trade in women on the internet is increasingly replacing the trade in drugs and arms as the preferred activity of transnational criminal networks.²³¹ The NCID has acknowledged the fact that the selling of sexual services occurs on the Internet in Sweden as well as other countries. It reasons that if the purchasers of sexual services on the internet can find women, so can the police, and proposes that police should be trained with better knowledge and given the resources to be able to follow the

²²⁸ The National Criminal Investigation Department, *Trafficking in Women, Situation Report No. 4*, Jan 1--Dec 31, 2001, RKP KUT 2002:1b, Stockholm, 2002, 17.

²²⁹ Hughes, "The Internet and the Global Prostitution Industry," 72.

²³⁰ Ministry of Industry, Employment and Communications. "Prostitution and Trafficking in Women Fact Sheet," 2.

²³¹ Hughes, "Men Create the Demand," 5.

prostitution of women on the internet.²³² At present a government trained Trafficking Team is actively engaged in carrying out surveillance on the Internet. The Trafficking Team was given this mandate in response to the increase in the number of prostitution advertisements on the internet and evidence indicating that the majority of the women/girls being offered for sale were foreign.²³³ More needs to be done on the internet to support the desired effects of the Law. On-line postcards do little to help a woman who is potentially being held against her will in debt-bondage. Women need to feel there is a safe, financially viable escape from the prostitution industry if both coerced and non-coerced women are going to retire.²³⁴

3.9 Preventing Entry, Forcing Deportation: the SPTM in Practice

The Swedish trafficking strategy is designed to prevent “victims” from entering Sweden and not to deal with victims when they enter Sweden. Currently, the responsibility for providing assistance and support to the victims of trafficking lies with social services, according to the sojourn concept of the Social Welfare Act. Such support can include accommodation and medical care during the period when the woman is staying to participate in a criminal investigation. The sojourn concept in the Social Welfare Act is interpreted in a variety of different ways by social services. In some cases the act is interpreted so that social services are obligated to provide persons residing in their district board and lodging.²³⁵ In practice, the criminal investigation is usually accelerated. The police pay the costs of social services in cases where the victim is staying to testify. To mitigate the expense police often let the woman stay only a few days, during which the so-called “taking of evidence” comes from the interrogation of the victim. The woman is then sent back to her country of origin and then summoned back to testify in court. This creates a situation in which the victim is subject to threats, death, and or involuntarily becoming part of the trafficking network she just escaped. This is evident in the fact that a lot of women that have been summoned to court have been unreachable.²³⁶

²³² The National Criminal Investigation Department Trafficking in Human Beings for Sexual Purposes, Situation Report No. 6, Jan 1--Dec 31, 2003, RKP KUT. 2004:2b, Stockholm 2004, 39.

²³³ Ibid, 16.

²³⁴ Socialstyrelsen. “Prostitution in Sweden 2003: Knowledge, Beliefs & Attitudes of Key Informants,” 2004, 30.

²³⁵ The National Criminal Investigation Department, Trafficking in Women, Situation Report No. 5, Jan 1--Dec 31, 2002, RKP KUT 2003:1b, Stockholm, 2003, 32.

²³⁶ The National Criminal Investigation Department Trafficking in Human Beings for Sexual Purposes, Situation Report No. 6, Jan 1--Dec 31, 2003, RKP KUT. 2004:2b, Stockholm 2004, 32.

It is necessary to point out that the Law, which is the crux of the SPTM, is fuelled by moral considerations. The Law is intensely opposed to increasingly non-punitive approaches to dealing with prostitution that are emerging, and gaining ground across Europe. Sweden will always be a “transit” country as long as it resides next to countries that adopt less repressive stances towards prostitution. At the same time that Sweden was criminalizing the clients of prostitutes, Italy was debating whether or not to repeal a 1958 law which prohibited bordellos. Denmark tolerates adult prostitution, Norway decided to abandon its decades-old policy of trying to “rehabilitate” prostitutes, and was encouraging them to organize, and the Netherlands and Germany were taking the truly radical step of placing the regulation of prostitution under labor law, instead of criminal law.²³⁷

It could be argued the Swedish model, which is described by advocates of the model as an evolved abolitionist model, is in actuality a “prohibitionist” model. As previously mentioned the vagueness in the language of the Law allows for police and the legal system to allow long time regular purchasers of sexual services to avoid prosecution. The Law itself criminalizes the transaction of purchasing sex holding that prostitution in itself is not an offense, but the exploitation of the prostitution of others is, any third party recruitment is, profiting from, or organizing prostitutes is illegal. One must consider the fact that by all accounts Sweden had never totaled more than about 1000 street prostitutes. One has to wonder why there has been so much political and legislative activity around prostitution and trafficking in Sweden considering that there are substantially fewer street prostitutes in all of Sweden than in any large or even medium sized European city such as Madrid, Milan, or Copenhagen.²³⁸ This seems to raise huge questions for the merits of this thesis as a whole. I am arguing that the SPTM at worst has had a marginally preventative success in maintaining an unprofitable prostitution market in a time and on a continent where prostitution has increased along with trafficking. The fact that 13% of Swedish men have at one time purchased sex also shows that legislated activity around this issue is justified and needed.²³⁹

²³⁷ Kulick, "Sex in the New Europe," 199-200.

²³⁸ Ibid, 200.

²³⁹ Ministry of Industry, Employment and Communications. "Prostitution and Trafficking in Women Fact Sheet," 2.

It is not the first time the Swedish government has taken a moral stand against what they assert is a “reprehensible practice”.²⁴⁰ Supporters of the Law, the Left – Social Democrats and the Swedish Left (formerly the Communist Party), and the Greens (a centrist party) consistently drew parallels with the much-debated 1979 law that prohibited the spanking of children, even in the home. The effects of the spanking law among researchers and policy makers are contested, but the consensus across Sweden is that the law has had a positive impact: rates of child abuse dropped thanks to the law making spanking socially unacceptable. An analogy that compares prostitutes to children as victims without a voice who need the state to speak for them and protect them indicates that the Law is perhaps not the crux of a truly feminist approach as its supporters would have us believe. This is a case where different groups support the Law for different reasons.²⁴¹

Sex worker rights advocates argue that by denying the existence of voluntary migration for sex work the Law reinforces the victim versus whore dichotomy, which makes the “whore” the cause of all women’s pain. Following the logic of the SPTM, trafficking would not exist to Sweden without local prostitution markets to support it. The voluntary prostitute is not acknowledged. It could, and has, been argued by other abolitionist approaches to prostitution that this “whore” is responsible in part for the decay of society by creating and/or encouraging the male demand for her services.²⁴² The SPTM attempts to cloak this fact constricting the discourse within Sweden by stating that all these women do not and cannot ever consent to prostitution. This measure is reinforced through immigration laws which deport these women, while claiming the Swedish state is doing them the service of saving them from their oppressors and/or a miserable life in the sex industry. Once again the issue comes back to societal understandings of what kinds of “social practices” a society can and or is willing to tolerate.

3.10 Conclusion

The Law, which the SPTM is based upon, has numerous conceptual problems within it, which makes enforcement difficult at best. According to sex workers rights advocates, the SPTM supports the view that all migration associated with sex work is “trafficking”, and in doing so denies women their financial autonomy, freedom of movement, freedom of residence, and

²⁴⁰ Kulick, “Sex in the New Europe,” 202.

²⁴¹ Ibid, 202-203.

²⁴² Wijers, “European Union Policies on Trafficking in Women,” 220.

freedom of profession. The Law is buttressed by the “Swedish” interpretation of the 2000 UN Trafficking Protocol which supports the notion of equating the consent of a child with that of an adult sex worker.

Advocates of the Law see it as a feminist approach through preventing trafficked women from entering Sweden. Sex worker advocates see this as reinforcing patriarchal dependence through creating the conditions of possibility necessary for women to be vulnerable to male pimps/trafficker(s). Traffickers remain free due to the failure of the legal system. The women who are trafficked are pressured to relive their victimization during interrogations before they are deported and/or in court while they think about being sent back to the desperate situation that they previously tried to escape and on rare occasions they return to testify to their victimization in court. It must also be considered shocking to feminists who advocate formal decriminalization that a trafficking strategy that is fuelled by “feminist” moral considerations is so ambivalent to the fate of the women it is supposed to be protecting. Sex workers rights advocates arguing that the promise of protection given by the SPTM is an illusion that is dispelled by the stigmatization and deportation of sex workers.²⁴³

The Law doesn’t do anything to address the broader international problems associated with trafficking and prostitution. The Swedish government recently introduced legislation similar to Canadian, American, and Finnish legislation that calls for the prosecution of a country’s own citizens for sexual abuse of children while outside the country. Greater enforcement of the extraterritorial application of Swedish law could be a partial solution.²⁴⁴

²⁴³ Ministry of Industry, Employment and Communication. "The Swedish Government's National Plan for Gender Equality," 2004. Vol. N4009, 11.

²⁴⁴ C. Kryszko and Janice Raymond, “Good Practices: Targeting the Demand for Prostitution and Trafficking,” a report produced by the Coalition Against Trafficking in Women (CATW), 2004, 5.

CHAPTER 4- Swedish Trafficking and Prostitution Strategy- A Continued Work in Progress

4.1 Introduction

This chapter outlines how the SPTM is evolving into a long term strategy by making a commitment to understanding the demand for sexual services so that it can continue working towards eliminating it. This chapter will detail how the SPTM is supported by the advanced Swedish sexual education system.

This chapter will come back to the key problem of this thesis, that is, the forcible deportation of trafficking victims without taking into account their status as a victim under the Law. It will be shown that Sweden mirrors most other EU nations in this respect, including Germany, which has a contradictory position to Sweden on the issue of prostitution. This chapter concludes by outlining recent efforts that have been made by the EU and Sweden in the areas of witness protection and forcible deportation of trafficked women.

4.2 Understanding Demand and Offering Help to Buyers and Sellers of Sexual Services

There is an attempt by advocates of the abolitionist model within Sweden to respond to the critique that abolition pushes prostitution underground. One measure that is being adopted is to research the role of men in prostitution. In Sweden where there is hope that if knowledge of the “purchasers” within Sweden can be combined with the existing knowledge base and examined through various theoretical, political, feminist and social perspectives there can be a better understanding of the causes of demand for sexual services within Sweden.

There also needs to be recognition that true prevention can't occur without psychotherapeutic treatment and psychological social support for users and potential users. Alternatives choices need to be made available for those who want to take a different path, and criminalization of the client is only part of the solution. This is done on the assumption that men and women who buy or sell sex should be helped to find alternative ways of living.²⁴⁵ It was one thing to question and penalize demand; it is another to truly understand it from the source.

²⁴⁵ Eva Hedlund, “What’s love gotta do with it? Reflections on psychotherapeutic work with the buyers and sellers of sex,” RFSU: Swedish Association for Sexual Education, 2004, 1.

The RFSU, the Swedish Association for Sexuality Education, is currently engaged in the practice of offering psychotherapeutic treatment for men who buy women and women who sell sex. It is hoped that the research will uncover more about the underlying psychological driving forces behind the buying and selling of sex. The research is designed to tackle the problem from a purely psychological viewpoint. This is especially interesting since the SPTM is conceived of from a purely socio-economic viewpoint. The RFSU is not officially affiliated with the Swedish government but officially supports the Law.²⁴⁶

Since the promotion and passing of the Law more and more men and women engaged in the buying and selling of sex within Sweden have sought help at the RFSU-clinic. Generally the results of males seeking help showed that:

Some of the men lived in relationships with women, were married and had children. Even though they lived in relationships they could not stop watching pornographic films, making sex calls or buying sex. They were tormented by their sexuality always being present, and described the sexuality as steering them and not the other way around. Thus, the sexual compulsion was a threat to their permanent relationships.²⁴⁷

The results for the women seeking help indicated that the majority of women seeking help were not trafficked and were primarily local women.²⁴⁸ This perhaps indicates that the fear of deportation still exists among trafficked women in Sweden. However, of the women who decided to voluntarily prostitute themselves there were some common trends observed: a need to be desired, a need for someone to possess what someone else needs, a desire to control activity through a yes or a no, and to have a sense of power as opposed to being a passive victim.²⁴⁹ The Law recognizes these women are not to be punished for this activity, while at the same time not wanting to encourage the alienated sexualities and problems both men and women incur as a result of prostitution.

4.3 Prevention through Sex Education

There is recognition within Sweden that any strategy that is going to curb prostitution and trafficking in persons for the purposes of sexual exploitation needs to be long term. Part of the

²⁴⁶ Ibid, 3.

²⁴⁷ Ibid, 4.

²⁴⁸ Ibid, 7.

²⁴⁹ Ibid, 25.

education strategy is to change the way adolescent boys are sexually educated, since prostitution is seen as primarily a male problem in Sweden. Sexual education is a compulsory subject at school, for both males and females. The basic position taught is that sexuality should be a source of pleasure and joy.²⁵⁰ Another one of the primary goals of sex education in Sweden is to prevent boys from obtaining a faulty self-image. In other words, the program seeks to discuss not just sex but preconceptions about the opposite sex in order to prevent harmful myths from being spread. The ultimate goal is to avoid the alienated sexualities that are produced through current constructions of masculinity and femininity where the masculine is seen as aggressive and dominant and the feminine is seen as subordinate and passive. Thus, it is taught that true intimacy and friendship are relationships that emerge through self-awareness, understanding and refusing to conform to rigid harmful gender stereotypes.²⁵¹ In order to achieve this there has been recognition within Sweden that strong male role models are needed to teach boys about forming relationships with the opposite sex that may or may not include sex. Strong male role models are seen as necessary in teaching boys that the creation of their own masculinity can create self-esteem through their interactions with women in a respectful and comradely like manner with the recognition that to interact with women on an everyday basis as well as in a more intimate context requires male self-esteem and a capacity to identify with women.²⁵² Through conversations with an older male who has experienced love, sex, good and bad relationships, the program does not promote abstinence or prohibit young men from having sex. The goal is to create young men who are capable of having relationships based on honesty. The program has had some success preventing alienation in teenage boys:

It is of significance that men have proved it to be possible to create a form of dialogue that enables men to take responsibility for their own sexuality and relationships with women. It is important that men take a distance from all forms of sexual exploitation and any lack of mutuality in the relation between men and women is a fundamental moral requirement. At the same time, it gives boys a chance to recognize their world of experience by jointly with other boys putting into words the feelings and experiences associated with becoming an adult.²⁵³

²⁵⁰ Erik Centerwall, "Sexuality Education for Adolescent Boys," RFSU: Swedish Association for Sex Education, 2000, 8.

²⁵¹ *Ibid*, 11.

²⁵² *Ibid*, 15.

²⁵³ *Ibid*, 16.

The RFSU, like the Swedish government, recognizes that its efforts are undermined by pornography and commercial sex work. The RFSU has stated it recognizes the existence of pornography and also teaches young men that there is nothing wrong in itself with being excited by pornographic pictures, but teaches that there is a need to educate boys that pornography is not reality and that pornography is a poor manual for a truly satisfying love life. The RFSU also feels young boys need to be taught that as a background to pornography there is commercial sex work (prostitution), and the sexual exploitation of women. Boys need to understand that most women who end up in that world suffer badly, and that they are usually in the situation because they are forced or feel trapped by a lack of viable alternatives. It is hoped that by understanding these facts, young men will become aware there is no real love or lasting pleasure to be found for them in that world.²⁵⁴ The hope in Sweden is that through better sexual education and information campaigns the results will be seen over time in less young men demanding sexual services, thereby making the sex industry less profitable for the women engaged in it. During 1999 the amount of street prostitution was halved – but the trade in women was not curtailed. Instead, it moved into flats, brothels, hotels and massage parlors. Police and prosecutors, both primarily male-dominated professions, are blamed for the failure to enforce the Law. The consensus in Sweden is that the Law is fine, but there needs to be changes within society so that male bonding and the protection of traditional male values do not continue to contribute to the subordination of women through the sexualized violence of prostitution. In the short term it is hoped that efforts to educate and train the enforcers of the Law will continue to shift perceptions of males in favor of being part of the solution instead of part of the problem. Education through the schools, by the media initiated by the government and non-governmental organizations are seen as viable long term solutions to ensuring future compliance with the Law and enforcement by the next generation of enforcement personnel. There is a risk that the Law's normative affects will be diminished if perpetrators and citizens observe that the Law is poorly enforced. Measures like supporting the Law through educating the young public on the benefits of the Law potentially ensures that the next generation will enforce the Law more effectively.²⁵⁵

²⁵⁴ Ibid, 21.

²⁵⁵ Maria Jacobson, "Why do men buy sex?", 24.

4.4 Competing Feminist Approaches within the European Union

This thesis has examined the SPTM and in doing so has examined various abolitionist arguments on combating prostitution as well as examining arguments that support the view of advocates that support States adopting more non-punitive measures in dealing with prostitution and the problem of trafficking in human beings for the purposes of sexual exploitation. Advocates on both sides argue for their models on the basis that they protect the “human rights” of the trafficked woman, saying their model is “feminist” while the other denies women their human rights. One of the main reasons this thesis chose to largely focus on the problem of trafficking in women for the purposes of sexual exploitation was that within the European Union both punitive and non-punitive approaches that deal with prostitution within member states fail miserably at solving the problem of protecting the human rights of the trafficked woman once she enters the country. In chapter 3 one of the strongest critiques of the SPTM is that it has failed to provide adequate social support to victims of trafficking, and has continued to deport women back into the potentially desperate situations from which they came. What needs to be recognized is that this practice is common in the EU. Regardless of what approach member states have towards prostitution and trafficking within the European Union there has been a general consensus on the fact that most member states are unwilling to grant asylum to the majority of female victims of trafficking for the purposes of sexual exploitation. This is one of two major arguments that are the crux of my thesis. Germany is an example of state which treats the problem of prostitution very differently than Sweden while treating illegal sex workers similarly. The women engaged in the sex trade within Germany are referred to as sex workers and illegal immigrants practicing the trade are being denied the rights that normal citizens who are sex workers have on the basis of immigration law. On 1 January 2002, a new law which was designed to eliminate discrimination against sex workers entered into force in Germany. It was designed to improve sex worker’s rights, for example, entitling them to press charges if the client or employer did not pay. Unfortunately, migrant sex workers from non-EU countries will not be able to enjoy these rights, since their situation under alien law remains the same (i.e. it is almost impossible for them to obtain the necessary residence and work permits).²⁵⁶ The politics surrounding the issue of the mobility of economic migrants makes exempting sex workers from

²⁵⁶ Bonded Labour in Netherlands BLinN Co-project of Novib and Humanitas Aika van der Kleij. "Provisions for Victims of Trafficking in Bonded Sexual Labour, I.E. Prostitution -in 6 European Countries- (Belgium, Germany, Italy, the Netherlands, Spain, and the United Kingdom) Final Report," 2002. accessed on 25 May 2004. http://www.humanitas.nl/project/Blinn_Final_Report.pdf, 24.

general immigration laws problematic. This “solution” also raises a series of other issues and problems. Witness protection and repatriation programs seem, in theory, to allow states to maintain border control while protecting the rights of victims of trafficking.

As the Swedish case shows the chances of a victim receiving social support vary and often depend on whether committed prosecutors to arrange for support and witness protection.²⁵⁷ Temporary residence is an example of this as no specific arrangements exist in respect to trafficking victims. The victim of trafficking is allowed to apply for a temporary residence permit the same as any other individual, and in theory the issue of whether she is cooperating with the criminal justice system does not arise. In practice, very few of these permits are issued with the state having an interest in only offering permits to select witnesses in high profile cases.²⁵⁸ Furthermore, on 1 October 2004 Sweden implemented amendments to the penal provisions in the Aliens Act in order to comply with the EC directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorized entry, transit and residence. The directive issues a new provision regarding the possibility to issue a time-limited residence permit that may be extended upon application by the prosecutor for victims of trafficking. During their stay in Sweden, the victims will be entitled to health care and medical attention as well as social welfare. This will be financed by the state.²⁵⁹ In Sweden, as in member states, witness protection has been denied with only a few victims being integrated into the program.²⁶⁰

Official statistics of the Federal Office of Criminal Investigation of Germany show for the year 1998 that the majority (i.e. 41%) of victims nation-wide were deported or ordered to leave, 14% returned voluntarily, and a temporary permit was issued for 12%. This means that the most standard practice consists of the victims being deported or ordered to leave the territory without counseling or support after criminal interrogation.²⁶¹ As long as immigration laws contravene and quash the effectiveness of criminal or labor laws designed to protect the rights of

²⁵⁷ Ibid, 26.

²⁵⁸ International Organization for Migration. "Comparative Matrix on Legislation and Best Practices in Preventing and Combating Trafficking in Human Beings in Eu Member States and Candidate Countries," European Conference on Preventing and Combating Trafficking in Human Beings: Global Challenge for the 21st Century, 2002, 4.

²⁵⁹ Ministry of Industry, Employment and Communications. "Prostitution and Trafficking in Women Fact Sheet," 4.

²⁶⁰ Bonded Labour in Netherlands BLinN Co-project of Novib and Humanitas Aika van der Kleij. "Provisions for Victims of Trafficking in Bonded Sexual Labour," 27.

²⁶¹ Ibid, 24.

migrant women, the human rights of migrant women will be violated. It is clear from looking at the German trafficking model that in practice trafficked women are made invisible just as women in the Swedish model are, with both models accompanied by the fear of deportation.²⁶²

As long as EU member states use the issue of “trafficking” to justify controlling their boundaries within the “fortress Europe” mentality, trafficking in women for the purposes of sexual exploitation will flourish, with the illegal migrant woman being placed in a situation of vulnerability and or dependence on her trafficker(s). This statement assumes that such laws will not be enforced effectively.²⁶³ It seems shocking that has happened within the European Union as it is a well known fact that the EU needs immigrants in order to sustain its population. In 1999 the EU’s total fertility rate was 1.45; the number of births will most likely be exceeded by the numbers of deaths within the decade in the EU. To put things in perspective Rey Koslowski states, at current fertility rates,

European states will soon have the same percentage of retirees in their population as Florida does, where 18.5 percent of the population is aged 65 or older. Italy will become another Florida in 2003, Germany in 2006, the United Kingdom and France in 2016. Without any reform to the current pension systems, the ratio of working taxpayers to retirees will drop in France and Germany eventually to the current Italian ratio of 1.3 to 1, which has led to pension funding crises that have contributed to the demise of several governments.²⁶⁴

Repressive migration control policies are therefore not the answer. They are self-defeating policies given the demographic realities facing the European Union.²⁶⁵

It perhaps overly simplistic to argue that wealthy European States need to focus more energy on facilitating more legal female migration through recruitment of women in “sender” countries, so that these women will not be forced into a situation where trafficker(s) are a seemingly attractive option. What is at issue is making the state see it has a vested interest in doing this. The fear that migrant women will be a drain on the welfare state of states is an unwarranted fear in the long term as most immigrants eventually benefit their new home state financially once they have had time to settle. Women who consent to be trafficked for sex work

²⁶² Marie-Victoire Louis, "Legalizing Pimping-Dutch Style," February 1999. The Coalition Against Trafficking in Women. Accessed on 4/11/2004. <http://www.uri.edu/artsci/wms/hughes/mhvpim.htm>, 2.

²⁶³ Rey Koslowski, "Immigration, Border Control and Aging Societies in the European Union," *The Brown Journal of World Affairs* 3.2 (2002): 174.

²⁶⁴ Ibid, 176.

²⁶⁵ Ibid, 177.

as long as there are market places that are receptive or tolerant to them. These women need to be given other quality legal migration opportunities so that they are not “forced” into the sex industry through lack of viable alternatives. Without recognition of this fact it is inevitable that the status quo will be preserved, both in states that exercise abolitionist policies towards prostitution and trafficking and in states that fail to recognize the link between trafficking and prostitution while either supporting and or tolerating the sex industry, and punishing trafficked victims through forcible deportation.

Forcible deportation without measures to ensure the safe repatriation of the victim of sex trafficking is a common element to both models, but it is not the only failure of both models; both states that adopt punitive and non-punitive approaches to prostitution fail on enforcement. In the case of Sweden and other abolitionist states there is a continued failure of the judicial system and the police to adequately enforce the law of the land. The universal failure of enforcement suggests that prostitution is an evitable phenomenon that will continue to exist no matter what. Acceptance of this statement is accepting defeat and condemning more women to life in a “profession” that is inherently violent and dangerous. What is needed is for governments to follow Sweden’s example by being brave enough to make serious efforts to help women get out of prostitution, and tackle the male demand behind prostitution rather than accepting defeat by turning a blind eye.²⁶⁶

In the case of states that support state-sponsored prostitution like Germany and the Netherlands, recognition amongst sex workers and feminists that existing labor laws and business codes do not protect migrant sex workers or even many legal female citizens in the trade indicates the ineffectiveness of this model. Abolitionist approaches clearly fail at this indicating a holistic solution for the majority of women in the sex industry may be implausible. In legalization states the issue is the enforcement of labor law or the fact that illegal migrants are not protected under these laws, which mirrors the failure of all other trafficking models to protect the human rights of trafficking victims. In states there needs to be recognition of the increasing demand for migrant workers (including sex workers), and the promotion of policies which facilitate regular migration through the integration and acceptance of female migrants in the country of destination.

The real question for feminists is whether we think the sex industry exploits women, and if so in what circumstances and under what conditions.²⁶⁷ The argument that denying the

²⁶⁶ Bindel and Kelly, “A Critical Examination of Responses to Prostitution in Four Countries,” 3.

²⁶⁷ Liz Kelly, “The Wrong Debate: Reflections on Why Force Is Not the Key Issue with Respect to Trafficking in Women for Sexual Exploitation,” *Feminist Review* 73 (2003): 142.

existence of “voluntary” migration for sex work harms women by preventing the Swedish government from gaining a broader perspective on the individual unique experiences of migrant women ignores the fact that there are a variety of reasons for female migration of which the most cited is the need to access new economic opportunities. It once again comes back to the use of consent and whether or women should be given the right to “voluntarily consent” to sex work.²⁶⁸ Need is different from choice. Evidence shows most women do not choose prostitution as a career choice unless they feel they have no choice. Patriarchy is reinforced when gender specific violence is allowed against increasing numbers of women and or encouraged against an economically disadvantaged class of women through a system that supports or tolerates accepting this lack of choice.²⁶⁹

The fact that certain women take ownership of their subordinate status and call it empowerment does not take into account the overall unequal nature of power relations between men and women and the gendered nature of the international political economy of sex, which has historically led to the prevention of full advancement and participation of women in legitimate society.²⁷⁰

4.5 The Evolution of the Swedish Model to Live up to the Rhetoric surrounding “the Law”

In Sweden efforts are underway to deal with the safety of the victims of trafficking, and the problems mentioned earlier in this chapter. In 2004 the Committee of Individual Safety proposed that the *National Programme for Personal Security* come into force on 1 January 2004.²⁷¹ It will be used for women who were victims of trafficking for the purposes of sexual exploitation. The proposal states,

A primary precondition for a person being accepted into the programme is that there is a manifest risk of criminality that is directed against his or her or a closely related person's life, health, liberty or freedom.

In order for the witnesses to be accepted it is in addition required that:

²⁶⁸ Leyla Gulcur and Pinar Ilkkaracan, "The Natasha Experience: Migrant Sex Workers from the Former Soviet Union and Eastern Europe in Turkey," *Women's Studies International Forum* 25.4 (2002): 415.

²⁶⁹ Ministry of Industry, Employment and Communications. "The Swedish Government's National Plan for Gender Equality," 2004. Vol. N4009, 7.

²⁷⁰ Ibid, 7-8.

²⁷¹ The Committee of Individual Safety, "A National Program on Individual Safety-English Summary of SOU 2004:1," The Department of Justice, 2004, 27.

- 1) *the information provided by the witness is assessed to be of significance to the possibility of achieving sufficient cause to prosecute and a conviction,*
- 2) *there is a link between the risk of crime and the information that the witness provide,*
- 3) *the witness consents to undergoing the programme and is considered to comply with the conditions that are imposed,*
- 4) *the witness is entitled to permanently stay in Sweden,*
- 5) *and other security measures are considered insufficient*

In order for the programme to be applied concerning other persons than witnesses it is required that the preconditions under 3 to 5 are satisfied.²⁷²

The programme is for witnesses alone and is not for illegal immigrants. In practice women with tourist visas residing in the Schengen Zone and having some form of Schengen visa can be considered for this program. The program is part of a largely Baltic solution to protect women who are witnesses of trafficking offenses within the Schengen Zone and Baltic regions. Witnesses are often victims in many cases.

The police are given the responsibility of protecting threatened persons and therefore have the main responsibility for the programme. Of course, there will also be cooperation with social services in cases where financial support is needed, with health care services where medical assistance is needed, and with the population registration service, responsible for the protection of personal data contained within its network.²⁷³ To further prevent information on victims/witnesses of trafficking in human beings from getting into the wrong hands it is further proposed that new provisions be introduced into the Secrecy Act. Matters concerning personal security compensation can now to be addressed by the Crime Victim Compensation and Support Authority, which are called for under the proposal section entitled *personal security compensation*. Through this institution the government can, in theory, pay compensation to:

Persons who are at risk of being exposed to criminality directed at their life, health, liberty or freedom, provided there are extraordinary reasons. Personal security compensation should be granted to a reasonable extent for expenses, lost earnings, disruption of business operations and loss in connection with disposal of property caused by measures to prevent crime.²⁷⁴

Furthermore, the report recognizes that future cooperation with other countries is a necessity in order for any program of personal security of trafficked women to be effective:

²⁷² Ibid, 22-23.

²⁷³ Ibid, 23.

²⁷⁴ Ibid, 25.

*There are currently no routines for exchanges between Sweden and other countries, as it is normally a precondition for international cooperation that the countries that participate have a fully developed national programme of action. When the Swedish programme is adopted, opportunities will therefore be opened for cooperation with other countries.*²⁷⁵

To complement the evolution of the SPTM into a model that addresses protection, assistance, and support services for women and children who have been victims of trafficking in human beings the Swedish Government is supporting a Nordic-Baltic multi-lateral cooperative pilot project aimed at facilitating the safe and planned return and re-integration of victims of trafficking in human beings for sexual exploitation. As mentioned above the witness protection programme is used for Swedish witnesses who were victims of sexual crime. The pilot project offers a new solution for illegal foreign women who are victims of sexual crime within Sweden. The pilot project is tentatively set to take place between 1 January 2005 and 31 December 2007, with each individual Nordic country financing the national Nordic components of the project. The creation of focal points in the Baltic countries as well as the continued development of an inter-agency network of relevant and competent Nordic-Baltic government authorities and non-governmental organizations will be jointly funded by the Nordic and Baltic countries. There are hopes that additional funding may be available from other sources such as the Nordic Council of Ministers.²⁷⁶

The project is designed, among other things, to live up to international human rights norms that have been enshrined in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and specifically, Articles 6 and 7 of the Protocol which make provision for the support, assistance and protection of victims of trafficking in human beings. The project complies with the portion of Article 8 that specifically calls for a safe and voluntary return of victims to the country where they are nationals or have the right of permanent residence, and Article 9 of the Protocol, which emphasizes transnational cooperation between countries and with appropriate non-governmental organizations in the development of policies and programs for the prevention of trafficking in human beings as well as for the

²⁷⁵ Ibid, 24-25.

²⁷⁶ Ministry of Industry, Employment and Communications. "Second draft: Nordic-Baltic multi-lateral cooperative pilot project for the safe and planned return and re-integration of victims of trafficking in human beings for sexual purposes," presented by Division of Gender Equality Special Advisor Gunilla Ekberg, Memorandum: 9 June 2004, 4-5.

protection and repatriation of victims. These measures all support the original intent to acknowledge the status of the trafficked woman as a victim in need of support and protection.²⁷⁷

The pilot project aims to build upon previous work done to develop the existing Nordic Baltic (NB) network. The network exists largely due to the government supported Baltic Sea Task Force that was originally formed as an action group as part of a strategy to combat organized sex crime in the region. Along with a member of the EU Presidency, Sweden, Denmark, the EU Commission, Estonia, Finland, Iceland, Latvia, Norway, Poland, Russia, and Germany are members of the Baltic Sea Task Force.²⁷⁸ What is unique about the project is that it plans to provide comprehensive programs designed to rehabilitate and heal victims of trafficking in human beings for sexual purposes through job training, legal assistance, health care, social support, medical and psychological care so they can reintegrate into society. The project also seeks to create a “best practices model” for other projects within the region to emulate.²⁷⁹ As mentioned, the project gives Sweden the opportunity through the regional inter-agency network to collaborate with authorities in Nordic and Baltic countries, providing the possibility for moving victims into the safest possible country/situation in the region. The NB campaign is centered around women as victims since there are different projects and agencies focusing on children, which require different knowledge, skills, and experiences for the situations they are involved in. The campaign doesn’t rule out the possibility of collaborating with project managers that focus on child victims when there are grey areas or it is mutually beneficial to do so.

The project seeks to maintain a delicate balance in the way it is carried out:

*All measures undertaken in the pilot project must have a gender sensitive perspective and must be consistent with internationally recognized principles of non-discrimination (including non-discrimination based on gender, race, ethnicity, disability and sexual orientation). The actions and initiatives must also take into account the respect for the human rights and fundamental freedoms of the victims and may not inhibit immigration or freedom of travel and mobility consistent with laws or undercut the protection provided to refugees in international law.*²⁸⁰

²⁷⁷ Ibid, 1.

²⁷⁸ The National Criminal Investigation Department Trafficking in Women, Situation Report No. 3, Jan 1--31 Dec 31, 2000, RKP KUT 2001:3b, Stockholm 2001, 8.

²⁷⁹ Ministry of Industry, Employment and Communications. “Second draft,” 2.

²⁸⁰ Ibid, 4.

Discussion points b and c of the pilot project show that Sweden and its neighbors participating in the project are still a long way from living up to the UDHR and the other human rights commitments they have made. However, the focus is starting to shift from the rights of the State to the rights of victim. Discussion points b and c ask:

- b. Should the project target all women who are victims of trafficking in the Nordic and Baltic countries or just victims who are willing to testify against their traffickers?*
- c. Should the focus be on victims from the Baltic countries and only for the return to the Baltics? What about victims whose last residence was one of the Baltic countries, but who are nationals of another country?*²⁸¹

Still, we must focus on the fact that these measures support the Law's original intent in Sweden, of not punishing the victim of trafficking for the purposes of prostitution, and putting forth the possibility of expanding the number of victims of trafficking who can be given necessary protection and social support.

In abolitionist states like Sweden there needs to be acceptance of the need to create more legal migration channels for female migrants, with the exception that sex workers are not welcomed as sex workers since Sweden does not view sex work as a legitimate form of work. Sweden need to implement strategies that facilitate the training of women into non-traditional areas of work for female migrants (for instance away from poorly paid and unregulated sectors of the economy that have been traditionally reserved for female migrants, such as the garment industry, domestic work, and work in the sex industry).²⁸²

4.6 Conclusion

In Europe arguments over the issue of trafficking in women have resulted in the issue being given serious political attention. Despite differing views on "trafficking" for prostitution and "migration for sex work," within the European Union efforts like the 1997 Hague Ministerial Declaration on European Guidelines for Effective Measures to Combat Trafficking in Women showed progress. The Hague Declaration called for the European Union for to combat trafficking through a victim-sensitive, regional programme of action that combines a European judicial policy and European equal opportunity policy. The Declaration was designed to serve as a

²⁸¹ Ibid, 4-5.

²⁸² Ministry of Industry, Employment and Communications. "The Swedish Government's National Plan for Gender Equality." 2004. Vol. N4009, 7.

common political statement of the European Union Member States and was intended to be followed up with European guidelines for effective measures to prevent and combat trafficking in women. The Declaration was adopted by consensus. The Declaration calls on Member States to provide or explore the possibility of providing national rapporteurs who, along with other state agencies, will:

- report to Governments and exchange information on the scale of trafficking within their borders, as well as measures taken to prevent or combat trafficking;
- undertake information campaigns in countries of origin and destination focusing on preventing trafficking in women;
- acknowledge that trafficked women are victims of a crime so that they are not treated solely as illegal immigrants and deported;
- provide victims of trafficking with time to reflect and with support before they report the crime or agree to serve as witnesses in the prosecution of the crime, and to facilitate this process by providing trafficked women with legal, financial and medical assistance;
- provide trafficked women with temporary residence status and protection during criminal proceedings, when necessary;
- train police and judiciary on the nature and characteristics of trafficking; and
- work, within the framework of developmental cooperation, to improve the economic and social status of women in countries of origin.

. Unfortunately, no coherent follow-up was initiated. Why? Perhaps this is because the politics surrounding migration made these measures a secondary concern when compared to issues surrounding border control. This failure to adopt and fully implement many of the guidelines of the declaration partially explains the growth of trafficking in the European Union. The focus of member states on border control issues explains why forcible deportation of victims without accounting for their vulnerable status has continued to be an “acceptable” practice within the EU.²⁸³

²⁸³ United Nations Economic and Social Council. “Integration of the Human Rights of Women and the Gender Perspective,” 31.

Chapter 5: the Conclusion

Sweden is regarded by many as a society where there is a relatively high degree of equality between women and men. Evidence of this is women's representation in Government (50 per cent), in Parliament (40 per cent), in County Councils (48 per cent) and in Municipalities (41 per cent). Swedish women also have a relatively high employment rate (70 per cent) and thereby good possibilities to support themselves. Both women and men have ample possibilities to combine employment with parental and household responsibilities.²⁸⁴ It is not an accident that the Law and the rest of the SPTM surrounding it came out of Sweden.

The Law and the rest of the SPTM supporting it are flawed in numerous ways. There are questions surrounding the difficulty of enforcing anti-prostitution laws within Sweden and abroad. Abolitionist models like the Swedish model guarantee that a small segment of women who "chose" to practice voluntary prostitution will be marginalized in several ways. When compared to non-abolitionist models, abolitionist models can be forgiven for their failures. As the discussion surrounding the Dutch case showed the models that legalize or decriminalize elements of the sex industry have ensured that more women have been "coerced" into believing the sex industry is a viable survival strategy.

This thesis ultimately uses the SPTM as a vehicle to draw attention to the link between trafficking and prostitution. This thesis contends the SPTM is correct in recognizing the link between increases in trafficking in women for the purposes of sexual exploitation to profitable prostitution markets created by states legalizing, decriminalizing or tolerating the sex industry. This thesis combines this argument with arguments that support the view that prostitution is an industry that is inherently violent practice that if recognized or tolerated as a profession results in increased numbers of women being "coerced" into believing prostitution is a viable way to make a living.

The Swedish government recognizes the need to create quality legal migration opportunities for women within Sweden and abroad by donating heavily to the International Labor Organization (ILO) for projects that combat youth unemployment globally.²⁸⁵ In Sweden,

²⁸⁴ Prostitution Research & Education, "Fact Sheet on Violence against Women: The Ministry of Labour in Cooperation with the Ministry of Justice and the Ministry of Health and Social Affairs Swedish Government Offices on Issues Related to Violence against Women. The 1999 Swedish Law on Prostitution," 2004. Accessed on 7/18/2004, 1.

²⁸⁵ Regeringskansliet. "Press Release 03 September 2002 Ministry of Foreign Affairs: One million dollars to ILO," 2002. Accessed on 8/16/2004, 1.

the appropriation for the reception of asylum seekers was increased by SEK 560 million in 2002 signaling a move by the government away from the “fortress Europe” mentality.²⁸⁶ The Swedish government recognizes poverty as a contributing factor to creating situations where women are vulnerable to traffickers, which is one of the reasons Sweden has increased its developmental assistance in recent years. Between 2000 and 2004, the volume of assistance will have increased 50 per cent, from SEK 14 to SEK 21 billion. A large portion of assistance has gone to areas like the Baltics and other areas from which sex workers migrate to or through Sweden.²⁸⁷ Working towards solutions to these and other root causes of prostitution while recognizing prostitution as a root cause of “trafficking” gives Sweden a SPTM that can be considered a truly “feminist” model when combined with improving measures to support and protect victims of sexual exploitation. As of 1 July 2004 a new provision concerning trafficking in human beings has come into force. The previous legislation applied only to trafficking in human beings for the purposes of sexual exploitation, usually in the form of prostitution. The new legislation includes other forms of exploitation including forced labor, and trading in human organs. The requirement that trafficking has to occur across borders was also removed.²⁸⁸ This illustrates the Swedish Government is evolving its understandings of the forms of exploitation migrants face. The implications of this shift in policy are yet to be observed.

The social movement that is occurring in Sweden challenges ideological constructions of women’s work that is closely linked with current constructions of masculinity and femininity. Women within the government and dedicated feminists support the idea that gender specific violence is unacceptable against any woman residing in Sweden no matter how brief or legal her stay. Sweden’s recognition of this has led to the creation of the SPTM that can provide quality alternatives to the international political economy of sex while protecting victims who have been exploited due to its existence. However critics will continue to argue the model can never be considered truly “feminist” until it eliminates the disincentive for women to come forward. Sweden has largely failed to prosecute pimps and the networks responsible for trafficking due to the fact it ‘criminalizes the client’, which provides a severe disincentive for clients to come

²⁸⁶ Regeringskansliet. "Press Release 16 April 2002 Ministry of Foreign Affairs: More Money for Refugee Reception," 2002. Accessed on 8/17/2004, 1.

²⁸⁷ Regeringskansliet. "Press Release 08 September 2002 Ministry of Foreign Affairs: Budget 2003: Further Increases in Development Assistance," 2002. Accessed on 8/16/2004, 1.

²⁸⁸ Sveriges Riksdag: The Swedish Parliament. "Press Release Wednesday 12 May 2004: The Committee on Justice Wants the Government to Move More Quickly in Amending the Law on Trafficking in Human Beings," 2004. Accessed on 8/13/2004, 1-2.

forward. Women need to be given the option of whether or not they want to testify, and given the choice of permanent residency status so their freedom of movement is protected and or the option of entering the new witness protection program in Sweden regardless of whether or not they are a citizen. According to EU Women's Committee Chairperson Theorin, all but two member states deport victims of trafficking, "even if their lives may be at stake." Member States of the European Union should consider providing permanent residency status to women who take part in the prosecution of pimps and others involved in the trafficking.²⁸⁹ Sweden is doing the bare minimum to start to solve the problems that immigration law creates for trafficked women in attempting to facilitate the safe deportation of trafficked victims.

This thesis used the SPTM as vehicle to make the argument that sex trafficking exists to meet the demand for women that cannot be filled by the women who voluntarily prostitute themselves. One has to question the legitimacy of demand given the fact that if prostitution were a desirable, rewarding and financially lucrative profession, traffickers and pimps would not have to deceive, coerce and enslave women to recruit them into and keep them in the sex industry.²⁹⁰ The Swedish government and advocates of the Law are to be commended for attempting to reduce the numbers of women in the inherently violent industry of prostitution through questioning the legitimacy of male demand for paid violence against women.

In the past decade within the EU, there has been a move by EU Member States to harmonize refugee and asylum policy. These efforts have concerned EU Member States embarking on taking "unprecedented" steps of integrating their border controls and immigration policies into a common framework that has restricted migratory flows and access to asylum within the EU.²⁹¹ These laws benefit traffickers, who will always find ways to circumvent laws that increase the dependence of migrant women on third parties. Trafficked women are often victims of sexual exploitation and violence. The fact that these women are victims of crime should be relevant to their immigration status and how they are treated by the state. There is a strong legal basis within Sweden and other areas of the world to grant refugee or asylum status to victims of crime. If this is not done one hopes that states would at least ensure the safety of the trafficked victims during and after deportation. Work done at the EU level undermines the prospects for such measures within Sweden or any other EU member states.²⁹²

²⁸⁹ Hadley, "Slavery Appears and Europe Is Silent," 70-71.

²⁹⁰ Donna Hughes, "The Natasha Trade," 645.

²⁹¹ Koslowski, "Immigration, Border Control and Aging Societies in the European Union," 170.

²⁹² Wijers, "Women, Labor and Migration," 72.

While it is clear there are efforts underway with Sweden to evolve the SPTM to meet current challenges it is also clear more work needs to be done to ensure human rights of prostitution and trafficking victims are protected. Trafficking and immigration laws need to be harmonized with the intent of the Law. Currently these two sets of laws are at odds on whether or not the trafficked woman is a victim of crime or an undesirable alien.²⁹³ Until this tension is reconciled the SPTM will fail to protect the “human rights” of trafficked women.

²⁹³ Ibid, 72-73

BIBLIOGRAPHY

"Act on Prohibiting the Purchase of Sexual Services." SFS 1998:408 Swedish Code of Statutes, 1998.

1998 års Sexualbrottskommitté, Sexualbrotten, SOU 2001:14, Stockholm 2001. (Sexual Offences, Report of the Committee on Sexual Offences, English Summary, 2001.).

Adams, Nikki. "Anti-Trafficking Legislation: Protection or Deportation?" *Feminist Review* 73 (2003): 135-38.

Aghatise, Esohe. "Trafficking for Prostitution in Italy: Possible Effects of Government Proposals for Legalization of Brothels." *Violence Against Women* 10.10 (October 2004): 1126-55.

Alexander, Priscilla. "Feminism, Sex Workers, and Human Rights." *Whores and Other Feminists*. Ed. Jim Nagle. New York: Routledge, 1997. 83-93.

Altink, Sietske. *Stolen Lives: Trading Women into Sex and Slavery*. New York: Harrington Park Press, 1995.

Amnesty for Women. "Amnesty for Women-Eu Projects". 2004. Accessed on 25/5/2004. <www.amnestyforwomen.de/eu_projekte_en.html >.

Anhörigkommitténs slutbetänkande Människosmuggling och offer för människohandel, SOU 2002:69, Stockholm 2002. (Smuggling of Human Beings and Victims of Human Trafficking, final report of the Committee on the Reception of Close Relatives, English Summary, 2002).

Appelqvist, Josephine. "Commercial Sexual Exploitation of Children in Sweden: A Study on Acquaintance with Exploitation of Minors in Prostitution, Pornography and Trafficking: Summary in English from the Swedish Original". 2004. ECPAT Sweden. Accessed on 17 August 2004. <http://www.ecpatsweden.org/docs/Commercial_exploitation.pdf >.

AP, "You can't 'buy' sex in Sweden," 9 (1), January 2004. Accessed on February 1, 2005. <http://www.fijiwomen.com/newsletters/regional/archives/2004/jan/you.html>.

Barry, Kathleen. *The Prostitution of Sexuality*. New York: New York University Press, 1995.

Berman, Jacqueline. "(Un) Popular Strangers and Crisis (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 (2003).

Bertone, Andrea. "Sexual Trafficking in Women: International Political Economy and the Politics of Sex." *Gender Issues* 18.1 (2000): 4-22.

Bindel, Julie, and Kelly, Liz, "A Critical Examination of Responses to Prostitution in Four Countries: Victoria, Australia; Ireland; the Netherlands; and Sweden," *Child and Woman Abuse Studies Unit*, London Metropolitan University, 2003.

Boethius, Maria-Pia. "The End of Prostitution in Sweden". 1999. Accessed on 9/22/2004 at http://www.sweden.se/templates/Article___2295.asp.

Bonded Labor in Netherlands BLinN Co-project of Novib and Humanitas Aika van der Kleij. "Provisions for Victims of Trafficking in Bonded Sexual Labor, I.E. Prostitution -in 6 European Countries- (Belgium, Germany, Italy, the Netherlands, Spain, and the United Kingdom) Final Report". 2002. Accessed on 25 May 2004.
<http://www.humanitas.nl/project/Blinn_Final_Report.pdf >.

Brussa, Licia. "The Tampep Project in Western Europe." *Global Sex Workers: Rights Resistance and Redefinition*. Ed. Kamala Kempadoo and Jo Doezema. New York: Routledge, 1998. 246-59.

Carpenter, Belinda J., *Rethinking Prostitution: Feminism and the Self*. New York: Peter Lang Publishing, Inc., 2000. *Rethinking Prostitution: Feminism and the Self*. New York: Peter Lang Publishing Inc., 2000.

Centerwall, Erik. "Sexuality Education for Adolescent Boys," *RFSU: Swedish Association for Sex Education*, 2000.

Chapkis, Wendy. *Live Sex Acts: Women Performing Erotic Labor*. New York, NY: Routledge, 1997.

Commission of the European Communities. "Communication from the Commission to the Council and the European Parliament: A More Efficient Common European Asylum System: The Single Procedure as the Next Step." 937 (2004): 1-12.

Council of Europe. "Council of Europe: Parliamentary Assembly, Recommendation 1325(1997): On Traffic in Women and Forced Prostitution in Council of Europe Member States". 1997. Accessed on 16 August 2004.
<<http://www.assembly.coe.int/Documents/AdoptedText/TA97/EREC1325.HTM> >.

Council of Europe. "Council of Europe: Parliamentary Assembly, Recommendation 1327(1997): On the Protection and Reinforcement of the Human Rights of Refugees and Asylum-Seekers in Europe". 1997. Accessed on 16 August 2004.
<<http://www.assembly.coe.int/Documents/AdoptedText/TA97/EREC1327.HTM> >.

Council of Europe. "Council of Europe: Parliamentary Assembly, Recommendation 1440 (2000): Restrictions on Asylum in the Member States of the Council of Europe and the European Union". 2000. Accessed on 16 August 2004.
<<http://www.assembly.coe.int/Documents/AdoptedText/TA00/EREC1440.HTM> >.

Council of Europe. "Council of Europe: Parliamentary Assembly, Recommendation 1467 (2000): Clandestine Immigration and the Fight against Traffickers". 2000. Accessed on 18 August 2004.
<<http://www.assembly.coe.int/Documents/AdoptedText/TA00/EREC1467.HTM> >.

Council of Europe. "Council of Europe: Parliamentary Assembly, Recommendation 1545 (2002): Campaign against Trafficking in Women". 2002. Accessed on 16 August 2004.
<<http://www.assembly.coe.int/documents/AdoptedText/TA02/EREC1545.htm> >.

Council of Europe: Parliamentary Assembly. "Migration Connected with Trafficking in Women and Prostitution." 25 April 2003.

Craft, Nikki, and Farley, Melissa. "Why I Made the Choice to Become a Prostitute". 1996. *Prostitution Research & Education*. Accessed on 7/18/2004.

D'Cunha, Jean. "Legalizing Prostitution: In Search of Alternative from a Gender and Rights Perspective." *Seminar on the Effects of Legalization of Prostitution Activities, Stockholm 5-6 November, 2002*, 28-46.

Doezema, Jo. "Forced to Choose: Beyond Voluntary V. Forced Prostitution Dichotomy." *Global Sex Workers: Rights, Resistance, and Redefinition*. Ed. Kamala Kempadoo and Jo Doezema. New York: Routledge, 1998. 34-50.

Doezema, Jo. "Who Gets to Choose? Coercion, Consent, and the UN Trafficking Protocol." *Gender and Development* 10.1 (2002).

Ekberg, Gunilla (Ed.). *Final Report-Nordic Baltic Campaign Against Trafficking in Women 2002: Oslo, Norway and Stockholm, Sweden, 2003*.

Ekberg, Gunilla. "The International Debate About Prostitution and Trafficking in Women: Refuting the Arguments." *Seminar on the Effects of Legalization of Prostitution Activities, Stockholm 5-6 November, 2002*, 4-9.

Ekberg, Gunilla. "The Swedish Law That Prohibits the Purchase of Sexual Services." *Violence Against Women* 10.10 (October 2004): 1187-218.

Ekberg, Gunilla S, Special Advisor: Division of Gender Equality. "Best Practices for Prevention of Prostitution and Trafficking in Women: The Swedish Law That Prohibits the Purchase of Sexual Services (1998: 408)." *Ministry of Industry, Employment and Communications*, 2003.

Europa - Justice and Home Affairs - Funding - European Refugee Fund. "European Refugee Fund to Help the Eu Member States Receive Refugees and Displaced Persons". 2003. Accessed on 7/24/2004.

Europa - Rapid - Press Releases. "Prevention and Fight against Trafficking in Human Beings - a European Union Strategy since 1996". 2004. 8/7/2004.

European Commission. "Commission Communication to the Council and the European Parliament Proposing Further Action in the Fight against Trafficking in Women." 9 December 1998.

European Commission. "Communication from the European Commission to the Council and the European Parliament on Trafficking in Women for the Purpose of Sexual Exploitation." 20 November 1996.

European Commission Directorate-General Justice and Home Affairs: Directorate A Unit A2 Immigration and Asylum. "Short-Term Permit to Stay Granted to Victims of Trafficking or Smuggling Who Cooperate in the Fight against Smugglers and Traffickers: Discussion Paper." (2001).

European Commission: Directorate-General Justice and Home Affairs: Directorate A Unit A2 Immigration and Asylum. "Short-Term Permit to Stay Granted to Victims of Trafficking or Smuggling Who Cooperate in the Fight against Smugglers and Traffickers: Discussion Paper." 2001.

European Women's Lobby. "New Motion Criminalizing Prostitution Adopted at the 2001 EWL's General Assembly: Make It a Crime to Buy Women in Prostitution and Develop Strong Policies against Pimping". 2001. Accessed on 10/21/2004.

Farley, Melissa. "'Bad for the Body, Bad for the Heart': Prostitution Harms Women Even If Legalized or Decriminalized." *Violence Against Women* 10.10 (October 2004): 1087-1125.

Femmigration: Legal Agenda for Migrant Prostitutes and Trafficked Women. "Crime Victims: Germany". April 2004. Accessed on 24 May 2004.
<www.femmigration.net/victims/victims_germany.html >.

Femmigration: Legal Agenda for Migrant Prostitutes and Trafficked Women. "Migration 'Germany'". April 2004. Accessed on 24 May 2004.
<http://www.femmigration.net/migration/migration_germany.html >.

Femmigration: Legal Agenda for Migrant Prostitutes and Trafficked Women. "Prosecution 'Germany'". April 2004. Accessed on 24 May 2004.
<http://www.femmigration.net/work/work_germany.html >.

Femmigration: Legal Agenda for Migrant Prostitutes and Trafficked Women. "Sex Work: Germany". 2004. Accessed on 24 May 2004.
<http://www.femmigration.net/work/work_germany.html >.

Femmigration: Legal Agenda for Migrant Prostitutes and Trafficked Women. "Social Security/Health Insurance: Germany". 2004. Accessed on 24 May 2004.
<http://www.femmigration.net/security/security_germany.html >.

Fourth World Conference on Women. "Beijing Declaration and Platform for Action," Fourth World Conference on Women, 15 September 1995, a/Conf.177/20/Add.1 (1995)." 1995. Accessed on 7/17/2004.

Froman, Ingmarie. "Sweden's Fight against Trafficking in Women". 2003. Accessed on <http://www.sweden.se/>, 5/14/2004.

GAATW. "18/2/2004 Position Paper: Integrating a Gender Perspective into the Eu Immigration Policy Framework". 2004. Accessed on 7/17/2004.

GAATW. "Ngo Positions on Un Protocols against Trafficking in Persons and Smuggling of Migrants". 2004. Accessed on 7/17/2004.

Gortzen, Helene. "Trafficking in Women-the European and the Swedish Perspective, Summary from Inspector Stockholm Country Police Force Sweden". 2003. Accessed at 15 August 2004.
<www.aic.gov.au/conferences/policewomen3/gortzen.pdf >.

Gulcur, Leyla, and Ilkcaracan, Pinar. "The Natasha Experience: Migrant Sex Workers from the

- Former Soviet Union and Eastern Europe in Turkey." *Women's Studies International Forum* 25.4 (2002).
- Hadley, Earl. "Slavery Appears and Europe Is Silent." *Atlantis* 25.2 (2001).
- Hartley, Nina. "Confessions of a Porno Star." *Sex Work: Writings by Women in the Sex Industry*. Ed. Frederique Delacoste and Priscilla Alexander. 2nd Edition Ed, 1998. 142-44.
- Hartley, Nina. "In the Flesh: A Pornstar's Journey." *Whores and Other Feminists*. Ed. Jim Nagle, 1997. 57-65.
- Hauber, Laurie. "The Trafficking of Women for Prostitution: A Growing Problem within the European Union." *Boston College International & Comparative Law Review* 21.1 (1998): 183-99.
- Hedlund, Eva, "What's love gotta do with it? Reflections on psychotherapeutic work with the buyers and sellers of sex," *RFSU: Swedish Association for Sexual Education*, 2004.
- Holdt, Ed. "Anxiety over Growing Trade of Women in Eastern Europe." *Women in Action* 2 (2001): 5-6.
- Hope, Alan. "{La Ronde}: Women Are an Inexhaustible Commodity for the Eastern {Mafiosi} Who Trade Them across Borders and between States." *Index on Censorship* 29.1 (2000): 74-77.
- Hughes, Donna. "The Internet and the Global Prostitution Industry." *Women in Action* 1 (1999).
- Hughes, Donna. "Men Create the Demand; Women Are the Supply Lecture on Sexual Exploitation ". Accessed on 15 May 2004. <http://www.uri.edu/artsci/wms/hughes/demand.htm>.
- Hughes, Donna, "The Natasha Trade: The Transnational Shadow Market of Trafficking in Women." *Journal of International Affairs* 53.2 (2000).
- Hughes, Donna, et al. "Fact Book on Global Sexual Exploitation: Germany." *Coalition Against Trafficking in Women Factbook on Global Sexual Exploitation: Coalition Against Trafficking in Women*, 2004.
- Hughes, Donna M., "Best Practices to Address the Demand Side of Sex Trafficking," accessed on 10/11/2004 at http://www.uri.edu/artsci/wms/hughes/demand_sex_trafficking.pdf, August 2004.
- Hughes, Donna M., "The Impact of the Use of New Communications and Information Technologies on Trafficking in Human Beings for Sexual Exploitation: A Study of the Users." Strasbourg, France: The Council of Europe, 2001.
- Hughes, Donna, et al. "Factbook on Global Sexual Exploitation: Sweden." *Coalition Against Trafficking in Women Factbook on Global Sexual Exploitation: Coalition Against Trafficking in Women*, 2004.
- Humantrafficking.com: A Service of the Polaris Project. "Majority of Finnish Lawmakers Want to Criminalize Buying Sex". 2002. Accessed 10/9/2004.

Humantrafficking.com: A Service of the Polaris Project. "New Zealand: Make It Illegal to Buy Sex". 2002. Accessed 10/9/2004.

Humantrafficking.com: A Service of the Polaris Project. "Sweden Seeks to Export Prostitution." 2003. Accessed 10/9/2004.

Humantrafficking.com: A Service of the Polaris Project. "Trafficking in Persons Report 2003: Sweden". 2003. Accessed 10/9/2004.

Humantrafficking.com: A Service of the Polaris Project. "Women Told They Are Getting Ordinary Work Often Sold into Prostitution". 2002. Accessed 10/9/2004.

International Abolitionist Federation Newsletter. "Special Issue: Prostitution in the Nordic Countries". 2001. Accessed on 23 May 2004. <<http://www.qweb.kvinnoforum.se/.misc/iaf-newsletter.pdf>>.

International Committee for Prostitutes Rights. "International Committee for Prostitutes' Rights World Charter and World Whores' Congress Statement." *Sex Work Writings by Women in the Sex Industry*. Ed. Frederique Delacoste and Priscilla Alexander, 1998. 305-21.

International Organization for Migration. "Comparative Matrix on Legislation and Best Practices in Preventing and Combating Trafficking in Human Beings in Eu Member States and Candidate Countries." *European Conference on Preventing and Combating Trafficking in Human Beings: Global Challenge for the 21st Century*, 2002.

International Organization for Migration. "Trafficking in Migrants Bulletin: Trafficking in Germany." IOM, June 2003.

IOM International Organization for Migration. "Protection Schemes for Victims of Trafficking in Selected Eu Member Countries Candidate and Third Countries". 2004. Accessed on 26 May 2004. <http://www.iom.int/documents/publication/en/protection_schemes.pdf>.

International Seminar on Cross Border Movements and Human Rights, New Delhi, India, January 9-10, 2004.

Jacobson, Maria, "Why do men buy sex? The Interview: Professor Sven-Axel Månsson, Sweden," *NIKK magasin* 1, 2002.

Jeffreys, Sheila. "Prostitution Culture: Legalized Brothel Prostitution in Victoria, Australia." Seminar on the Effects of Legalization of Prostitution Activities, Stockholm 5-6 November, 2002, 22-27.

Johnson, Diane. "Trafficking of Women into the European Union." *New England International Comparative Law Annual* (1999): 1-21.

Kellis, Robin Stacey. "Trafficking the Union: (Dis) Locating the Political in European Integration Theory." *University of Victoria*, 2000.

Kelly, Liz. "The Wrong Debate: Reflections on Why Force Is Not the Key Issue with Respect to Trafficking in Women for Sexual Exploitation." *Feminist Review* 73 (2003): 139-44.

- Kempadoo, Kamala. "Globalizing Sex Workers' Rights'." *Global Sex Workers: Rights, Resistance, and Redefinition*. Ed. Kamala Kempadoo and Jo Doezema. New York: Routledge, 1998. 1-28.
- Koslowski, Rey. "Immigration, Border Control and Aging Societies in the European Union." *The Brown Journal of World Affairs* 3.2 (2002): 169-80.
- Kryszko, C., and Raymond, Janice. "Good Practices: Targeting the Demand for Prostitution and Trafficking," a report produced by the Coalition Against Trafficking in Women (CATW), 2004.
- Kulick, Don. "Sex in the New Europe: The Criminalization of Clients and Swedish Fear of Penetration." *Anthropological Theory* 3.2 (2003): 199-218.
- Kvinnoforum. "A Resource Book for Working against Trafficking in Women and Girls Baltic Sea Region." 3rd edition Ed: Stockholm, FEB 2002.
- Legislationonline. "Trafficking in Human Beings: Sweden". 2004. Accessed on 9/7/2004. www.legislationonline.org/index.php?country=37&org=0&eu=0&topic=14.
- Legislationonline. "Swedish Penal Code (1999) (excerpts)". 2004 Accessed on 9/7/2004. www.legislationonline.org/view.php?document=55245&ref=true.
- Louis, Marie-Victoire. "Legalizing Pimping-Dutch Style". February 1999. *The Coalition Against Trafficking in Women*. Accessed on 4/11/2004. <<http://www.uri.edu/artsci/wms/hughes/mhvpim.htm> >.
- Lydersen, Kari. "Women and Children First: The Economics of Sex Trafficking." *Clamor* 17 (2002): 44-45.
- MacKinnon, Catharine A. "Prostitution and Civil Rights." *Michigan Journal of Gender and Law* 1 (1993): 13-31.
- MacKinnon, Catharine A. "Sexuality." *The Second Wave: A Reader in Feminist Theory*. Ed. Linda Nicholson. New York: Routledge, 1997. 158-80.
- Ministry for Foreign Affairs, *Government Communication 2003/04:20 Human Rights in Swedish Foreign Policy*, 2003.
- Ministry for Foreign Affairs. "Trafficking in Women and Children in Asia and Europe". 2004. Accessed on 17 August 2004. <<http://norsk-larerlag.no/projects/trafficking/trafficking.doc> >.
- Ministry of Health and Social Affairs. "National Plan of Action against Commercial Sexual Exploitation of Children: Update of the National Action Plan of 1998." AWJ-tryck: Stockholm, 2001. Vol. S2001:041.
- Ministry of Industry, Employment and Communications. "The Swedish Government's National Plan for Gender Equality." 2004. Vol. N4009.
- Ministry of Industry, Employment and Communications. "Prostitution and Trafficking in Women

Fact Sheet". Stockholm, July 2004. XBS Grafisk Service. Accessed on 9 August 2004. <<http://www.sweden.gov.se/content/1/c6/02/69/78/a2ee17cf.pdf>>.

Ministry of Industry, Employment and Communications. "Second draft: Nordic-Baltic multi-lateral cooperative pilot project for the safe and planned return and re-integration of victims of trafficking in human beings for sexual purposes," presented by Division of Gender Equality Special Advisor Gunilla Ekberg, Memorandum: 9 June 2004.

Ministry of Labor, *ALIENS ACT (1989) and ALIENS ORDINANCE (1989:547) with amendments 1st October 1990*, Stockholm, 1990.

Mueller, Ben. "Imagining Europe: Community, Identity and Citizenship in the European Union." *University of Victoria*, 1999.

Muntarbhorn, Professor Vitit. "Report of the Second World Congress against Commercial Sexual Exploitation of Children: Yokohama, Japan: 17-20 December 2001". 2001. Accessed on 15 August 2004. <http://www.ecpat.no/dokumentervits%20report%20from%20wc.doc>.

Netherlands Ministry of Foreign Affairs. "Dutch Policy on Prostitution: Questions and Answers," 2004.

Office of the High Commissioner for Human Rights. "Convention Relating to the Status of Refugees Adopted on 28 July 1951 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and a Stateless Persons Convened under General Assembly Resolution 429 (V) of 14 December 1950: Entry into Force 22 April 1954, in Accordance with Article 43". 1950. Accessed on 10/7/2004.

Office of the High Commissioner for Human Rights. "The Protocol Was Taken Note of with Approval by the Economic and Social Council in Resolution 1186 (Xli) of 18 November 1966 and Was Taken Note of by the General Assembly in Resolution 2198 (Xx1) of 16 December 1966. In the Same Resolution the General Assembly Requested the Secretary-General to Transmit the Text of the Protocol to the States Mentioned in the Article V Thereof, with a View to Enabling Them to Accede to the Protocol: Entry into Force 4 October 1967, in Accordance with V111". 1967. Accessed on 10/7/2004.

Official Journal of European Communities. "Council Directive 2002/90/Ec of 28 November 2002 Defining the Facilitation of Unauthorized Entry, Transit and Residence." European Council, 5.12.2002. Vol. L328.

Pettman, Jan Jindy. "Body Politics: International Sex Tourism." *Third World Quarterly* 18.1 (1997): 93-108.

Pettman, Jan Jindy. "Women and Gender in the International Political Economy." *Worlding Women: A Feminist International Politics*. 1996. 157-84.

Prostitution Research & Education. "Fact Sheet on Violence against Women: The Ministry of Labor in Cooperation with the Ministry of Justice and the Ministry of Health and Social Affairs Swedish Government Offices on Issues Related to Violence against Women. The 1999 Swedish Law on Prostitution". 2004. Accessed on 7/18/2004.

Prostitution Research & Education. "Help Wanted: Women and Girls Do You Want This Job?" 2004. *WHISPER*. Accessed on 7/18/2004.

Raymond, Janice. "10 Reasons for Not Legalizing Prostitution". 2003. *Coalition Against Trafficking in Women International (CATW)*. Accessed on 7/18/2004.

Raymond, Janice. "The New UN Trafficking Protocol." *Women's Studies International Forum* 25.5 (2002): 491-502.

Raymond, Janice. "Sex Trafficking is Not 'Sex Work'", *Conscience*, 26.1, Spring 2005.

Raymond, Janice. "State-Sponsored Prostitution." *Seminar on the Effects of Legalization of Prostitution Activities, Stockholm 5-6 November, (2002)*: 10-15.

Raymond, Janice G. "Prostitution on Demand: Legalizing the Buyers as Sexual Consumers." *Violence Against Women* 10.10 (October 2004): 1156-86.

Regeringens proposition 2001/02:124, Straffansvaret för människohandel, Stockholm 2002. (Penalties for Trafficking in Human Beings, Government bill, 2002.).

Regeringens proposition 2003/04:35 Människosmuggling och tidsbegränsat uppehållstillstånd för målsägande och vittnen m.m. Stockholm 2003, (Smuggling of Human Beings and Temporary Residence Permit for Plaintiffs and Witnesses, Government bill, 2003), <http://www.regeringen.se/content/1/c4/07/35/b23b338b.pdf>.

Regeringskansliet. "14 October 2002 Ministry of Foreign Affairs: 'Stop the Abuse of the Asylum System'". 2002. Accessed at 8/17/2004.

Regeringskansliet. "Agreement on Common Minimum Rules for the Asylum Process in the EU". 2004. Accessed on 8/17/2004.

Regeringskansliet. "'Halving Poverty by 2015 -- It Can Be Done'". 2002. Accessed on 8/17/2004.

Regeringskansliet. "Migration and Asylum Policy". Stockholm, 2004. Government Offices of Sweden. Accessed on 7/20/2004.

Regeringskansliet. "Press Release 08 September 2002 Ministry of Foreign Affairs: Budget 2003: Further Increases in Development Assistance". 2002. Accessed on 8/16/2004.

Regeringskansliet. "Press Release 03 September 2002 Ministry of Foreign Affairs: One million dollars to ILO". 2002. Accessed on 8/16/2004.

Regeringskansliet. "Press Release 09 June 2004 Ministry of Foreign Affairs: European Refugee Fund to Be Renewed with Eur 114 Million". 2004. Accessed on 8/17/2004.

Regeringskansliet. "Press Release 14 February 2002 Ministry of Foreign Affairs: Ministerial Meeting on Action Plan to Combat the Smuggling of Human Beings". 2002. Accessed on 8/17/2004.

Regeringskansliet. "Press Release 16 April 2002 Ministry of Foreign Affairs: More Money for Refugee Reception". 2002. Accessed on 8/17/2004.

Regeringskansliet. "Press Release 25 April 2003 Ministry of Foreign Affairs: Parliamentary Review Committee on Aliens Legislation Set to Start". 2003. Accessed on 8/17/2004.

Riksrevisionsverket, Samverkan i gränskontrollen, Riksrevisionsverket 2001:1, Stockholm 2001. (Cooperation in the Border Control, report by the National Audit Office, English summary, 2001).

Runyan, Anne Sisson, and Marchand, Marianne H. "Introduction and Conclusion: Feminist Approaches to Global Restructuring." *Gender and Global Restructuring*. 2000. 1-21, 225-29.

Sassen, Saskia. *The Mobility of Labor and Capital: A Study in International Investment and Labor Flow: A Study in International Investment and Labor Flow*. New York: Cambridge University Press, 1988.

Socialstyrelsen. "Prostitution in Sweden 2003: Knowledge, Beliefs & Attitudes of Key Informants," 2004.

Soguk, Nevzat, and Whitehall, Geoffrey. "Wandering Grounds: Transversality, Identity, Territoriality, and Movement." *Millennium: Journal of International Studies* 28.3 (1999): 675-98.

Sveriges Riksdag: The Swedish Parliament. "Press release 12 May 2004: The Committee on Justice wants the Government to move more quickly in amending the law on trafficking in human beings", 2004.

Sprinkle, Annie. "We've Come a Long Way and We're Exhausted." *Whores and Others Feminists*. Ed. Jim Nagle. New York: Routledge, 1997. 66-69.

Statement of Recommendations concerning Trafficking in Women in the Nordic and Baltic Countries adopted at the Informal Baltic Ministers Meeting in Stockholm, Sweden, April 9, 2003.

Stiftelsen Kvinnoforum. "Social Support to Women, Girls and Boys Victims of Trafficking, Overview of the Situation in Sweden, English Version: Stiftelsen Kvinnoforum, Funded by Eu/Stop and the Swedish Ministry of Health and Social Affairs". 2002. Accessed on 11 August 2004. <<http://www.kvinnoforum.se/papers/socsupport2002rtf>>.

Sveriges Riksdag: The Swedish Parliament. "Press Release Wednesday 3 March 2004: Improved Prospects for Combating People Smuggling". 2004. Accessed on 8/13/2004.

Sveriges Riksdag: The Swedish Parliament. "Press Release Wednesday 12 May 2004: The Committee on Justice Wants the Government to Move More Quickly in Amending the Law on Trafficking in Human Beings". 2004. Accessed on 8/13/2004.

Sveriges Riksdag: The Swedish Parliament. "Press Release Wednesday 17 April 2002: Committee Approves Framework Decision on Traffic in Human Beings". 2002. Accessed on 8/13/2004.

Sveriges Riksdag: The Swedish Parliament. "Press Release Wednesday 22 May 2002: Trafficking in Human Beings to Constitute a New Crime". 2002. Accessed on 8/13/2004.

Swedish Ministry for Foreign Affairs, "Poverty and Trafficking in Human Beings: A strategy for combating trafficking in human beings through Swedish international developmental cooperation", Stockholm, 2003.

The Commercial Sexual Exploitation of Children in Sweden: A study on acquaintance with exploitation of minors in prostitution, pornography and trafficking: Summary in English from Swedish original, report by ECPAT Sweden, 2001, accessed at http://www.ecpatsweden.org/doc/Commercial_exploitation.pdf.

The Committee of Individual Safety. "A National Program on Individual Safety-English Summary of SOU 2004:1." The Department of Justice, 2004. 21-27.

The Council of the European Union. "Council Decision of 1 December 2000 on the Application of the Schengen Acquis in Denmark, Finland and Sweden, and in Iceland and Norway." *Official Journal of European Communities* 9.12.2000 (2000): 24-27.

The Council of the European Union. "Council Decision of 6 December 2001 on the Development of the Second Generation Schengen Information System (Sis two)." *Official Journal of European Communities* L 328 (2001): 1-3.

The Council of the European Union. "Council Decision of 8 June 2004 Establishing the Visa Information System (Vis)." *Official Journal of European Communities* L 213 (2004): 5-7.

The Council of the European Union. "Council Decision of 17 December 1999 Authorizing the Deputy Secretary-General of the Council of the European Union to Act as Representative of Certain Member States for the Purpose of Concluding Contracts Relating to the Installation and the Functioning of the Communication Infrastructure for the Schengen Environment, 'Sisnet', and to Manage Such Contracts." *Official Journal of European Communities* 30.12.1999 (1999): 41-42.

The Council of the European Union. "Council Framework Decision of 19 July 2002 on Combating Trafficking in Human Beings." *The Official Journal of the European Communities*.L203 (2002): 1-4.

The Council of the European Union. "Council Framework Decision of 28 November 2002 on the Strengthening of the Penal Framework to Prevent the Facilitation of Unauthorized Entry, Transit and Residence." *Official Journal of the European Communities* L328 (2002): 17-18.

The Council of the European Union. "Council Regulation (Ec) No 343/2003 of 18 February 2003 Establishing the Criteria and Mechanisms for Determining the Member State Responsible for Examining an Asylum Application Lodged in One of the Member States by a Third-Country National." *Official Journal of European Communities* L 50 (2003): 1-10.

The Council of the European Union. "Council Regulation (Ec) No 2424/2001 of 6 December 2001 on the Development of the Second Generation Schengen Information System (Sis 11)." *Official Journal of European Communities* L 328 (2001): 4-6.

The Council of the European Union. "Initiative of the French Republic with a View to Adopting a Convention on Improving Mutual Assistance in Criminal Matters, in Particular in the Area of Combating Organized Crime, Laundering of the Proceeds from Crime and Financial Crime." *Official Journal of European Communities* C 243 (2000): 11-14.

The Council of the European Union. "Initiative of the French Republic with a View to Adopting a Council Directive on Mutual Recognition of Decisions on the Expulsion of Third Country Nationals." *Official Journal of European Communities* C 243 (2000): 1-3.

The Council of the European Union. "Initiative of the French Republic with a View to Adopting a Council Framework Decision on Money Laundering, the Identification, Tracing, Freezing, Seizing and Confiscation of Instrumentalities and the Proceeds from Crime." *Official Journal of European Communities* (2000): 9-10.

The Council of the European Union. "Initiative of the Portuguese Republic with a View to Adopting a Council Framework Decision on the Standing of Victims in Criminal Procedure." *Official Journal of European Communities* C 243 (2000).

The Council of the European Union. "Initiative of the Portuguese Republic with a View to Adopting a Council Framework Decision on the Standing of Victims in Criminal Procedure." *Official Journal of European Communities* C 243 (2000): 4-8.

The Council of the European Union. "Initiative of the Portuguese Republic, the French Republic, the Kingdom of Sweden and the Kingdom of Belgium with a View to Adopting a Council Decision Setting up Eurojust with a View to Reinforcing the Fight against Serious Organized Crime." *Official Journal of European Communities* C 243 (2000): 15-20.

The Council of the European Union. "Initiative of the Portuguese Republic, the French Republic, the Kingdom of Sweden, and the Kingdom of Belgium with a View to Adopting a Decision Setting up a Provisional Judicial Cooperation Unit." *Official Journal of European Communities* C 243 (2000): 21.

The Council of the European Union. "Oisin Annual Programme and Invitation to Applications for 1999." *Official Journal of European Communities* C 12 (1999): 11-14.

The Council of the European Union. "Stop Annual Programme for 1999." *Official Journal of European Communities* C 12 (1999): 6-10.

The Council of the European Union. "Stop Annual Programme for 2000." *Official Journal of European Communities* C 355 (2000): 11-15.

The Council of the European Union. "Swedish Declaration." *Official Journal of European Communities* L 309 (2000): 28.

The Economist Global Agenda. "Sex for Sale, Legally". June 11th 2003. Accessed on 10/22/2004.

The European Commission. "Communication from the Commission to the Council and the European Parliament on a Common Policy on Illegal Immigration". 2001. Accessed on 7/24/2004.

The Foundation of Women's Forum/Stiftelsen Kvinnoforum. "Trafficking in Women for the Purpose of Sexual Exploitation: Mapping the Situation and Existing Organizations Working in Belarus, Russia, the Baltic and Nordic States, a Report on Trafficking in Women for the Purpose of Sexual Exploitation". Stockholm, 1998. Stiftelsen Kvinnoforum. Accessed on 14 May 2004. <<http://www.kvinnoforum.se/papers/traffickingreport.html> >.

The National Criminal Investigation Department Trafficking in Human Beings for Sexual Purposes, Situation Report No. 6, Jan 1--Dec 31, 2003, RKP KUT. 2004:2b, Stockholm 2004.

The National Criminal Investigation Department Trafficking in Women, Situation Report No. 3, Jan 1--31 Dec 31, 2000, RKP KUT 2001:3b, Stockholm 2001.

The National Criminal Investigation Department, Trafficking in Women, Situation Report No. 4, Jan 1--Dec 31, 2001, RKP KUT 2002:1b, Stockholm, 2002.

The National Criminal Investigation Department, Trafficking in Women, Situation Report No. 5, Jan 1--Dec 31, 2002, RKP KUT 2003:1b, Stockholm, 2003.

The United Nations. "Rome Statute of the International Criminal Court". April 2004. Accessed on 2 May 2004. <<http://www.un.org/law/icc/statute/romefra.htm> >.

Tiby, Tove Petterssoneva, "Production and Reproduction of Prostitution," *Journal of Scandinavian Studies in Criminology and Crime Prevention*, 2002, p. 154-172.

Tzvetkova, Marina. "Ngo Responses to Trafficking in Women." *Gender, Trafficking and Slavery*. Ed. Rachel Masika. Oxford: Oxfam GB, 2002. 60-68.

United Nations Division for the Advancement of Women (DAW). "The New Borderlanders: Enabling Mobile Women and Girls for Safe Migration and Citizenship Rights," prepared by Jyoti Sanghera, CM/MMW/2003/CRP.3, 14 January 2004.

United Nations Economic and Social Council. "Integration of the Human Rights of Women and the Gender Perspective: Violence Against Women," report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, E/CN.4/2000/68, 29 February 2000.

United Nations Economic and Social Council. "Recommended Principles and Guidelines on Human Rights and Human Trafficking: Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council," E/2002/68/Add.1.

United Nations General Assembly. "Review of Reports, Studies and Other Documentation for the World Conference," report submitted by Ms. Radhika Coomaraswamy, A/CONF.189/PC.3/5, 27 July 2001.

United Nations General Assembly, "Universal Declaration of Human Rights, G.A. Res. 217a (111), U.N. Doc a/810 at 71 (1948)". 1948. Accessed on 7/17/2004.

United Nations. "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime." (2000): 1-11.

U.S Department of State. "Trafficking in Persons Report 2003: Sweden, U.S Department of State". 2003. Accessed on 24 May 2004.
<<http://www.humantrafficking.com/client/view.aspx?ResourceID=4286> >.

Waring, Marilyn. "A Woman's Reckoning: An Introduction to the International Economic System." *Counting for Nothing*. 1999. 12-36.

Westerstrand, Jenny. "Prostitution and the Cunning Patriarchy - Towards a New Understanding." *Seminar on the Effects of Legalization of Prostitution Activities, Stockholm 5-6 November, 2002*, 47-55.

Wijers, Marjan. "European Union Policies on Trafficking in Women." *Gender Policies in the European Union*. Ed. M. Rossilli. New York: Peter Lang Publishing, 2000, 209-29.

Wijers, Marjan. "Women, Labor and Migration: The Position of Trafficked Women and Strategies of Support." *Global Sex Workers: Rights, Resistance, and Redefinition*. Ed. Kamala Kempadoo and Jo Doezema. New York: Routledge, 1998. 69-78.

Wijers, Marjan, and Lap-Chew, Lin. *Trafficking in Women Forced Labor and Slavery-Like Practices in Marriage Domestic Labor and Prostitution*. 1997.

Winberg, Margareta. "Speech by Deputy Prime Minister Margareta Winberg." *Seminar on the Effects of Legalization of Prostitution Activities, Stockholm 5-6 November, 2002*, 2-3.

www.against-trafficking.org. "Legal Framework (Table 4)". 2004. Accessed on 26 August 2004.

www.against-trafficking.org. "Prevention (Table 5)". 2004. Accessed on 26 August, 2004.

Yuval-Davis, Nira. *Gender and Nation*. London: SAGE Publications, 1997.