



# EVIDENCE ASSESSMENT OF THE IMPACTS OF THE CRIMINALISATION OF THE PURCHASE OF SEX: A REVIEW



CRIME AND JUSTICE

# **EVIDENCE ASSESSMENT OF THE IMPACTS OF THE CRIMINALISATION OF THE PURCHASE OF SEX: A REVIEW**

## **SCOTTISH CENTRE FOR CRIME AND JUSTICE RESEARCH**

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## Contents

<b>OVERVIEW</b> .....	<b>0</b>
Remit .....	0
The Process.....	0
Limitations of available data .....	1
Overview.....	2
<b>INTRODUCTION</b> .....	<b>3</b>
Note on use of language .....	3
<b>METHODS</b> .....	<b>4</b>
<b>WHAT COUNTS AS ‘EVIDENCE’?</b> .....	<b>6</b>
Reflecting broader contexts .....	9
<b>PROSTITUTION IN SCOTLAND: LEGAL CONTEXT</b> .....	<b>10</b>
<b>POLICY COMMITMENTS BY THE SCOTTISH GOVERNMENT</b> .....	<b>13</b>
Criminalisation in Scotland .....	14
Consideration of evidence relating to demand (Scotland).....	16
<b>CRIMINALISING THE PURCHASE OF SEX: INTERNATIONAL CONTEXT</b> .....	<b>17</b>
<b>IMPACTS OF THE CRIMINALISATION OF THE PURCHASE SEX</b> .....	<b>20</b>
Estimated numbers involved in prostitution .....	20
Online prostitution.....	23
Change in Attitudes .....	24
Impacts on Demand.....	27
Application and enforcement of the law.....	30
Experiences with the police .....	31
<b>EXPERIENCES OF INDIVIDUALS INVOLVED IN PROSTITUTION</b> .....	<b>32</b>
Safety and displacement .....	32
Marginalisation and stigmatisation.....	35
Services to exit prostitution.....	36
<b>CONCLUDING POINTS</b> .....	<b>37</b>
<b>REFERENCES</b> .....	<b>39</b>

# OVERVIEW

## Remit

In 2015, the Scottish Centre for Crime and Justice Research (SCCJR) was tasked with work that had been identified by the Cabinet Secretary for Justice following the introduction of the Human Trafficking and Exploitation Act 2015; in recognition that this legislation had raised questions about responses to prostitution in Scotland that were not addressed within the contours of that debate.

The Cabinet Secretary gave a commitment to the Justice Committee and Parliament that research would be commissioned to “investigate the reliability of the evidence available on the criminalisation of the purchase of sex”. The SCCJR was asked to do two things:

- Produce a desk-based review of published research and evidence on prostitution<sup>1</sup> in Scotland;
- Conduct a rapid assessment of existing evidence on the impact of the criminalisation of the purchase of sex.

Working alongside colleagues in Justice Analytical Services (JAS) we set out to produce two papers which reviewed evidence in these areas.

## The Process

To ensure that our work was as comprehensive as possible, a Research Advisory Group was set up by the Scottish Government consisting of six academics based in Scotland and England, who have published and researched on the topic of prostitution/sex work from different perspectives, and who are acknowledged as ‘experts’ on the subject area<sup>2</sup>. They were invited to comment on papers and reports produced, to help us to access key evidence, and to ensure that our analysis of this evidence was as rigorous as it could be.

Several points should be noted:

- i. Our focus was specifically on the reliability of evidence surrounding the impact of the criminalisation of the purchase of sex. The remit meant that other legislative approaches and models were not included in the review; the absence of a comparative dimension is an obvious limitation. We are aware that without comparison with other models, this report could

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<sup>1</sup> The term ‘prostitution’ has been used throughout this report in line with the Scottish Government remit, however the contested nature of language in this area is acknowledged (see p7).

<sup>2</sup> We are grateful to the Group for their contributions to the development of this report.

potentially present issues pertinent to prostitution more generally, as distinct to the criminalisation of the purchase of sex; this also means that assessing any impact of the criminalisation of the purchase of sex cannot be compared to the impacts associated with other models.

- ii. Relatedly, we are aware that setting out the Scottish legal and policy context in this report could be critiqued as presenting a lens through which the evidence discussed here is viewed. However, the aim in doing so is to set out the key areas which were prioritised as a background for the assessment of impact (i.e. numbers involved in prostitution, demand, prevention and minimisation of 'harm'). While the review is framed within this policy context, its focus was to assess the reliability of evidence on the impacts of criminalisation rather than to assume that legislation is the sole, or indeed most effective, option for achieving Scottish policy objectives. Indeed, the importance of a 'package' of measures rather than any single intervention forms part of the Scottish policy framework.

Additionally, we recognise that the wider social, political and economic context is significant. For example, increased numbers involved in prostitution reflected in Sweden and Norway in 2008 has been associated with the onset of the global financial crisis rather than reflective of legislative models (Rasmussen et al, 2014). Without considering this wider context, a simple evaluation of evidence available misses structural circumstances and the resulting discourses which emerge.

### **Limitations of available data**

As discussed throughout this review, assessing what constitutes 'evidence' on the subject of prostitution and the impact of any intervention in this area is a challenging task. We attempted to retain a focus on empirical evidence however, the underpinning discourses surrounding prostitution and the debates around legislative developments provided an important context for the review and merit ongoing consideration. Due to the limitations of existing evidence on the impacts of criminalisation we found that a relatively small number of studies were cited extensively throughout recent literature and used consistently to argue specific points. These limitations emerge partly from the challenging nature of prostitution research where the associated stigma and marginalisation make potential participants 'hard to reach' resulting in a partial overview of impacts.

Empirical evidence is largely focused on street-based prostitution and there is a universally acknowledged uncertainty about the numbers involved in indoor prostitution such as online and indoor sex work and the impacts of the

criminalisation of purchase on these segments of prostitution. Attempting to distinguish ‘indoor’ and ‘street’ prostitution as separate entities is itself problematic, with individuals moving between different forms of prostitution at different points in time. We were also aware that evaluations of particular regimes require some reflection upon the aims and objectives that legislators hoped to achieve. Relatedly, the principles and values which underpin particular interventions may be distorted in practice during the implementation process; the enforcement of legislation is itself part of a political decision-making process determined by broader priorities and contemporary concerns. Unintended impacts can be caused by uneven implementation and resourcing, and different degrees of commitment to criminal justice enforcement.

This review does not set out ‘conclusions’ but instead, assesses the challenges that arise in attempting to draw conclusions on the basis of the existing evidence available and the limitations thereof. The reliability of existing evidence in relation to key themes has been considered<sup>3</sup>.

## **Overview**

This review has highlighted the limited and contested nature of existing evidence on the impacts of the criminalisation of the purchase of sex. There is significant disagreement around some key issues which remain inconclusive within this review. The absence of comparison across different models of regulation and the assessment of evidence from other systems leaves many questions around impacts remaining. Safety, for example, was a particularly challenging issue where the existing evidence embodies various contradictions. Similarly, existing evidence is inconclusive in terms of the relationship between human trafficking and demand for prostitution; and the more general relationship between street and in-door prostitution where there exist problems of distinguishing clear divisions between different sectors and where it is impossible to provide accurate numbers. There are many areas of contention however, one point which appears to have considerable consensus is the need to decriminalise individuals involved in prostitution as ‘sellers’ (also a finding from the recent House of Commons Home Affairs Committee Report, 2016).

This review highlights the limitations of ‘evidence’ and reinforces the point made by many others that evidence on interventions in this area does not, on its own, provide an independent source for the determination of policy and/or legislation. Ultimately, the absence of conclusive evidence is likely to require decision-making based on political standpoint and consideration of the policy context and framework in which any potential intervention is required.

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<sup>3</sup> The limitations of this data should be borne in mind as should the limitations imposed by the time-frame and remit of this review.

# INTRODUCTION

During the passage of the Human Trafficking and Exploitation (Scotland) Act 2015, the Cabinet Secretary gave a commitment to the Justice Committee and to Parliament that the Scottish Government would commission research to investigate the reliability of the evidence available on the criminalisation of the purchase of sexual services, and how it applies to Scotland. This report considers the reliability of the available evidence on the impact of the criminalisation of the purchase of sex locating current debates within an overview of recent legislation and policy in Scotland. The report constitutes a rapid evidence assessment of available evidence on the impact of the criminalisation of the purchase of sex and examines existing international evidence which draws predominantly on countries where legislation criminalising the purchase of sex exists (for example, Sweden (1999), Norway (2009), Iceland (2009), Canada (2014) and Northern Ireland (2015))<sup>4</sup>. This review sets out evidence published in English and has drawn on a range of sources which are variable in approach and size. The Annex sets out the key empirically-based studies referred to in the evidence assessment. Additional material is referenced in the bibliography. A summary of the current policy and legislative context in Scotland is included<sup>5</sup> and discussion of the background to the introduction of legislation on the criminalisation of the purchase of sex internationally.

## Note on use of language

This review adopts a working definition which is focused on the sale and purchase of sex rather than sex-related activities (such as lap-dancing, pornography etc.). Terminology in this area is contested, however the Scottish Government has used the term 'prostitution' in other contexts and this review, following the Scottish Government, will refer to 'individuals involved in prostitution'<sup>6</sup>. While other terms were considered, including 'women/men who sell sex' we have retained the terminology which has been used by the Scottish Government in other contexts but acknowledge the contested nature of words; it is not possible to find a 'neutral' language in this context (for example see St Denny, 2014). When reporting studies which have adopted the terminology of 'sex work' this is used where appropriate.

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<sup>4</sup> Evidence from countries where legislation has recently been introduced, including France (in 2016) is largely unavailable at this time.

<sup>5</sup> Although we are aware that this results in a context surrounding the presentation of evidence that may result in it being 'read' in a particular way. Nevertheless, the context is necessary in order to frame consideration of existing evidence.

<sup>6</sup> This refers predominantly to women, who account for around 95% of those involved in prostitution, according to the English Collective of Prostitutes (see All-Party Parliamentary Group on Prostitution and the Global Sex Trade, 2014).

# METHODS

The task which the Scottish Centre for Crime and Justice Research (SCCJR) was required to conduct was to systematically review the existing evidence on the impacts of the criminalisation of the purchase of sex. This remit meant that other legislative approaches and models such as decriminalisation or regulation were not included in the review<sup>7</sup>; the absence of a comparative dimension is an obvious limitation in that the lack of broader comparison with other models (i) could potentially present issues as pertinent to the criminalisation model alone, rather than as issues associated with prostitution more broadly (ii) presents challenges in assessing any impact of the criminalisation of the purchase of sex in comparison to other models (such as decriminalisation, regulationist).

The review was tasked with assessing existing ‘evidence’ relating to the impact of the criminalisation of the purchase of sex. This involved consideration of what constitutes ‘evidence’ and how it is presented: a challenging task given the wide-ranging literature surrounding prostitution more generally. We have attempted to retain a focus on empirical evidence however, the underpinning discourses surrounding prostitution and the debates which contextualise legislative developments provide an important context for the review and merit ongoing consideration<sup>8</sup>.

The review draws upon a range of evidence, constituting a variety of different methodological approaches which are underpinned by distinct and significant ideological and theoretical positions. This problematizes any attempt to read the evidence as ‘value free’ or ‘neutral’ and evidence assessments, including this review, require caveats and contextualisation. The different positions that underpin data collection and indeed, how an issue is defined and re-presented mean that this review is limited in its ability to present ‘neutral evidence’ which can support policy and decision-making processes. Definitions of the ‘problem’ and the ‘solutions’ that underpin the available evidence need to be considered from the political perspectives that determine them.

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<sup>7</sup> For a comparison of prostitution regimes across different countries see for example Kelly et al. (2009 and 2014); Barnett and Casavan (2011 *revised 2014*); Skilbrei and Holmstrom (2013).

<sup>8</sup> For example, the complexities of law and ethics relating to the principle of harm and subsequent debates surrounding criminalisation in ‘voluntary’ prostitution are outlined by Persak (2012); while O’Connell Davidson (2002) notes the challenges of supporting the rights of those who work in prostitution as workers, remaining critical of the social and political inequalities that underpin market relations in general, and prostitution in particular. Scoular (2010) highlights the significance of law in the regulation of prostitution. Conversely, prostitution as exploitation and/or gender inequality and the associated harms within this context are presented by others such as Ekberg (2004 and 2013); Kelly et al. (2009; 2014); Waltman (2011a and 2011b); Coy (2012).



A systematic review of evidence presents a number of challenges in this area, given the limited number of papers which are informed by empirical data collection and analysis, and due to the limitations of existing evidence on the impacts of criminalisation. This has meant that a small number of studies have been cited extensively throughout recent literature and used consistently to argue specific points. These limitations emerge partly from the challenging nature of prostitution research where the associated stigma and marginalisation make potential participants 'hard to reach' and thus results in a partial overview of impacts. Additionally, the introduction of legislation to criminalise the purchase of sex has been introduced to various countries at different points in time and in many countries the legislation is recent and potential impact is preliminary. The review draws upon existing evidence, highlighting findings, methodological approaches (i.e. methods used in primary research) (see Annex) and the broader contexts within which studies included in the review are located. Where possible, gaps in existing knowledge are identified and evidence deficits highlighted.

Relevant databases and bibliographies were searched to broaden the scope of the study. A Research Advisory Group (RAG) was established to support the Scottish Government composed of key academics working in this area from Scotland and England, and representing different positions within current debates. RAG members distributed requests for relevant material around their networks and a number of published and unpublished papers, conference presentations and evaluation studies were received by the research team following such requests. Colleagues and practitioners from Scotland and abroad passed on relevant papers and reports.

The review is limited to papers in English. The search was initially conducted between October and December 2015 with a second scan of available evidence in February and March 2016. Quantitative (largely attitudinal surveys) and qualitative studies (interviews and observations) (see Annex One) have been included. The range and scope of various evidence and publications in this area presented a number of challenges for the research team and attempts were made to scope and sift the wide-ranging material to ensure that the most robust evidence was included in the review (discussed further below).

The Annex lists many of the empirical studies which form the basis of this review, however it has proved difficult to meet the expected standards required for an assessment of evidence since many of the studies included are qualitative in nature and do not fit with most systematic evidence assessment tools designed more generally, for quantitative outcome studies. Some of the key studies referred to in documents are not written in English and while English summaries were included, this does not allow us to access the more detailed evidence contained in the full document/report. Many papers and reviews cite the work of other researchers where original studies have been unobtainable or, in some cases, not available in English. We have therefore drawn on a broader range of studies which makes the study less

‘scientific’ than a systematic review, or even a rapid evidence assessment would aspire to be. While we recognise this is a limitation it does, however, allow for consideration of a more comprehensive range of evidence. Methodological difficulties are intrinsic to this field of study meaning that policy makers will need to take into consideration issues other than the existing evidence base.

## WHAT COUNTS AS ‘EVIDENCE’?

The review focused on research published in English, mainly from 2000 onwards, and relevant to the criminalisation of the purchase of sex. Most of the empirical evidence has been drawn from countries which have introduced this legislation, with consideration given to scoping studies carried out in countries where the introduction of legislation to criminalise the purchase of sex was being explored. Quantitative and qualitative studies were included and given the narrow focus of the review, studies of various sizes and scope were included.

Attempts to maintain a clear focus for the review meant that our attention was focused on evidence relating to the criminalisation of the purchase of sex. It has been difficult to distinguish the boundaries of evidence in this context in relation to demand for prostitution and the wider issue surrounding the trafficking of people for the purpose of sexual exploitation. Ongoing debates are evident around the relationship between prostitution and human trafficking with claims that prostitution propagates trafficking via supply and demand markets. For example, Hughes (2004: 1) claims that trafficking and prostitution should be analysed as parts of ‘an interlocking system’. Although outwith the remit of this review, there are claims that legal or decriminalised models of prostitution increase the market for commercial sex and that increasing demand also increases rates of human trafficking (Di Nicola et al, 2005; Cho et al, 2012<sup>9</sup>) but as the researchers themselves acknowledge, this evidence is tentative and difficult to extrapolate from other factors.

Proponents of legislation to criminalise the purchase of sex point to the 2000 Trafficking Protocol which calls upon Member States to adopt or strengthen measures that would ‘discourage the demand’ that fosters sexual exploitation, arguing that such legislation is a direct attempt to address the demand for prostitution and thereby sexual exploitation. The Protocol does not specifically refer to prostitution in this way however, and those who oppose criminalisation of the purchase of sex draw attention to the meaning of ‘sexual exploitation’ (questioning whether prostitution equals sexual exploitation per se). Where trafficking in humans for the purpose of sexual exploitation is referred to in the

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<sup>9</sup> Cho et al. (2012) consider the potential effects of legalised prostitution on human trafficking in terms of two potential effects: substitution effect (away from trafficking) and scale effect (increasing trafficking). Their analysis of global data indicates that scale effect dominates. They note that the clandestine nature of both prostitution and trafficking makes it difficult to obtain hard data and therefore their finding is posited as based ‘on the most reliable existing data, but needs to be subjected to future scrutiny’ (p76).

studies we have examined by way of contextualising legislation, we have referred to this; however the broader literature on human trafficking has been excluded.

Although much has been written on this topic, the number of empirical studies in this area is relatively small and gaps in knowledge remain (Skilbrei and Homstrom, 2013) thus it is important to acknowledge the limitations of the methodological approaches of the research reviewed. An overview of the research design, sampling and limitations of the empirical research reviewed is available in the Annex. There are a limited number of studies informed by empirical data collection and analysis specifically on the impacts of the criminalisation of the purchase of sex. This review is also limited to papers in English and therefore this puts a limitation on empirical evidence which can be drawn upon. There is likely to be a considerable amount of material we have been unable to access (from Sweden and Norway in particular).

Empirical evidence is largely focused on street-based prostitution and there is a universally acknowledged uncertainty about the numbers involved in indoor prostitution such as online and indoor sex work and the impacts of the criminalisation of purchase on these segments of prostitution. Wherever possible, we have included the evidence that has been produced in this area. There is an acknowledged need to take account of the shifting context of prostitution in relation to universal trends towards online and mobile phone technology. Much of the research available has been commissioned and/or undertaken by government bodies or by affiliated research with specific organisations. Different approaches to conducting research have also been taken by different researchers in order to highlight particular aspects of the debates (e.g. O'Neill et al, 2015).

Previous attempts within the UK to evaluate evidence in relation to demand have highlighted a number of challenges arising from the available data. For example, a review led by the Home Office, *Tackling Demand for Prostitution* (Home Office, 2008) aimed to assess what the government and other agencies could do to reduce the demand for prostitution in England and Wales. As part of this review, Wilcox et al. (2009) examined published research which focused on clients (predominantly men) who purchase sex. The Home Office review considered 181 studies (which met the criteria from a total of 220) from selected countries<sup>10</sup>. The review focused on the characteristics and motivations of those who procure sex, the contexts in which they procure sex, and 'what works' in tackling the demand for prostitution. The study highlighted the methodological difficulties of conducting research in this area. The authors note:

There are many gaps in the research and much of the evidence is weak or inconclusive, particularly with regard to 'what works' in reducing demand. It

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<sup>10</sup> Post 1990 English language studies conducted in Australia, Finland, the Republic of Ireland, the Netherlands, North America, Sweden and the UK.

was also noted that prostitution is a policy domain for which the 'right' answer may not be determined solely by reference to the evidence. There are moral, political and other influences that need to be considered when tackling the demand for prostitution (Wilcox et al, 2009: Key findings).

Wilcox et al. (2009) highlighted the challenges of obtaining reliable and accurate estimates of the number of people who buy sex, due to the hidden and stigmatised nature of prostitution with estimates variable due to methodological approaches. Where measures have been implemented with the aim of reducing demand, considerable methodological challenges have been identified in terms of:

- Lack of adequate comparison group;
- Small sample size;
- Lack of representativeness;
- Inadequate 'outcome' measures (i.e. which aim to ascertain the effect of a particular intervention).

Wilcox et al. (2009) also raised several points relating to the literature on studies of demand, notably that given methodological issues, many studies are based on self-selecting or otherwise biased samples; and many studies focus on the more visible street prostitution and on male clients. Similarly, Mossman (2007) noted the challenges in assessing the impact of legislative approaches as part of an international review. She highlights four key areas of methodological difficulty:

- Limited research designed to evaluate the impact of prostitution reforms;
- Variations in legal frameworks within approaches making comparison difficult;
- Validity of reports was often limited due to lack of identifying sources of information, or methodologies used;
- Conflicting results about impacts which were frequently used to support different ideological views.

Kelly et al. (2009: 62) comment on their comparative review of prostitution 'regimes':

What emerged strongly from this review is that most approaches to prostitution lack a coherent philosophical underpinning, from which specific short and longer term aims and objectives could be drawn out and evaluated. As a consequence, much discussion and debate is founded on

claims based on belief rather than a strong evidence base, or narrow assessments of selected policy goals<sup>11</sup>.

### **Reflecting broader contexts**

While evidence on prostitution generally, and demand in particular is partial due to the very nature of this stigmatized and generally less visible activity, there is often a tendency for studies to focus on the individualised nature of the sale and purchase of sex. In many ways, this can decontextualize prostitution from the wider social contexts within which it occurs (see Scoular, 2010; Coy, 2012). Socio-economic and socio-cultural factors are crucial in considering the practices of selling and buying sex, the attitudes and environment in which it takes place (i.e. the acceptability or otherwise of prostitution) and the structural factors which impact on the extent to which prostitution is viewed as a 'choice' or not. Without considering this wider context, a simple evaluation of evidence available omits structural circumstances and the resulting discourses which emerge. For example, increased numbers involved in prostitution reflected in Sweden and Norway in 2008 is noted by Rasmussen et al, (2014) as resulting directly from the onset of the global financial crisis rather than reflective of legislative models.

Similarly, evaluations of particular regimes require some reflection upon the aims and objectives that legislators hoped to achieve via their introduction. Advantages and disadvantages have been associated with different models depending on what the aspirations for these models were at the point of legislation and implementation and ultimately, political decisions determine what policy and/or legal interventions are tasked with prioritising in terms of enforcement and subsequent resourcing. In recognition of this, some researchers have drawn attention to the particular socio-economic context of Sweden and the potential challenges which may arise for attempts to transpose a legislative framework into countries where legal, social-welfare systems and cultural attitudes are different (Gould, 2001; Bucken-Knapp and Schaffer, 2011; Scoular and Carline, 2014).

The principles and values which underpin the development of legislation may be distorted in practice during implementation processes, and the enforcement of legislation is itself part of a political decision-making process determined by broader priorities and contemporary concerns. This can mean that the principles of legislation are diluted in practice while enforcement measures and resources may not meet original aspirations. Similarly, cultural practices can affect legislative regimes which are introduced in a nation state different to that where the originating impetus for a particular model emerged. Importantly, practice and enforcement may not be closely related to the principles upon which specific policy models are based due to a range of

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<sup>11</sup> Relatedly, Carson and Edwards (2011) in a discursive analysis of law and policy in Sweden and Victoria, Australia note the fewer internal contradictions within Swedish legislation as a result of its relatively clear philosophical basis.

factors such as uneven implementation and resourcing, and disparate practice through criminal justice enforcement.

These wider factors add a range of complexities to the assessment of impact and are noted by the Swedish Institute (2010) who, in their translation of selected extracts of the Swedish Government report evaluating the purchase of sexual services, note:

(...) after having read the extensive number of existing reports and studies from authorities and researchers on the subject, we realized that it would not be possible in the framework of this inquiry to produce the precise knowledge about prostitution that politicians and debaters request, but which no authorities or researchers have been able to generate in the nearly eleven years that the ban against the purchase of sexual services has been in place<sup>12</sup>.

Proposing the establishment of a national centre to support the collation and evaluation of data, the Swedish Institute (2010:12) also highlight the challenges of accessing evidence in relation to follow-up noting that “The knowledge available is difficult to grasp and, in part, difficult to assess, and is shaped by the operational focus and perspective of the agencies and organisations concerned. This makes it impossible to draw entirely reliable assessments and comparisons using the available knowledge”. Further research specifically on the longer-term effects of laws on attitudes and the effects of different types of laws in different contexts has been advocated (see also Jakobsson and Kotsadam, 2010; Skilibrei and Holstrom, 2013).

## **PROSTITUTION IN SCOTLAND: LEGAL CONTEXT**

While this review focuses on evidence relating to the criminalisation of the purchase of sex, a brief overview of the current legal and policy context in Scotland is provided to give an indication of the areas which may be affected by a different legislative approach. This should not be taken as an indication that the Scottish policy context will inevitably point to any specific intervention (such as criminalisation of the purchase of sex) but rather, to provide background and overview of current practice in terms of legislation and policy.

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<sup>12</sup> The Swedish Government evaluation was primarily based on already published material supplemented with interviews with key service representatives. The English translation of excerpts of the report (Swedish Institute, 2010) provides details of the key reports, studies and information that form the basis of the evaluation conclusions.

The settled approach to criminalisation in Scotland has been to prosecute individuals involved in prostitution (known to the police following two police warnings) for soliciting and loitering offences. The behaviour of the person offering sexual services is criminalised although until 2007, the purchaser was not subject to prosecution. In 2007 a commitment to penalise kerb-crawlers, and thus the demand for prostitution, came into force (Prohibition and Public Places Act (2007)). During the mid-1990's, legislation was introduced in relation to 'brothel-keeping' and 'immoral earnings'. This has been galvanised more recently by concerted efforts in confiscation of criminal earnings. Trafficking for the purposes of prostitution was first criminalised in the Criminal Justice (Scotland) Act 2003, section 22, however recent legislation has codified the law on all forms of human trafficking.

The Human Trafficking and Exploitation (Scotland) Act 2015, section 1 (offence), 3 (definition of exploitation) and 9 (support for victims) introduced legislation to specifically make it an offence to exploit another human being. Exploitation is defined within the Act and covers sexual exploitation. Trafficking can be within one jurisdiction and does not need to cross borders. This legislation also makes specific provision for support and assistance to victims of trafficking. The 2015 Human Trafficking and Exploitation (Scotland) Act does not set out explicit measures to tackle prostitution in Scotland. The Scottish Government has indicated that it is committed to meeting its EU and UN obligations (Scottish Government 2010 and 2015) with express commitment given to the:

- i. European Convention of Human Rights
- ii. Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence
- iii. UN Platform for Action
- iv. United Nations Convention for the Elimination of all forms of Discrimination Against Women (CEDAW)
- v. United Nations Convention on the Rights of the Child
- vi. Council of Europe Convention on Action against Trafficking
- vii. The Trafficking (or Palermo) Protocol (to suppress and punish trafficking in persons, especially women and children).

While there are clear links between human trafficking and commercial sexual exploitation (CSE), there are ongoing debates about the inclusion of prostitution per se as a form of exploitation closely linked to trafficking, although there have been suggestions from Europol representatives that trafficking in human beings, particularly of women and girls, has increased in

countries where prostitution has been legalised (see also Ekberg, 2004; Di Nicola et al, 2009; Kelly et al, 2013; Schulze et al, 2014). The most recent report by the European Parliament Women's Rights and Gender Equalities Committee reflects recent trends towards the criminalisation of the purchase of sex by calling upon EU member states to adopt the Nordic Model although this has been criticised by opponents of the approach.

Recent developments in Scotland are set out in the *Review of Prostitution in Scotland*, however in summary, following the establishment of an Expert Group which reported to the (then) Scottish Executive (Scottish Executive, 2004) and after considerable consultation, the Scottish Executive (2005) indicated that it would:

- address street prostitution within the context of an overarching approach to tackling violence against women and of building safer, stronger communities;
- issue guidance to local authorities on their powers and on how they (and other participants in Community Planning) should address street prostitution as part of the Community Planning process in order to prevent involvement in prostitution, to reduce the harm to the women involved, to assist those ready to exit and to ensure the safety of local communities;
- promote good practice in developing local responses which involve all agencies in the delivery of services;
- establish a new offence to focus on harm, offence and nuisance caused to communities from prostitution-related activities, whether by sellers or purchasers (to replace the existing offence of soliciting).

Guidance for Local Authorities and Community Planning Partnerships was issued in July 2007 (Scottish Government, 2007) providing advice and best practice examples in five key areas:

- Challenging attitudes which lead to a demand for prostitution;
- Preventing vulnerable young people from becoming involved in prostitution;
- Minimising the harm and risk encountered by women who are involved in street prostitution;
- Assisting women to leave prostitution;
- Enforcing the law, disrupting street sex markets and protecting communities affected by the presence of street prostitution.

This Guidance, which was written before the advent of a single force, Police Scotland, is referenced in the Lord Advocate's Guidelines (2012) to Chief



Constables as being the current Scottish Government approach<sup>13</sup>. The Lord Advocate sets out the demands of the public interest: enforcement against purchasers; minimising the impact on communities affected by street prostitution; and not increasing the risk to vulnerable people through displacement.

## **POLICY COMMITMENTS BY THE SCOTTISH GOVERNMENT**

Scottish Government policies which govern the broader context of prostitution include the following:

- i. Safer Lives: Changed Lives: A Strategy Approach to Tackling Violence against Women in Scotland (2009)

This report includes 'commercial sexual exploitation, including prostitution, pornography and trafficking' as forms of violence against women and symptoms of gender inequality.

- ii. Reporting on Progress Towards Equality of Opportunity for Women and Men Made by Public Authorities in Scotland: Ministerial Priorities for Gender Equality: Tackling Violence Against Women: A Review of Key Evidence and National Policies; Scottish Government (2010)

This report reiterates the Scottish Government's view of prostitution as a form of violence against women (2010: para 2.6). The report sits in part of the Scottish Government commitment to 'mainstream' gender equality, in relation to their Equality Duty.<sup>14</sup> It is part of the National Framework for Equality Work and the Equality Strategy.<sup>15</sup> The Scottish Government consider the importance of education as underpinning a change of societal attitudes in relation to violence against women more broadly. There is also a stated commitment to challenge attitudes, which inform the demand for prostitution.

- iii. Equally Safe: Scotland's Strategy for Preventing and Eradicating Violence Against Women and Girls (2014)

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<sup>13</sup> "Prostitution represents an insidious form of abuse of women and men. Those involved are not only degraded by the act itself but are exposed to a significant risk of non-consensual sexual and physical abuse" (Lord Advocate's Guidelines, 2012: para 3).

<sup>14</sup> The Equality Duty was introduced by the Equality Act 2006 and requires Scottish Ministers to set out priority areas across functions and activities relevant to Scottish public authorities. They must provide an update report every three years. This report, along with a report on occupational segregation, was produced in furtherance of this duty.

<sup>15</sup> Scottish Government (2010) para. 3.11.

Our aim is to prevent and eradicate violence against women and girls, creating a strong and flourishing Scotland where all individuals are equally safe and respected, and where women and girls live free from such abuse – and the attitudes that help perpetuate it (Scottish Government, 2014: 2).

There is a focus in this report on *prevention* of violence against women and girls. Whilst acknowledged as not being a new approach it is described as a 'step change' (Scottish Government, 2014: para 2.2). There is a new emphasis in this report on expressly including girls, which links the action commitments in the policy to recent concern over child sexual exploitation (Barnardo's 2014). This policy builds on the foundation of the 2010 report, by emphasising a link between policies on violence against women, gender inequality and education. The report notes that the Scottish Government has committed £10.3 million to frontline services for victims and that prostitution and sexual crime investigation are included in this.

*Equally Safe* is a bold, all-encompassing policy by the Scottish Government to address all forms of violence against women and girls. It makes clear that the Scottish Government considers violence against women and girls to be a symptom of gender inequality and indicates that commercial sexual exploitation; child sexual exploitation; prostitution and trafficking for sex all form part of gendered violence against women. However, this policy statement sits within a wider criminal justice context which demonstrates a number of tensions and dichotomies:

- i. The prosecution figures suggest that there are still more women prosecuted for prostitution related offences than men;
- ii. The Scottish Government consultation on legal reform, as part of *Equally Safe*, did not invite views on prostitution or the criminalisation of sex: the consultation focused on juries; domestic abuse and revenge pornography;
- iii. The 2015 Act in relation to human trafficking means that women who are recognised as victims of trafficking are treated as victims, with a presumption that they will not be prosecuted. Under the 2015 Act, the Lord Advocate published instructions which outline that adults who are victims of human trafficking or exploitation and are compelled to commit offences as a result of this will be subject to a presumption that they will not be prosecuted for those offences which they were compelled to commit.<sup>16</sup>

## **Criminalisation in Scotland**

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<sup>16</sup> The Crown Prosecution Service of England and Wales, have expressly encompassed women involved in prostitution in their policy on violence against women [www.cps.gov.uk](http://www.cps.gov.uk).

Advocates for and against the introduction of legislation to criminalise the purchase of sex do appear to agree on the problems associated with prosecution of those selling sexual services. In 2004, the Expert Group on Prostitution in Scotland (the Expert Group) concluded that the current legislation (at that time) was unfair on the grounds that it was an example of inequality. In reviewing the options, the Expert group considered that the soliciting and loitering offences should be repealed and exchanged with: “offensive behaviour or conduct arising from a prostitution related sexual transaction - whether caused by purchaser or seller.” The Scottish Government did not follow their recommendation, and instead, prioritised the ‘nuisance’ element for local communities. The Expert Group sought to address general concerns that penalties such as fines and custodial sentences have no rehabilitative function. Indeed, they can often impact on work undertaken by other agencies (see the *Review of Prostitution in Scotland* for a more detailed discussion).

Whilst the number of prosecutions of persons involved in prostitution appears to have markedly decreased, the number of prosecutions is still higher than it is for those involved in the purchase of sex. In 2012-13, 127 charges were made under the Civic Government (Scotland) Act 1982 for loitering for the purposes of prostitution and 27 for soliciting; while 65 charges were prosecuted under the Prostitution (Public Places) (Scotland) Act for soliciting for the purposes of obtaining the services of a prostitute and 48 for loitering for the same purpose.<sup>17</sup>

There are obvious tensions which characterise prostitution policy in relation to those involved in street prostitution, predominantly women, where their vulnerability is often highlighted yet who remain subject to ongoing criminalisation – despite the fact that all the evidence highlights that a criminal record is a formidable barrier to finding employment and a way out of prostitution. Hester and Westmarland (2004) note the importance of community liaison and support for individuals involved in prostitution where police enforcement is being implemented. Carline and Scoular’s (2015) analysis of the Engagement and Support Orders introduced in England and Wales highlight the underpinning problems of the ‘enforcement plus support’ model. Sanders (2007) also challenges the notion of ‘compulsory rehabilitation’ and current developments to manage street prostitution via emphasis on exiting, implemented through anti-social behaviour legislation mechanisms; a practice she refers to as ‘public patriarchy’ (2009).

Many respondents to various consultations on either the criminalisation of the purchase of sex and/or proposals for decriminalisation have clearly noted that they did not believe that individuals involved in prostitution should be criminalised. Sanders (2007) notes that leaving prostitution is hampered by

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<sup>17</sup> Available figures are for the time period 2003-2013: see Freedom of Information Request published 01 July 2014 available at <http://www.crownoffice.gov.uk/foi/responses-we-have-made-to-foi-requests/41-responses2013/472-prosecutions-prostitution>.

potentially increasing rates of imprisonment for women. Smith (2014) notes the gender bias in enforcement of legislation in Canada, citing figures for a five year period (2007-2012) she notes that men charged with prostitution offences were convicted 19% of the time, while women were convicted 60% of the time (p5).

The All-Party Parliamentary Group (2014) recommended removing soliciting offences that target women involved in prostitution from statute in England and Wales, dealing with persistent anti-social behaviour (ASB) under ASB legislation and diverting women from the criminal justice system wherever possible while increasing penalties for those controlling individuals in prostitution and at the same time, reviewing the law to prevent the prosecution of individuals independently selling sex on the same premises for the purpose of their safety. Their Report noted the contradictions in current legislation which 'Normalises the acceptability of purchasing sexual services while stigmatising and penalising those providing sexual services' (p8). The move towards decriminalisation of sellers of sex is recommended in the European Parliament Resolution of 26 February 2014 on sexual exploitation and prostitution and its impact on gender equality (2013/2103(INI)) (see European Commission, 2016).

### **Consideration of evidence relating to demand (Scotland)**

While the number of individuals involved in prostitution is relatively unknown, the demand for prostitution is potentially unknowable. Recent figures on the purchase of sex were obtained by Fuller et al. (2015). Their study *Natsal-3*, estimated that 4% of men in Scotland have paid for sex. The figure for women was 0%. Although the sample used was fairly small (508 men and 643 women) the study used a random probability sample and is deemed generally representative.

Evidence from a review of relevant research for the Home Office Review on tackling the demand for prostitution suggests that the arrest of the purchaser may be the single biggest deterrent to buying sex (see Wilcox et al, 2009<sup>18</sup>). In Scotland, a study carried out by the Women's Support Project (2008) indicated that based on interviews with 110 men (80% of whom had bought sex indoors, while 56% had bought sex outdoors), the five key deterrents to purchase of sex were: being added to the sex offender register (89%); spending time in jail (79%); increased criminal penalties (72%); having their car impounded (70%) and higher fines (69%) (see also Farley et al., 2011). Although this was an exploratory study, it was strongly criticised by a number of academics, 18 of whom produced *A Commentary on 'Challenging Men's Demand for Prostitution in Scotland'* collectively arguing that the study did not

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<sup>18</sup> While a number of studies have been conducted on the purchasers of sexual services, this is discussed here in relation to potential deterrent impacts. A number of problems (methodological and ethical) have been associated with such studies – they are referred to here by way of context rather than as central to the evidence review.

meet standards of academic rigour, nor was it grounded in empirical research ethics (see Sanders et al, 2008).

The Women's Support Project study (Women's Support Project, 2008; Farley et al., 2011) did, however, reflect findings from other studies, for example. Farley et al. (2009) who interviewed 103 men in London who had bought sex, finding along with McKeganey and Barnard (1996); Coy, Horvath and Kelly (2007 and 2012) that biological imperative or basic rights as consumers appeared to be at the root of the reasons given for purchasing sex. Jabbar (2014) in a study which involved interviews with 55 men in Lebanon who indicated they had bought sexual acts at least once also suggested that a prison sentence or exposure to wife/partner/family would deter 69% of respondents from purchasing sex<sup>19</sup>. Suggestions that occasional buyers are more likely to respond to legal measures have been noted (Yen, 2008).

Matthews and Easton (2010) note that in recent years there has been a greater focus on male clients as culpable, while women are increasingly viewed as vulnerable and in need of support rather than punishment (e.g. high numbers of problematic drug users, estimates that between 25-50% of women in street prostitution are homeless). Alongside this, research on male clients suggests that demand for prostitution is often opportunistic and that most male clients would be deterred by relatively low level sanctions.

## **CRIMINALISING THE PURCHASE OF SEX: INTERNATIONAL CONTEXT**

Increasing attention has been focused upon the demand for prostitution, both in the UK and internationally (Harcourt and Donovan, 2004; Brooks et al, 2014) although as Kelly et al. (2014) note, the most common position reported across the European Union is that those who pay for sex are rarely addressed in law. In a minority of countries the purchase of sex is always illegal and in a slightly higher number of countries, it is criminalised in certain locations or circumstances (see also Sanders and Campbell, 2014). The relationship between prostitution, commercial sexual exploitation and human trafficking has recently been highlighted (Ekberg, 2004; Di Nicola et al, 2009; Kelly et al, 2013; Schulze et al, 2014) with a number of studies suggesting a relationship between levels of human trafficking and models of prostitution (e.g. levels were higher in countries where prostitution was decriminalised-see Kelly et al, 2013 although this relationship has also been disputed (Weitzer, 2010) and existing evidence bases are problematic.

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<sup>19</sup> This study is based on a small number of respondents accessed via Snowball and Respondent Driven sampling and limited by only 4 available options to the question on deterrence. Other responses available to respondents were: payment of fine, public exposure (both responses were selected by 49% of respondents).

Calls for the abolition of prostitution as a way to address human trafficking have been supported with reference to Human Rights obligations and international treaties (e.g. 1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others; European Parliament resolution on *Prostitution and Sexual Exploitation and its impact on gender equality*, 2014<sup>20</sup>). At the same time, criticisms of approaches which aim to tackle the demand for prostitution have been challenged by claims that harm-reduction approaches are more effective in securing human rights and complying with international law (e.g. World Health Organisation, 2004; Global Alliance Against Traffic in Women, 2011; UNAIDS Advisory Group, 2012).

Debates surrounding the legal context of prostitution have tended to polarise between two ideologically-driven policy positions – one where prostitution is ‘managed’ i.e. the ‘regulationist’ approach adopted in the Netherlands, which claims sex work is a ‘profession’, which should be removed from criminal justice and where men who buy sex are ‘purchasers’. The other approach is prohibitionist/abolitionist (or neo-abolitionist) for example, Sweden. In practice, most models are hybrid to some degree (Bindel and Kelly, 2003; Kelly et al., 2014; Barnett and Casavant, 2014).

For many countries prostitution is also a social and economic issue requiring public policy and other social intervention measures to address the needs of those involved in prostitution and their communities. Furthermore, there are overlaps between positions; notably in relation to the rights and/or protection of individuals (predominantly women) involved in prostitution. Where countries have criminalised the purchase of sex, as St Denny notes, (2014) the underlying policy bases for doing so have differed. Norway introduced similar legislation to Sweden in 2009, criminalising the purchase of sex, and extending this legislation to Norwegian citizens who are prohibited from purchasing sex abroad. According to Rasmussen et al. (2014) the main impetus for criminalising the purchase of sex in Norway in 2009 was to prevent and reduce human trafficking. In Norway, the introduction of legislation was aimed at changing attitudes, reducing the size of the Norwegian sex market by constraining supply and demand and taking a preventative approach to entry to prostitution (Rasmussen et al, 2014).

Iceland introduced legislation which criminalised the purchase of sex in 2009, although until 2007 Iceland had also criminalised the exchange of sexual services for money. Canada followed in 2014 and Northern Ireland in 2015, while France introduced legislation to criminalise the purchase of sex in

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<sup>20</sup> To which 86 academics and researchers responded, writing to Members of the European Parliament to voice their concerns about the report on the basis of inaccuracies and misrepresentations which they claimed meant that the report was an inadequate basis on which to hold a vote in the European Parliament. 79 academics and researchers wrote in support of the resolution: [http://www.troubleandstrife.org/wp-content/uploads/Honeyball\\_support\\_letter\\_FINAL.pdf](http://www.troubleandstrife.org/wp-content/uploads/Honeyball_support_letter_FINAL.pdf)

2016<sup>21</sup>. In Finland, a partial sex purchase ban was enacted in 2006 which prohibits the purchasing of sex from a victim of human trafficking or procuring (Niemi and Aaltonen, 2014). The Finnish Public Order Act 2003 also prohibits the purchasing of sexual services or offering sexual services against payment in a public place. In Finland and Northern Ireland, concerns about the relationship between prostitution and human trafficking for the purpose of commercial sexual exploitation, prompted legislative developments – setting attempts to meet United Nations and Council of Europe conventions and the European Union Directive to address demand. All Nordic countries have criminalised human trafficking for the purpose of sexual exploitation in line with international law (notably the Trafficking Protocol), although Denmark, for example, has a more liberal approach to prostitution.

Sweden was the first country to decriminalise the sale of sex while criminalising the purchase of sex. Emerging from concerns surrounding gender equality and taken forward by feminist activists, commissions on prostitution and also on violence against women took place during the 1990s. In Sweden, prostitution was viewed as being in direct contradiction to gender equality with the origins of the Sex Purchase Act 1999 rooted in gender equality (SOU, 2010). Laid out in the 1998 Government Bill on Violence against Women, *Kvinnofrid*, (Women's Peace/Peace for Women), selling sex was decriminalised while a welfare-oriented approach was emphasised with the intention of supporting women to exit prostitution. Central to this Bill was violence against women and the Bill proposed a variety of measures, in different social sectors, to 'combat violence against women, prostitution and sexual harassment in working life' (SOU, 2010, p. 30). The ban on the purchase of sex was introduced as a separate law (introduced in 1999) and transferred to the Penal Code (2005) after minor amendments. Those apprehended for purchasing sex are typically fined and face a maximum penalty of imprisonment, raised from six months to one year in 2011 (Florin, 2012).

Since the introduction of the 1999 legislation, which prohibited purchasing sexual services, pimping, procuring and operating a brothel, with purchasers criminalised under the Swedish Penal Code 2005, additional developments have been put in place. In 2011 amendments to the 1999 Act included an increase in the maximum sentence from six months to one year in prison; a 2013 amendment to the 1999 Act allowing prosecution in Sweden of someone, resident in Sweden, who purchases a sexual act from a child less than 18 years of age in a country where this conduct is not prohibited; and in 2014, a government commitment was made to criminalise the purchase of sexual services outside Sweden by a Swedish resident (see Ekberg, 2015).

The legislation also allows for individuals involved in prostitution to exit through outreach programmes (Niemi, 2010 cited in Aronowitz, 2014) in some contrast to other countries which adopt a harm-reduction approach; and the

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<sup>21</sup> Debates and consultations are ongoing in a number of other countries.

introduction of the law was accompanied by a campaign to target potential purchasers (Ekberg, 2004; Florin, 2012). The legislation was promoted at high-profile events through a nationwide poster campaign aimed at raising public awareness of prostitution and trafficking with a focus on the purchasers of sex. According to a study of the poster campaign by a media analysis company (Clear Channel, 2002 cited in Ekberg, 2004: 14) the campaign was noticed by more than one million people. The Government Bill mandated the National Board of Health and Welfare (NBHW) to monitor the extent and nature of changes in prostitution in Sweden publishing three reports (*Prostitution in Sweden 1998-1999, 2003 and 2007*) discussed further below.

## IMPACTS OF THE CRIMINALISATION OF THE PURCHASE SEX

The impacts of the criminalisation of the purchase of sex will be explored examining empirical evidence specifically focusing on the following issues: estimated numbers involved in prostitution (selling sex)<sup>22</sup>; attitudinal change; application of the law; demand for the purchase of sex; impacts on individuals involved in prostitution; uptake of services to exit prostitution.

### **Estimated numbers involved in prostitution<sup>23</sup>**

It is difficult to establish a complete picture of the numbers involved in prostitution as there are several methodological challenges to estimating accurate numbers involved in the sale of sexual services (Mujaj and Netscher, 2015). Holmström and Skilbrei (2008) note the complicating factors associated with increases in the number of foreign women involved in prostitution; cases of human trafficking for the purposes of commercial sexual exploitation and increasing online opportunities, which make it difficult to monitor the scope of prostitution. Internationally, most attention and estimates of numbers involved in prostitution focus on street-based prostitution. This means that potentially the largest forums for the sale of sex are overlooked, and also results in the circumstances of individuals involved in street-based prostitution being expanded to discussions of prostitution more generally.

According to SOU (2010) prostitution units in Stockholm and Gothenburg estimated that 50% of women engaged in street prostitution were foreign nationals. Estimates of the prevalence of street prostitution and online prostitution are available with data on indoor prostitution (in hotels etc) more difficult to estimate (Mujaj and Netscher, 2015). Despite these limitations,

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<sup>22</sup> Generally referred to as prevalence in relevant literature.

<sup>23</sup> As noted above, terminology is problematic here – while this could also be seen to include third parties involved in selling sex (pimps, brothel owners etc) it is used here to refer to individuals who sell sexual services.



available evidence indicates that there has been a downward trend in street prostitution in Sweden since the 1970s.

The National Board of Health and Welfare in Sweden conducted three surveys on the impact of criminalisation of the purchase of sex focused on the perspectives of state authorities in 2000, 2003 and 2007 (Socialstyrelsen, 2004, 2008). For the third report, surveys were distributed to all police authorities in Sweden and to a sample of Swedish municipalities and to youth clinics (Socialstyrelsen, 2008). Follow-up questions were addressed to 25 municipalities and 12 police authorities that had knowledge of prostitution in their area. Responses to the follow-up questions by these authorities suggested that there had been an initial reduction in prostitution with no obvious increases up to 2006; although it was noted that prostitution arranged by phone and online had become more common. Interviews with representatives from public authorities and non-government organisations (NGOs) suggest that initially after the Act, street-based prostitution had almost disappeared and then later returned but to a significantly lesser extent (Socialstyrelsen, 2008).

In 2014, a study was commissioned to analyse the spread, extent and forms of prostitution in Sweden (Mujaj and Netscher, 2015). The study involved a scoping survey gathering old and new knowledge on prevalence of both street and online prostitution from a range of stakeholders. Mujaj and Netscher (2015, p. 16) note that as figures are from different sources this should be borne in mind when comparing changes over time. They state: “The estimates from 2010 and onward indicate that street prostitution is relatively constant, but the basis of these findings contain many uncertainty factors since the figures from the Prostitution Units for 2010–2014 cannot be compared with previous surveys”. Taking such statistical considerations into account, Mujaj and Netscher (2015) provide figures (Table 1) which indicate that estimated street prostitution has halved in Sweden since 1995.

Table 1: Estimated number of individuals engaged in street prostitution.

Year	Number of individuals
1995	650 women (SOU, 1995)
1998/99	The introduction of the Act prohibiting the Purchase of Sexual Services meant that prostitution more or less vanished completely from the streets (National Board of Health and Welfare, 2000)
2008	300–430 women (SOU 2010:49) <sup>24</sup> .

<sup>24</sup> Rasmussen et al (2014) note an international increase in numbers involved in prostitution in 2008 which they attribute to the onset of the global financial crisis.

2010	200 women (contacts with the Prostitution Units).
2011-2014	200–250 women yearly (contacts with the Prostitution Units).

(Mujaj and Netscher, 2015, p. 16)

Holmstrom and Skilbrei (2008) who provided estimates of 300 women in street prostitution, and 300 women and 50 men who advertise on the internet note, it is primarily social workers who are responsible for evaluating the circumstances of the prostitution market hence most of the focus is on prostitution encountered in three of Sweden's largest cities through encounters with individuals working on the streets, or who access counselling and therapy via social work services. Holmström draws together sources from the National Board of Health and Welfare (Socialstyrelsen) and the national Criminal Investigation Department, responsible for monitoring developments in human trafficking, to assess the figures cited above<sup>25</sup>.

Evidence from Sweden (Swedish Institute, 2010: 7)<sup>26</sup> drawing upon available data on the scale and prevalence of street prostitution indicates that street prostitution has been reduced by half since the introduction of the ban on the purchase of sexual services while in Norway and Denmark, numbers increased dramatically over the same period. Comparing the figures to Denmark where sex purchase is legal and where the population is 5.6 million compared to Sweden's 9.4 million, Holmström and Skilbrei (2008) suggest the numbers involved in prostitution in Sweden are one-tenth of that in Denmark. Holmström and Skilbrei (2008) note that it is difficult to know the extent to which successive declines in street prostitution in Sweden can be attributed to the legislation and how much to developments in communication methods such as increases in internet use. However they do note that the prostitution market has changed with increasing differentiation in practice. Writing in 2013, Skilbrei and Holmström note that the more dispersed nature of the Swedish prostitution market makes it more difficult to estimate.

Dodillet and Östergren, who are critical of the criminalisation of the purchase of sex<sup>27</sup>, (2011, p. 9) state that some authorities (citing the Swedish National Council for Crime Prevention, 2008) claim that the 'fluctuation (and therefore any claimed decrease)' of street prostitution may be a consequence of police surveillance and enforcement i.e. police priorities and practices rather than the legislation itself. However, it is likely that police priorities are influenced, if not determined, by the law. Indeed Levy (2015) notes that the Swedish model is

<sup>25</sup> Waltman (2011a and 2011b) cites these figures and others from the SOU (2010) report, leading Skilbrei and Holmstrom (2013) to note that while they support his position, his uncritical acceptance of official figures may benefit from further questioning.

<sup>26</sup> Providing English extracts from the official report SOU, 2010).

<sup>27</sup> Ostergren in particular, has been criticised for her methodological approach (see Waltman, 2011).

not homogenous, with variability in how it is interpreted, enforced and resisted in policy and practice among stakeholders and across Sweden<sup>28</sup>.

Taking limitations of the available evidence into account, there does appear to be sufficient evidence to indicate that street prostitution in Sweden has declined following the introduction of legislation, with some evidence to suggest that the number of individuals involved in prostitution overall has also reduced (Joe-Cannon, 2006; Ekberg, 2004; Clausen, 2007). Taking into account limitations of data collection, Kelly et al. (2009) in a comparative analysis of nine 'prostitution regimes'<sup>29</sup> indicate that Sweden appears to have the smallest number of women selling sex, even taking population into account (see also Jakobsson and Kotsdam, 2013).

Counter-claims that prostitution has gone underground or escort agencies and brothels have increased (Moffatt, 2005) have been put forward, although it is acknowledged that this data is hard to substantiate and may be reflective of developments internationally (in Wilcox et al, 2009). It has also been suggested that displacement to Denmark has occurred although actual evidence for this is tentative and it has been argued, supports claims that criminalising has an effect of reducing street prostitution at least, within nation states, where the legislation is imposed.

In a summary report of the evaluation of the 2009 Norwegian legislation, commissioned by the Norwegian Ministry of Justice and Public Security, it is stated that despite data limitations<sup>30</sup>, there is a clear downward trend in prostitution since the law to criminalise the purchase of sex was introduced in Norway (Rasmussen et al., 2014)<sup>31</sup>. The biggest decrease has been in the Oslo street prostitution market where, based on systematic field observations, the market has stabilised at 40-65% of the market before the law. An estimate of the fall in the indoor market of 10-20% compared to before the law is also provided although with a higher degree of data uncertainty (Rasmussen et al., 2014).

### **Online prostitution**

SOU (2010) concluded that street prostitution had decreased by half since the Act was introduced and that there were no indications that the decrease in

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<sup>28</sup> This is reflected elsewhere (for example in Scotland) where local priorities can determine the implementation and enforcement of legislative priorities.

<sup>29</sup> Australia, Finland, Germany, Ireland, Netherlands, New Zealand, Spain, South Africa, Sweden.

<sup>30</sup> For example, Rasmussen et al (2014) note that timing of observations may be a potential source of error, however even when this is taken into account, the same trends are evident.

<sup>31</sup> This report was commissioned by the Norwegian Ministry of Justice and Public Security in 2013 to evaluate the legislation. We have accessed the English summary and are unable to consider the detailed information contained in the main report.

street prostitution had led to an increase in online prostitution.<sup>32</sup> However, wider literature identifies a large international increase in the on-line promotion of sexual services (Danna, 2012; Huschke et al., 2014). Dodillet and Östergren (2011) write that access to information on internet advertisements by sex workers is limited. They cite the Malmo Prostitution Knowledge Centre, which measures internet advertising on a regular basis, and which claims that as a result of changing technology, less visible or indoor prostitution makes up four-fifths of overall prostitution prevalence compared to two-thirds prior to the ban. The figure provided by Dodillet and Östergren is based on secondary data and, it could be argued, reflects international shifts from street to indoor prostitution more generally. Dodillet and Östergren (2011) note that it is difficult to know whether displacement has occurred since the Sex Purchase Act in Sweden but that less visible indoor prostitution appears to have increased (as also found by Levy, 2015). As noted above, this seems to reflect developments internationally with an increase in indoor selling of sex and changes associated with technological developments.

In a survey of online advertisements carried out in Sweden over a ten week period in 2014, 6,965 adverts were posted (Mujaj and Netscher, 2015) although the authors note several limitations to this survey including that there may be duplication of adverts. This compares with 304 online adverts in a similar survey conducted in 2006. Mujaj and Netscher (2015) note that this does not necessarily indicate an increase in the number of individuals involved in prostitution; rather that the use of online advertisements has increased. This point is also made by Fredlund et al. (2013) in relation to their study of young people and the sale of sex using a comparison of data between 2004 and 2009 in Sweden<sup>33</sup>. Fredlund et al. (2013) question whether the changes noted are the result of differences in the young people who report ever selling sex or whether it is the consequence of a change in society; for example, the internet has become the most common source for selling sex. For Mujaj and Netscher (2015), the sale of sex via the internet has increased more generally.

### **Change in Attitudes**

In the debates and discussions which preceded the introduction of the legislation in Sweden, it was argued by those supportive of the legislation that the most important impact of the law would be on public opinion and attitudes towards prostitution (Kuosmanen, 2010; Wong, 2014). Ekberg (2004: 18

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<sup>32</sup> Although, this evaluation has been criticised by organisations including the Ombudsman for Discrimination, the National Board of Health and Welfare, and the Swedish Agency for Public Management (SOU, 2010; Dodillet and Östergren, 2011; Jordan, 2012).

<sup>33</sup> Fredlund et al. (2013) compared their survey results with a similar survey conducted by Svedin and Priebe's (2007) in 2004. Fredlund et al. used a modified version of the survey conducted by Svedin and Priebe. Based on a representative sample of 3,498 young people, they suggest a significant shift (among those young people who reported ever having sold sexual services) (n=51) to contacting 'buyers' via the internet (57% of those young people who reported ever having sold sex in 2009 had made contact with the 'buyer' over the internet compared to 17% in 2004). Numbers involved are small.

*updated paper*), noting the low number of arrests and convictions of men in Sweden, points out that: “It is important to remember that the main purpose of the Law is normative” and therefore has a preventative element.

Sweden’s policy making has traditionally been based upon consensual and communal policy making and of introducing legislation with a normative intention i.e. where the laws are expected to support the development of new norms which will eventually result in behaviour change. Sweden claims that through the implementation of this legislation, the UN Trafficking Protocol on demand has been addressed. The 2008 Government Communication which presented an action plan against prostitution and human trafficking for sexual purposes emphasised the importance of demand, namely the purchase of sex, and underlined the link between prostitution and human trafficking for sexual purposes.

The introduction of the law criminalising the purchase of sex in Sweden was preceded by public and political debates<sup>34</sup>, which no doubt raised awareness of broader issues associated with prostitution and its introduction was accompanied by a campaign to target clients (Ekberg, 2004). Identified funds were allocated to police enforcement.

In terms of public perceptions, Kuosmanen (2010) examined the attitudes of the general public in Sweden to the Sex Purchase Act exploring whether attitudes had been affected by the law. Comparing a survey on public attitudes prior to the Sex Purchase Act (Mansson, 1996) with a survey after the Sex Purchase Act (SIFO, 1999) in Sweden reveals that initially after the Act, there was greater support for prohibition of both the sale and buying of sex than before the Act (cited in Kuosmanen, 2010.) As Waltman (2011a) notes: “In 1996 a survey study showed that only 45% of women in Sweden and 20% of men wanted to criminalise a male sex purchaser. In 1999 81% of women and 70% of men wanted to criminalise the purchase of sex”.

In Kuosmanen’s (2010) report of the survey conducted in 2008, participants were asked: ‘should we retain the law prohibiting the purchase of sex?’ Overall, 71% were in favour of retaining the law whilst 18% were not. There were clear gender differences in attitudes with 79% of women being in favour of retaining the law in comparison to 60% of men. Comparing this to a similar question asked in a survey conducted in 2002<sup>35</sup>, which found that 76% of respondents believed that it should be illegal to buy sex in Sweden (SIFO, 2002<sup>36</sup> cited in Kuosmanen, 2010). As Waltman (2011a) notes, these two surveys cannot be seen as comparable in the phrasing of this question. The

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<sup>34</sup> Ekberg (2004) notes that the National Organization for Women’s Shelters and Young Women’s Shelters in Sweden made calls for the criminalisation of men who purchase sex part of their yearly Plan of Action in 1987.

<sup>35</sup> In the 2002 survey, it was asked whether it should be illegal to buy sex whereas in the 2010 survey it was asked ‘should we retain the law prohibiting the purchase of sex?’

<sup>36</sup> Conducted by a research organisation and commissioned by the tabloid press this survey involved telephone interviews with 1000 individuals.

2008 survey also asked: 'should the sale of sex be prohibited by the law?' Nearly 60% of respondents believed that the sale of sex should be prohibited by law. Again, there were clear gender differences with 49% of men in comparison to 66% of women in favour of prohibiting the sale of sex. Although figures relating to the experience of purchasing of sex amongst survey respondents were very small (n=35) of those, 11 respondents (10 men and one woman) indicated that the legislation had affected their purchase of sex (five indicating they had stopped buying sex as a result of the new law and two indicating they had reduced the frequency of purchase).

As the Swedish Institute (2010) highlights, in each of the three surveys conducted since the purchase of sex was criminalised, more than 70% of respondents viewed the legislation positively although it may be that earlier figures (from the 1996 survey) can be called into question (Wong, 2014). Nevertheless, the subsequent studies indicate a high degree of acceptance of the criminal prohibition of the purchase of sexual service.

Comparing the attitudes of Norway and Sweden, a longitudinal comparative study, using a difference-in-differences methodology<sup>37</sup>, aimed to explore the effect of the Norwegian criminalisation of the purchase of sex in 2009 on attitudes towards prostitution (Jakobsson and Kotsadam, 2010). Jakobsson and Kotsadam (2010) hypothesised that the criminalisation of buying sex in Norway would affect attitudes towards prostitution, that there would be a greater effect of the law on younger people and people living in greater proximity to prostitution in Oslo, and, that people who trust politicians are more inclined to change their attitudes in accordance with a legal change. Jakobsson and Kotsadam (2010) posit that a focus on specific groups of young people and Oslo residents enabled them to investigate the role of context in law reform.

Jakobsson and Kotsdam's (2010) internet survey was conducted with a random sample of the public, aged 15-65, over two sweeps in August 2008 and August 2009 in Norway and Sweden.<sup>38</sup> Using a control group, the premise was to compare the changes in attitudes among individuals in a country where there has been a change in the law (Norway) to the changes in attitudes among individuals in a similar country without such a change during the period (Sweden). They note variations in attitudes towards criminalisation of buying sex. In Oslo, changes in attitudes were evident and Jakobsson and Kotsadam (2010) suggest that this might be due to prostitution being more visible in Oslo and the effects of increased proximity. Also, younger people were more likely to change their position toward thinking that buying sex should be illegal than older people. However, the authors noted that the study was unable to distinguish between any 'direct' effect of the law and the effect

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<sup>37</sup> This considers the average difference over time in attitudes between Sweden and Norway.

<sup>38</sup> Buying sex became a criminal offence in January 2009 in Norway so the survey collects data on attitudes before and after the law.

attained via the media debate, which started before the first wave of the survey, although this was related to the legal reform. The appropriateness of Sweden as a control group was also questioned given the introduction of similar legislation ten years previously.

Findings from the Gender Equality Barometer in Finland<sup>39</sup>, a survey of public attitudes, experiences and opinions relating to gender equality, show that one in three women and two in three men approve of men and women buying sex from an individual involved in prostitution (Finish Ministry of Social Affairs and Health, 2013). However, the law in Finland differs significantly from the Swedish model and is unlikely to have the same normative effect. Specifically examining the impact of the partial criminalisation of purchase legislation in Finland, which prohibits the purchasing of sex from a victim of human trafficking or procuring, on attitudes towards the purchase of sex, the survey findings suggest that there has been consistency in attitudes after the law was introduced across the majority of the sample. For example, of those who had indicated that, before the enactment of the legislation, they had neutral opinions about men who purchase sex, the majority (89%) maintained neutral views after the law. However, of those who held negative opinions about men who purchase sex prior to the law, just over two thirds maintained their views whilst a third became more negative. In interviews with experts from various units of the police, the prosecution service, the Border Guard, the social services and NGOs, the partial criminalisation of purchase prohibiting the purchasing of sex from a victim of human trafficking or procuring in Finland, was not thought to have had an obvious normative effect on behaviour or attitudes (Niemi and Aaltonen, 2014)<sup>40</sup>.

Alongside ongoing support for the criminalisation of the purchase of sex legislation however, as noted above (p32), there also appears to have been an increase in the proportion of respondents who would like to see the sellers of sexual services/individuals involved in prostitution penalised in Sweden and Norway (Rasmussen et al., 2014; Amnesty International, 2016).

### **Impacts on Demand**

The overall picture appears to be one of continued, but decreased demand for prostitution in countries where the purchase of sex has been criminalised. The Swedish Institute (2010) indicates that men state they are less likely to purchase sex in Sweden as a result of the legislation although noting that the number of prosecutions under the legislation is largely dependent on the priorities set by the police and the resources they have available. In Finland, where the purchase of sexual services or offering sexual services against payment is prohibited in a public place and where a partial sex purchase ban

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<sup>39</sup> Finland has criminalised clients of trafficking victims; however, not knowing that the person was trafficked can be a defence.

<sup>40</sup> It is clearly a challenge to evidence 'normative' impact (see Scoular, 2015 for further discussion).

was enacted in 2006 prohibiting the purchasing of sex from a victim of human trafficking or procuring (Niemi and Aaltonen, 2014), a survey conducted in 2007 found that purchasing of sex had slightly decreased among young men but had dropped by as much as half among middle-aged men since 1999 (2007 Finsex survey cited in Niemi and Aaltonen, 2014).

The deterrent effect of the law may be anticipated, but is difficult to evidence empirically.

Professionals working with clients in the Swedish context who participated in a study conducted by Levy (2015) who is critical of the legislation, reported that clients do not tend to cite the law as being the reason why they have attended services to access support and notes there is limited evidence as to how the Swedish Sex Purchase Act may have impacted on clients' attitudes towards purchasing sex. Based on their review of research and reports on the criminalisation of the purchase of sex, Dodillet and Östergren (2011) write that some clients were not particularly concerned about the prospect of detection.

Prior to the criminalisation of the purchase of sex in Northern Ireland (NI), a multi-method study including an online survey and face to face interviews with sex workers and clients as well as phone interviews with nine representatives across NI councils, was conducted to explore the potential impacts of the criminalisation of the purchase of sex (Huschke et al., 2014). A key finding from the survey was that more than one third of Northern Ireland-based clients did not know what the legal context of prostitution was. From face-to-face interviews with clients (N = 10), none had established the legal status of prostitution before paying for sex<sup>41</sup>.

Mujaj and Netscher (2015) compared population-based surveys to specifically explore the purchase of sexual services in Sweden (i.e. whether men had bought sex during the past 12 months, rather than whether sex had ever been purchased), in order to measure how many people were 'active' buyers. In 2014, approximately 0.8 percent of the men surveyed had bought sexual services during the past year (Mujaj and Netscher, 2015). This compared with 1.2 percent of the men surveyed in 2011; 1.8 percent in 2008; and, 1.3 percent in 1996 (Mansson, 1998; Kuosmanen, 2008; Priebe and Svedin, 2010 cited in Mujaj and Netscher, 2015).

Supporting the evidence of a reduction in the purchase of sex provided by Mujaj and Netscher (2015), the Nordic Gender Institute (2008) (cited in Claude, 2010: 15) also claim that the number of sex buyers in Sweden has

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<sup>41</sup> Buyers of sexual services were asked what they would do if 'paying for sex was a crime'. Only 16% of respondents said they would stop paying for sex altogether (and 20% of respondents from Northern Ireland) whilst the majority response (If I was in a relationship) was selected by 35% of respondents (33% of Northern Ireland respondents). Other responses included: 'If I could have sex without paying for it' (27%) 'If my partner found out and wanted me to stop' (19%) 'If I could express my sexuality/sexual preferences without paying for it' (14%) 'If there was less stigma around my sexual preferences' (5%) and 'none of the above' (12%).



declined since the introduction of the sex purchase law. A poll, taken to determine whether the law had influenced individual patterns of behaviour, compared results with those of a similar poll taken in 1996. The findings revealed that the number of male sex buyers in these studies had decreased from 13.6 percent to 7.9 percent, where each poll questioned 2,500 individuals between 18 and 74 years of age<sup>42</sup>.

Wilcox et al. (2009) highlighted studies which showed that men are more likely to buy sex when they are abroad than at home. Similarly, Kuosmanen's (2010) survey research on public attitudes of men who said they had purchased sex (based on a small sub-sample of 41 men), noted that 71% reported that their most recent purchase of sex took place abroad. Studies in Finland, which has partially criminalised the purchase of sex, have similarly found that sex is primarily purchased abroad (Lammi-Taskula, 1999 and Marttila, 2008 cited in Kuosmanen, 2010). Kuosmanen (2010: 258) concludes that the context in which sex is purchased is "substantially dependent both on the domestic market and the extent to which it is regulated by legislation and other norms in the area".

Kulick (2003 cited in Levy, 2015) provides some evidence of sex workers using the legislation to blackmail or extort money from clients, who are unlikely to contact the police given that the purchase of sex is prohibited, however this appears to be an issue which happens in prostitution generally as clients may be broadly reluctant to contact the police and to disclose their purchase of sex (also noted by the Norwegian Ministry of Justice and Police Affairs (2004)).

Ekberg (2004), the Norwegian Ministry of Justice and Police Affairs (2004) and Waltman (2011a and b) note the considerable emphasis that is placed on reducing exploitation and addressing those who exploit and profit from the sale of sex as third parties. SOU (2010) claims that the law has limited the growth of the sex market and subsequently, the involvement of organised criminals in prostitution in Sweden.

Jakobsson and Kotsdam (2013) using data on 46 European countries from UNODC and the International Labour Organisation (ILO), while noting the limitations of available data, draw a positive correlation between prostitution legislation and rates of trafficking, with restrictive legislation associated with lower rates of human trafficking.<sup>43</sup> Although outwith the remit of this review and heavily caveated, other data appears to support this claim, for example Cho et al. (2013).<sup>44</sup>

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<sup>42</sup> We have been unable to access the original report by the Nordic Gender Institute.

<sup>43</sup> Some of the data can be challenged where trafficking for labour and that for sexual exploitation are not sufficiently distinct.

<sup>44</sup> Cho et al. (2013) investigated the impact of legalised prostitution on trafficking flows from 150 countries and despite the limitations of the data, which they acknowledge and outline in their paper, conclude that: countries where prostitution is legalised report a larger incidence of trafficking flows; and that legalised prostitution results in increased demand.

## **Application and enforcement of the law**

Danna (2012) notes that while no special funds were allocated to social services alongside the introduction of legislation to criminalise the purchase of sex, significant additional funds were assigned to the police to address human trafficking and to respond to prostitution in public spaces and on-line advertising on the internet. Given that both human trafficking and prostitution are typically low in terms of 'reported' crimes, the subsequent emphasis on surveillance that is required to enforce the legislation is important. Police efforts to combat human trafficking also involve responding to prostitution (Claude, 2010), leading to claims that the sex purchase legislation thus has a deterrent effect on human traffickers (see also Ekberg, 2015).

The Swedish Institute (2010) notes that following some initial uncertainty, police officers and prosecutors now consider that the provisions of the law are working effectively, with offences of sexual purchase relatively easy to investigate and to process, although attempted purchase is more difficult to prove. In 2010, uncertainties remained around the status of the individual involved in prostitution (i.e. as either witness or injured party) during court proceedings (see also Waltman, 2011b). Initial difficulties applying the Sex Purchase Act in Sweden related to evidence for corroboration for attempts to purchase sex while actual purchase was easier to prove with police officers apprehending individuals following sex<sup>45</sup>.

The number of clients prosecuted in Sweden increased from 46 reported crimes of buying sexual services in 1999 to 392 in 2010 in Stockholm (communication by BRA cited in Danna, 2012). 1,300 men were cautioned between 1999 and 2005 under the law and one male had received a prison sentence during that period (Scoular et al., 2008; Danna, 2012). Kelly et al. (2009: 39) note that there were 163 charges for the purchase of sex in 2006 with 108 convictions, while 38 trafficking offences were recorded in 2006 with 27 relating to sexual exploitation and 11 convictions overall.

There has been a steady increase in the number of reported crimes, almost exclusively resulting from police investigations. Wong (2014: 192-3) quoting statistical data from the Bra database notes that some years are characterised by a notable increase in crimes reported and determines that this can be attributed to seizure of client records on a single occasion from an organised prostitution ring (also referred to by Waltman, 2011b).

Ekberg (2015) using data from the National Council for Crime Prevention notes that the legislation has resulted in increased numbers of men being apprehended for attempting to purchase or having purchased a sexual service. Numbers of reported offences have also increased from 94 in 1999 to

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<sup>45</sup> It is easier to produce evidence of criminal guilt when the police wait till sex has taken place; but as noted by the Norwegian Ministry for Justice and Police Affairs (2004) and Swedish Institute (2010) this is in conflict with the police duty to prevent criminal actions.

601 in 2014. Numbers of convictions have increased, rising from 11 in 1999 to 391 in 2013.

In Finland, Niemi and Aaltonen (2014) identify issues with the application of the law partially criminalising purchase: where there is denial of a sex purchase; where sex purchase is not proven; or where a person admits sex purchase but denies awareness that the individual involved in prostitution was a victim of procuring or human trafficking. For example, an identified concern was that sex workers would be unlikely to cooperate in the provision of evidence against clients. In research which hypothetically explored the potential effects of the criminalisation of the purchase of sex in Northern Ireland, including 18 interviews with service providers and experts, police officers interviewed perceived that criminalisation of purchase would be difficult to police in practice (Huschke et al., 2014). However, Wong (2014) notes that there has been a steady increase in the number of persons actually convicted with the majority of suspects confessing and accepting a penal order, or being caught in the act, whereby evidence tends to be sufficient to obtain a conviction.

### **Experiences with the police**

Whilst the selling of sexual services is not criminalised in Sweden, Levy's (2015) small qualitative study with individuals involved in prostitution suggests that police attempts to eradicate prostitution has included informing landlords of tenants selling sex and reporting individuals to hotels and venues so they will be banned from returning, as well as police officers visiting individuals involved in prostitution at their place of residence (Danna, 2012; Levy, 2015). In Levy's research, concerns were raised in interviews with sex workers and representatives from agencies, regarding the treatment of migrant sex workers, (as opposed to victims of human trafficking), by the police, with examples of cases where individuals involved in prostitution were deported from Sweden. For Levy, based on his interviews, this was perceived to be an act of 'destabilising sex work in Sweden' (Levy, 2015, p. 200). In Sweden, Levy (2015) reports that sex workers' experiences with the police are variable highlighting that experiences are more favourable where police are specially trained in dealing with prostitution. Whilst some of the sex workers interviewed identified encounters with police which were favourable; there were also reports by sex workers and service providers of police unprofessionalism and harassment. This reflects similar findings from Amnesty International (2016) on the situation in Norway where they report evidence that individuals involved in prostitution were subject to intrusive and targeted policing. Many of the women interviewed in the Amnesty International report claimed to be reluctant to contact the police stating that increased enforcement of the law had resulted in the eviction of individuals involved in prostitution from their place of work and/or home.

Ostergren (2004), who is critical of the legislation, claims that due to the drop in demand, individuals involved in prostitution in Sweden have expressed a

reticence to report clients to the police when they are the victims of a crime. Dodillet and Östergren (2011) note that it appears that clients are less willing to assist as witnesses in cases in which profiteers who exploit the sexual labour of others are prosecuted, however Mujaj and Neitscher (2015) note that relations with the police and individuals involved in prostitution have improved in this respect as sellers of sex are not themselves subject to prosecution or criminalisation.

## **EXPERIENCES OF INDIVIDUALS INVOLVED IN PROSTITUTION**

This section examines the evidence on the impacts of criminalisation of demand on individuals involved in prostitution, specifically on safety and displacement; experiences of marginalisation; and, relations with police. The research in this area is predominantly based on small samples and largely reflects the experiences of street-based women. There is a notable absence of literature on the experiences of individuals involved in online prostitution and of the experiences of transgender individuals or men involved in prostitution.

### **Safety and displacement**

In interviews with individuals involved in prostitution and authorities, it has been noted that the characteristics of the fewer clients buying sex on the street are more violent and unstable (Socialstyrelsen, 2004; Norwegian Ministry of Justice and Police Affairs, 2004; Kulick, 2005 cited in Levy, 2005; Levy, 2015). While opponents of the legislation to criminalise the purchase of sex claim that this is a result of the law, it can equally be said to demonstrate the ongoing dangers associated with prostitution as such (for example, Deering et al, 2014).

The Swedish National Board of Health and Welfare interviewed informants from agencies involved in prostitution work of which some stated that they felt there had been a rise in violence against individuals involved in prostitution since the Sex Purchase Act as women cannot afford to refuse more 'dubious clients' (Socialstyrelsen, 2004). However, this claim is based on perception rather than evidence and again, appears to highlight the dangers inherent in prostitution per se, rather than as a direct consequence of the introduction of legislation. Östergren's (2004) and Levy's (2015) respective research on sex workers' experiences, where both authors are critical of the legislation and draw on small samples using interviews, shows that post-legislation, some individuals claim that negotiations with clients have become rushed and clients agitated and stressed, lessening the time available to sex workers to assess potential risks of the client, the transaction and the general situation. Again emphasising the risks that individuals involved in prostitution can face on an ongoing basis.

Fewer clients, increased competition and reduced prices 'can alter the balance', posits Levy (2015, p. 186), leading to a reduced likelihood of condom use. Several research studies have concluded that condom-less sex is more common in street-based prostitution (Socialstyrelsen, 2004; Norwegian Ministry of Justice and Police Affairs, 2004; Levy, 2015). Again, it is the most marginalised and 'vulnerable' individuals who may be subject to these riskier options (Levy, 2015), a situation that can be applied to street based prostitution in all regimes where the most vulnerable individuals are subject to greater risks. Levy (2015) found that the experience of selling sex online had also become riskier as some clients were reluctant to give any identifying information, challenging notions that safety is easily negotiated.

Where individuals involved in prostitution experience violence, research undertaken by the Swedish National Board for Health and Welfare (Socialstyrelsen, 2008) provides evidence from a representative from the Stockholm Prostitution Unit who argued that the law meant that victims of violence were taken more seriously. On the other hand, in interviews with individuals involved in prostitution, some argued that they do not need the Sex Purchase Act in order to report battery and other abuse as laws are already in place for that purpose (Socialstyrelsen, 2008). Nevertheless, the framing of the law is likely to influence how police respond to individuals selling sex. The impacts of the legislation in terms of greater competition among individuals involved in street-based prostitution as a result of reduced numbers of clients post law, has also been explored, with suggestions that this has resulted in conflict between individuals (Socialstyrelsen, 2008). However, as pointed out by Levy (2015), conflicts may have existed prior to the law particularly given the competitive nature of prostitution markets.

Research by the Norwegian Government found that individuals involved in prostitution in Sweden relied on 'pimps' for protection, which could be seen in the context of decreased safety on the street and increased difficulty for social workers in accessing individuals (Norwegian Ministry of Justice and Police Affairs, 2004). However, an evaluation of the Norwegian legislation found that there was no evidence of increased violence towards individuals involved in prostitution after the law was introduced (Rasmussen et al., 2014)<sup>46</sup>.

Krusi et al. (2014) examined the experiences of individuals involved in street-based prostitution over an 11-month period post-implementation of an enforcement policy targeting sex buyers in Vancouver<sup>47</sup>. In January 2013, the Vancouver Police Department adopted an enforcement policy prioritising sex workers' safety over arrest. Whilst the guidelines did not specifically address the enforcement of clients, in effect the policy meant that the clients were

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<sup>46</sup> It has been pointed out that incidents of serious violence (rape and assaults) actually fell, however, we have only been able to access the summary version of this report.

<sup>47</sup> Their study does not draw conclusions specifically related to the impacts of legislation criminalising purchasing of sex as this was a policy rather than legislative approach but is considered worth referring to here.

targeted and therefore that Vancouver had become a 'demand criminalisation' environment. The aim of the study was to explore how criminalisation of purchase and policing of sex buyers shapes sex workers' working conditions and sexual transactions, specifically risk of violence and risk of HIV/sexually transmitted infections and primarily reflects the experiences of street-based sex workers. Based on interviews with 31 street-based sex workers and ethnographic observations triangulated with longitudinal data on prevalence of sex work-related violence and police statistics, Krusi et al. (2014) concluded that criminalisation of purchase and the policing of sex buyers impacted on sex workers' ability to negotiate their working conditions and transactions with clients. Examples of the impact on sex workers' safety included evidence of sex workers having to 'rush screening clients' due to reductions in the time in which sex workers could assess the client and negotiate terms due to increased policing. This concern expressed by sex workers does however indicate the dangerous nature of street-based prostitution per se. Rather than deterring women from engaging in street-based sex work however, the Vancouver policy was perceived to have had the adverse effect of leading to sex workers needing to spend longer hours on the street due to fewer clients (Krusi et al., 2014). There was also evidence of displacement to isolated 'outlying areas' resulting in increased risks of violence; and claims of increased pressure from purchasers for unprotected sex (Krusi et al., 2014). However, statistical analysis of the prevalence of physical and sexual violence against individuals involved in street-based prostitution showed no statistically significant change in violence rates post-policy implementation<sup>48</sup> (Krusi et al., 2014).

A study of the Ipswich/Suffolk Street Prostitution Strategy in England (Poland et al, 2012) also focused on a multi-agency approach to intervene in street-based prostitution to tackle demand by focusing policing on kerb-crawling and supporting individuals involved in prostitution to exit, as opposed to introducing harm-reduction measures while sex work continued. The evaluation of the initiative (Poland et al, 2012) indicated that surveillance and enforcement efforts to tackle demand (in 2007) resulted in a 'dramatic' reduction in kerb crawling in the following year (2008), and no follow-up prosecutions. While this may be a direct result of the enforcement policy it is also possible that policing priorities changed in the following year which would result in a marked reduction in subsequent prosecutions or, as the report suggests, some types of sex work continued in off-street but public areas (p14). However the Strategy is expected to extend to include off-street sex working with country-wide police activity expected to support this move. The Home Office claims that after 18 months of this policy, sex sales and purchases on the street had practically disappeared with no indications of

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<sup>48</sup> Specifically, in the 8-month period post-policy implementation, 24.6% (58/236) of sex workers experienced work-related physical and sexual violence (as compared with 23.7% (65/275) interviewed in the 8 months pre-policy in 2012). However, it should be noted this refers to a policy by the Vancouver police rather than a legislative change.

other forms of prostitution growing as a result and with police and prosecutors working together to address sex purchasers via the issue of cautions, instructions to potential buyers to leave the area, and in some cases, the imposition of charges.

A Northern Irish survey with sex workers, prior to the ban, asked questions specifically on the potential impacts of the criminalisation of purchase. While it should be noted that this is based on responses that were merely hypothetical when the study was carried out, Huschke et al. (2014) note that comments made by 79 sex workers highlighted concerns which included a potential decrease in security; an increase in violent clients and a decrease in 'decent' clients; and, increased involvement of organised crime groups and 'pimps'. The majority of respondents (85%) believed that making payment for sex illegal would not reduce sex trafficking. Negative views on the criminalisation of purchase were also expressed by other research participants, including police officers.

Ekberg (2015) has noted that similar concerns were expressed in Sweden by opposers of the legislation but were successfully addressed by contextualising legislation in a broader publicity campaign, resources to support individuals involved in prostitution to access services to support exit and police training and awareness-raising. Awareness-raising campaigns have been carried out focusing on the prevention of prostitution and trafficking for sexual exploitation, and joint school awareness raising campaigns, which also focused on raising awareness of human trafficking in women and girls.

### **Marginalisation and stigmatisation**

It has been suggested that legislation to criminalise the purchase of sex is likely to result in the further marginalisation of those for whom it has been difficult to exit prostitution and/or to move indoors since the ban came into force in Sweden; for example, women who have substance abuse problems (Socialstyrelsen, 2004 and 2008; Levy, 2015). Scoular (2004) notes that in Sweden, the government argued that these negative impacts would be outweighed by the message that prostitution should not be tolerated, thus overlooking the increased risks that marginalised street sex workers would be exposed to. This claim is challenged by Waltman (2011b) who argues that the de-criminalisation of the sellers of sex is a positive impact of the legislation and that marginalisation and stigmatisation continue to be experienced by individuals involved in prostitution in decriminalised regimes such as New Zealand (see also Kelly et al, 2009; 2014).

Based on Levy's (2015, p. 177) qualitative research with sex workers (n = 26), it was evident that individuals involved in prostitution in Sweden continue to experience stigmatisation; an issue that appears to be reflected internationally and regardless of the legislative context. Levy (2015) also argues that by taking sex work to represent a form of violence itself, this has impacted on debates on whether sex work is more or less safe since the Sex Purchase Act. However, Ekberg (2004) highlights that violence and marginalisation are

features of prostitution and it is this concern for the safety of individuals involved in prostitution that has driven developments in Sweden and elsewhere.

### **Services to exit prostitution**

Sweden has a long-standing tradition of providing services for women including support for those experiencing domestic abuse and for exiting prostitution. The legislation on the criminalisation of the purchase of sex was expected to increase the numbers of individuals accessing services to support their exit from prostitution. In Sweden, there are differing approaches adopted by the three support units in Stockholm, Gothenburg and Malmö. These units engage in outreach work, including online, and collaborate closely with health services offering counselling, treatment, practical assistance and referral to other services. Florin (2012) refers to a paper (in Swedish) which notes that between 2009-2011, a study of 34 service users who had sold sex, showed improvements in self-esteem, mental health and a reduction in the sale of sexual services.<sup>49</sup>

Social services units specialising in prostitution exist in Stockholm, Gothenburg, and Malmö with small-scale support introduced to provide a service for sex purchasers. Florin (2012, p. 274) writes: 'They [social services units] engage in outreach work, including online, and offer counselling, treatment, practical assistance as well as referral to other resources. Their mission is to help people voluntarily give up selling or buying sex'. Between 2009 and 2011, the units registered contact with 112 sex buyers and 326 sellers, 181 of which held a Swedish residential permit<sup>50</sup> (Åkerman and Svedin 2012 cited in Florin, 2012). Florin (2012) writes that this is a low number in comparison to estimates of the total number of sex buyers and sellers in Sweden, although as research by the National Board for Health and Welfare reveals, social services rarely support clients who have had experiences of buying sex (SOU, 2010).

Opponents of the legislation have criticised the absence of ring-fenced public funds or national guidelines for prostitution services (Dodillet and Östergren, 2011). The less visible circumstances of sex workers can make it difficult for outreach workers to identify and reach them and Jordan (2012) writes that as a consequence of the Swedish Act, sex workers have been forced to go 'underground' making it more difficult to reach them. Levy (2015, p. 187) argues that there is limited service provision in Sweden and that this is particularly concerning given that the Stockholm Prostitution Unit does not provide street sex workers with condoms in situ, safer sex selling information, or with harm reduction initiatives.

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<sup>49</sup> However, as Florin notes, this is based on a non-random selection by the prostitution units with the majority of those selected claiming to have stopped selling sex prior to the intervention (p275).

<sup>50</sup> It is not clear what proportion of this 181 permit holders included 'buyers' as opposed to 'vendors'.



Danna (2012), based on case-study research on the local application of the prostitution policy model in Stockholm (which included a small number of interviews with ‘observers’ including researchers, police officers, practitioners from a social services street unit and sex workers (N = 12) as well as ‘informal chats’ with sex workers during observations), found that sex workers reported experiencing negative judgments from public social work services and it was perceived by some, that services were only available for those individuals who wanted to exit prostitution. The Norwegian Ministry for Justice and Police Affairs (2004) noted that a reduction in street prostitution had not led to more resources being directed to indoor prostitution. Florin (2012) cites a range of studies which have shown that sex workers experience low trust in authorities as a consequence of inadequate support and experiencing prejudicial attitudes (cites Östergren 2006; Jakobsson 2008; Olsson 2007, SoS 2008, 2010a, b; Larsdotter et al. 2011; Jonsson and Svedin 2012). However Ekberg (2014) citing information provided by Prostitution Centre Representatives in Stockholm notes that a number of the women with whom they work, and who have exited prostitution, cite the legislation as an incentive in their decision to seek assistance<sup>51</sup>. A need for more training for social services has been identified more broadly (SOU, 2010).

## CONCLUDING POINTS

This review has served to emphasise the challenges and frustrations outlined in previous attempts to assess the evidence on the impacts of the criminalisation of the purchase of sex. The available evidence is variable in quality and focus, highlighting that evidence can only provide so much ‘scientific’ knowledge in this area. All evidence is partial and open to dispute and challenge. Assessing the evidence available illuminates the challenging nature of conducting research in the area of prostitution and the difficulties of evidencing legislative changes which are likely to be located within wider social and political contexts. An overview of current legislation and policy in Scotland raises a number of issues regarding how prostitution is viewed (current policy would appear to locate it in relation to gendered violence and gender inequality) which therefore requires a response that combines prevention, minimising ‘harm’ and ‘risk’, supporting individuals to exit prostitution and challenging demand<sup>52</sup>. It is clear that the criminalisation of individuals involved in prostitution has both immediate and longer-term effects on their life-opportunities and experiences of stigmatization. There is wide agreement on the need to find an approach that does not criminalise individuals who sell sex; however, implementing this in law would effectively move towards a decriminalised regime – unless, as many other countries

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<sup>51</sup> Ekberg notes this information is based on personal conversation in 2001.

<sup>52</sup> As outlined in Scottish policy documents.

appear to have conceded, the purchase of sex is criminalised. This highlights the underlying political, rather than evidence-based, expectations on decision-making in this area.

The broader economic context is also one that requires some consideration. As noted previously, claims of increases in the numbers involved in prostitution in 2008 has been linked to the global financial crisis, with Rasmussen et al. (2014) suggesting that increases in Sweden and Norway reflected this wider economic change, rather than the impact of legislative models.

The available evidence points to areas where changes have taken place, and significantly, highlights that legislation does not take place in a vacuum, and that research and policies need to reflect this. This is something that was well recognised in Sweden in relation to the implementation of the legislation which was located within a context of existing services to support women to exit prostitution, wide-ranging campaigns to educate the public about the law change and the wider issues of prostitution, linking it to human trafficking; and additional funds to support the police to develop surveillance and targeting measures as well as ongoing training and awareness-raising.

It would appear that while acknowledging the limitations of the available evidence, there appears to have been a decline in street prostitution in Sweden with some evidence to suggest that the number involved in prostitution overall has reduced. There also appears to be a continued but decreased demand for prostitution in countries where the purchase of sex has been criminalised. Contextualising all of these points, is the growth in online advertising and the apparent changes in the way in which prostitution is organised which have seen a shift from on-street prostitution to the increasing use of the internet and mobile technology; the overall effects of which are currently unclear<sup>53</sup>.

Outwith the available evidence, there would appear to be considerable scope for improving the opportunities for individuals to exit prostitution should they so wish, and this is likely to be enhanced by moves away from criminalising sellers. Ultimately, decisions to introduce legislation in this area are likely to be informed by current legislative focus and policy priorities as well as resourcing issues and political sympathies. In order to utilise the evidence presented here, it is important that clear aims and objectives of any legislative considerations are set out and the limitations of available data are acceptable enough in securing the main aspirational goals.

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<sup>53</sup> Similar challenges were experienced by the House of Commons Home Affairs Committee (2016) who examined a range of legislative approaches to prostitution but were unable to draw clear conclusions on the basis of available evidence.

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Author and publication date <sup>54</sup>	Research Design	sample size/response rate	Country	Themes	Limitations and gaps of research
Amnesty International (2016) <i>The Human Cost of 'Crushing' the Market</i>	Interviews with women who currently or previously sold sex, representatives of social support services for people who sell sex, and government agencies, civil society organisations, lawyers and academic/social researchers.	54 interviews in total, 30 of which were with women who currently or previously sold sex.	Oslo, Norway.	Impacts of legislation in Norway - November 2014-February 2015	Report is one of a series undertaken by AI to document human rights abuses experienced by sex workers and frames the research in this context. Selection criteria arranged via NGOs.
Danna, D. (2012) <i>'Client-Only Criminalisation in the City of Stockholm: A Local Research on the Application of the "Swedish Model" of Prostitution Policy'</i>	Case-study examining the application of the Act in Stockholm in March 2006. Methods: (i)Interviews with 'observers' including researchers, police officers, practitioners from a social services street unit and sex workers. (ii)Content analysis of 1,042 newspaper articles. (iii)Observations and informal talks with sex workers and clients in a specific street where prostitution takes place in Stockholm over 4 weeks. (iv)Also includes discussion of evaluations made by other researchers on Swedish prostitution and trafficking laws.	12 interviews, analysis of 1,042 newspaper articles containing the word prostitution, observations and informal talks with sex workers over a month in 2006.	Sweden	Impacts of criminalisation of purchase of sex. Mapping shifts in prostitution 7 years after Act came into force. <ul style="list-style-type: none"> <li>- Displacement</li> <li>- Stigmatisation</li> <li>- Attitudes</li> <li>- Demand</li> <li>- Trafficking</li> <li>- Equality agenda</li> </ul>	Limitations of mapping increases/decreases in prostitution through observation. Difficulties in estimating increase/decrease in trafficking hindered by differing law definitions.
Dodillet, S. and Östergren, P. (2011) <i>The Swedish Sex Purchase</i>	A review of research and reports on the criminalisation of purchase of sex in Sweden. Using material	n/a	Sweden	Impacts of the criminalisation of purchase of sex: <ul style="list-style-type: none"> <li>- Demand</li> <li>- Trafficking</li> <li>- Attitudes</li> <li>- Corroboration</li> </ul>	Utilises secondary data. Uncertainties regarding government prevalence data.

<sup>54</sup> This annex provides an indicative overview of key empirical studies assessed in this review – but should be considered in conjunction with the reference list set out above.

<p><i>Act: Claimed Success and Documented Effects</i></p>	<p>(mainly reports and also evaluations) from authorities that have been responsible for reporting on prostitution and evaluating the policy (incl National Board of Health and Welfare [a government agency under the Ministry of Health and Social Affairs]; the National Council for Crime Prevention [a council that functions as the government's body of expertise within the judicial system]; the National Police Board; the government 2010 evaluation of the Sex Purchase Act; and the responses of 52 referral bodies). These authorities have in their turn collected information from police, social workers, NGOs, academic research and some interviews with people with experience of prostitution.</p>			<p>- Stigmatisation</p>	
<p>Fredlund et al. (2009) <i>Adolescents' Lifetime Experience of Selling Sex: Development Over Five Years</i></p>	<p>Comparative study examining changes over time between 2004 and 2009. Questionnaire conducted with 3,498 adolescents from a representative sample of Swedish high school students with a mean age 18.3 years.</p>	<p>3,498 students (60% response rate)</p>	<p>Sweden</p>	<p>Young people</p>	<p>Group selling sex is small, and therefore the results should be interpreted with some caution.</p>
<p>Holmström, C. &amp; Skilbrei, M. (2008) <i>Prostitution in the Nordic Countries</i> Conference</p>	<p>Eleven Nordic researchers from various disciplines in the Nordic countries participated in the project over one</p>	<p>n/a</p>	<p>Nordic countries</p>	<p>Comparative study - Prevalence - Attitudes</p>	<p>Limited information on impacts of legislation criminalising purchase. Results from studies on attitudes and</p>

<p>Report Nordic Ministers for Gender Equality (MR-JÄM) commissioned the Nordic Gender Institute (NIKK) to carry out a research project to focus on the Nordic countries' differences and similarities in devising prostitution policies. The project was launched in order to create a shared knowledge base that stems from a gender equality perspective.</p>	<p>year. (i) compile information about the scope of prostitution and human trafficking for sexual purposes. (ii) discussion of existing legislation by researchers from each of the 5 Nordic countries (iii) Examining of attitudes and beliefs on prostitution at country level. Kuosmanen's quantitative study on attitudes towards the Sex Purchase Act in Sweden; Jahnsen's qualitative study using media analysis in Norway; Martilla's focus on the debate on criminalisation of purchase and effects on attitudes in Finland; and, Atlason and Gudmundsdóttir review results from previous studies on attitudes and beliefs in Iceland regarding prostitution.</p>				<p>beliefs do not provide descriptive comparisons.</p>
<p>Huschke et al. (2014) <i>Research into prostitution in Northern Ireland</i></p>	<p>Online survey with sex workers; online survey with clients; face-to-face interviews with sex workers and clients; interviews with experts and service providers; phone interviews with representatives of 9 councils across Northern Ireland; and, questionnaires for 7 organisations in different jurisdictions that offer support services for sex workers across the UK, the ROI,</p>	<p><i>Survey with sex workers:</i> 171 respondents <i>Survey with clients:</i> 446 respondents <i>Interviews with sex workers:</i> 19 participants <i>Interviews with clients:</i> 10 participants <i>Interviews with experts and service providers:</i> 18 participants <i>Phone interviews with representatives of 9 councils</i> <i>Questionnaires with support</i></p>	<p>Northern Ireland</p>	<p><b>Potential</b> impacts of criminalisation of purchasing of sex. - Attitudes of sex workers to potential ban - Safety concerns - Challenges for corroboration - Displacement - Impacts on sex trafficking - Impacts on demand</p>	<p>Research conducted prior to NI criminalisation of purchase of sex and therefore findings are limited to perspectives on potential impacts. Survey data is not representative or based on a randomised sample. The majority of the clients who took part in the study predominantly used the internet to find sex workers/escorts so people who buy sex on the streets are under-represented.</p>

	Sweden, the Netherlands and New Zealand. Also, conducted a review of policies regarding prostitution in other societies.  Survey included respondents who buy and sell sexual services outside of NI.	<i>services: 7 organisations</i>  44% of the sex workers who took part in the survey and 26% of the interviewees were foreign nationals.			
Jakobsson and Kotsadam (2010) <i>'Do Laws Affect Attitudes? An assessment of the Norwegian prostitution law using longitudinal data'</i>	Comparative study (with control group [Sweden]), using a difference-in-differences methodology [looking at the average difference over time], comparing the attitudes of Norway and Sweden. Quantitative longitudinal internet-based survey conducted in August 2008 and August 2009. Conducted with 15-65 year olds male and female from Norway and Sweden collected before and after Norwegian legislation criminalising purchase of sex.	Survey sent to a random sample of 2,500 Norwegians and 3,000 Swedes. Response rate in the first survey was 68.6% in Norway and 60.5% in Sweden. By end of second survey period, 1,034 Norwegians (41.4%) and 1,317 Swedes (49%) had responded to both surveys.	Norway and Sweden	Impacts of criminalisation of purchasing of sex. - Attitudes	Authors acknowledge caveats that may underestimate the effects of legal change on attitudes: (i) Results concern the short-run effects of law change on attitudes. (ii) Unable to distinguish between any 'direct effect' of the law and the effect attained via the media debate. (iii) Study does not include a wave of data before the implementation of the law in Norway, authors cannot test the assumption that change in average attitudes of Norwegians would have been the same without the new law as the change in average attitudes during the same period in Sweden. (iv) Unrepresentativeness of sample: 45.3% of sample has higher education in comparison to 31.8% of Swedes aged 16-65 nationally. 56.7% of Norway sample has higher education in comparison to 27% percent of Norwegians nationally.
Jonsson et al. (2014) <i>"Without the Internet, I never would have sold sex": Young women selling sex</i>	Semi-structured interviews with young women (aged 15-25) who had sold sex online before the age of 18. Purposeful sampling	Interviews with 15 young women.	Sweden	The role the Internet plays in young women selling sex, focusing on <i>the methods of contact</i> and <i>the characteristics of the communication</i> online between the buyer and the young women.	Research does not examine the impact of criminalisation of purchase.

online'	including through NGOs working with young people and through contacts with a network of professionals at Swedish psychiatric units and residential treatment clinics.				
Kotsadam and Jacobsson (2014)	Survey responses from a longitudinal Internet-based survey sent out by TNS Gallup in August 2008 and 2009 – see entry above (Jacobsson and Kotsdam, 2010)				
<p>Krusi et al. (2014) <i>'Criminalisation of clients: reproducing vulnerabilities for violence and poor health among street-based sex workers in Canada – a qualitative study'</i></p> <p>*first empirical study of how criminalisation and policing of sex buyers shapes sex workers' risks for violence and poor health outside Scandinavia. The research for the Krusi et al. report was conducted by the Gender and Sexual Health Initiative (GSHI) of the BC Centre for Excellence in HIV/AIDS and the University of British Columbia as part a larger</p>	<p>Qualitative and ethnographic study triangulated with sex work-related violence prevalence data and publicly available police statistics.</p> <p>(i) Semi-structured interviews with sex workers. All had exchanged sex for money in the previous 30 days in Vancouver.</p> <p>(ii) More than 40h of ethnographic observation within known street-based sex work strolls in the city to assess level of police presence; shifts in working areas and police, sex worker and client interactions over an 11-month period post policy implementation (January–November 2013).</p> <p>(iii) Longitudinal quantitative data on prevalence of workplace physical and sexual violence among sex workers from the AESHA cohort (an evaluation of sex workers health access) (a community-based longitudinal study</p>	<p>26 cisgender and 5 transgender women who were street-based sex workers participated in semi-structured interviews. Aimed to reflect variation in demographics (e.g. age, ethnicity and gender) and work environments (geographic neighbourhoods, variation in street and off-street solicitation and transaction spaces).</p>	<p>Vancouver, Canada</p>	<p>Impacts of criminalisation of purchase of sex.</p> <ul style="list-style-type: none"> <li>- Safety</li> <li>- Displacement</li> <li>- Increase/decrease in demand</li> <li>- Challenges for corroboration</li> <li>- Stigmatisation</li> </ul> <p>No mention of uptake of services to exit prostitution</p>	<p>Limited in drawing conclusions on the impacts of criminalisation of purchase as research is based on a demand-based sex work enforcement policy prioritising sex workers' safety. The study primarily reflects the experiences of street-based sex workers, who are disproportionately impacted by policing, and therefore is limited in terms of other segments of the sex industry.</p>

ongoing research study on the health and safety of street and off-street sex workers throughout Metro Vancouver.	of over 800 sex workers with biannual follow up) were analysed by two 8-month time periods pre and post-policy implementation.				
Kuosmanen (2010) <i>'Attitudes and perceptions about legislation prohibiting the purchase of sexual services in Sweden'</i> *Funded by the Nordic Institute for Gender Knowledge and the Section for Gender Equality at the Swedish Department of Integration and Gender Equality.	Survey with adults aged 18 – 74 in Spring 2008. Individuals randomly selected from the National Register of Population. Statistical analysis of survey data carried out. Forms part of a larger investigation on prostitution in the Nordic countries.	Survey with 2,500 individuals with 1,134 responses returned (45.4% response rate).	Sweden	Impacts of the criminalisation of the purchase of sex: <ul style="list-style-type: none"> <li>- Attitudes</li> <li>- Demand impacts</li> <li>- Impacts of law specifically on attitudes</li> <li>- Perceived prevalence</li> </ul>	Sampling: over-representation of women in sample (57% whilst they represent 49.4% as a whole) and under-representation of men particularly in the youngest age spans. Over-representation of those with a higher education (42% of respondents with a post-upper secondary education in comparison to 31% in the population as a whole).
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Levy, J. (2015) <i>Criminalising the Purchase of Sex: Lessons from Sweden</i>	PhD research. Mixed methodology of formal and informal interviewing and participant observation. Interviews with sex workers and with those with experience/expertise surrounding sex work including politicians, NGO workers, spokespeople for lobby, activist and rights groups, police, healthcare providers and social workers.	Interviews 22 female sex workers (experience of street work (5), escort work (15), and stripping (8)). 2 male sex workers 2 transgender sex workers 4sex work clients  4 representatives from Swedish Drug Users' Union 4 representatives from Malmo	Sweden	Impacts of the criminalisation of the purchase of sex. <ul style="list-style-type: none"> <li>- Sex workers' experience</li> <li>- Spatial displacement</li> <li>- Safety</li> </ul>	Targeted and snowballing sampling leading to self-selection bias. Snowballing through organisations leading to some respondents being active in political debate, activism and/or service provision so sample represents specific group of sex workers.



	Targeted sampling (and snowball) accessing sex workers through public spaces, networks and organisations. Conducted in Malmo and Stockholm.	Prostitution Unit And 3 from Stockholm Prostitution Unit 1 respondent from radical feminist organisation 4 representative s from drug use rights organisation 3 representative s from drug prohibitist organisation 5 from LGBT rights organisation			
Levy, J. and Jakobsson, P. (2014) <i>'Sweden's abolitionist discourse and law: Effects on the dynamics of Swedish sex work on the lives of Sweden's sex workers'</i>	Utilises authors' respective research: (i)Levy's PhD research including interviews and ethnographic participant observation with sex workers and clients as well as interviews with practitioners. (ii) Jakobsson's research involving an internet-based survey. Also draws on secondary research.	Levy: 22 cisgender female sex workers (5 street workers, 15 escort workers and 8 who had worked in stripping); 2 male sex workers; 2 transgender sex workers; and 4 sex worker clients. Jakobsson: internet-based survey with 124 respondents.	Sweden	Impacts of the criminalisation of the purchase of sex: - Sex workers' experience - Spatial displacement - Safety - Targeted service provision and impacts - Prevalence	Methodologically difficult to achieve a representative sample of sex workers.
Mujaj, E. and Netscher, A. (2015) <i>Prostitution in Sweden 2014: The extent and development of prostitution in Sweden</i> *County Administrative Board of Stockholm commissioned by the Government.	Scoping survey gathering old and new knowledge provided by various stakeholders including: online surveys, National Board of Health and Welfare Report on the Development of prostitution 2015, a population survey, civil society contacts with persons selling sexual services and the police. Mapping with in depth focus on online prostitution.	n/a	Sweden	Prevalence	Difficult to draw comparisons between and within countries over time on extent of prostitution/human trafficking without single definition. Difficulties in estimating the actual number of individuals behind online ads. Gaps in knowledge on numbers of unaccompanied minors subject to prostitution. Women of non-Swedish origin are not reached by population studies and are therefore not represented in these types of surveys.

<p>Niemi, J. &amp; Aaltonen, J. (2014) <i>Abuse of a victim of sex trade Evaluation of the Finnish sex purchase ban</i> *Ministry of Justice Finland * Finland has partial criminalisation and evaluation principally examines the 2006 law prohibiting the purchasing of sex from a victim of human trafficking or procuring as well as focusing on S7 of the Public Order Act 2003 which prohibited to purchase sexual services or to offer sexual services against payment in a public place.</p>	<p>Mixed methods including: (i) Statistics and register data. (ii) Interviews with experts including experts from various units of the police, the prosecution service, the Border Guard, the social services and NGOs. (iii) Online survey among NGOs and authorities to explore more broadly how they have come into contact with issues of prostitution and the purchasing of sex. (iv) Review of court documents. Various courts were requested to submit decisions where defendants were convicted of abuse of a victim of sex trade, human trafficking or procuring. Quantitative data on the application were collected from public statistics by national Statistics Finland, from various units of the police, from public prosecutors and from courts.</p>	<p>Interviews with 24 experts. The online survey was sent to 20 recipients, of whom seven responded.</p>	<p>Finland</p>	<p>Impacts of partial criminalisation of purchase of sex:</p> <ul style="list-style-type: none"> <li>- Prevalence</li> <li>- Attitudes</li> <li>- Application of law</li> </ul>	<p>Finland criminalises buying <i>and</i> selling in public place and has partial criminalisation of purchasing of sex from a victim of human trafficking or procuring.</p>
<p>Norwegian Ministry of Justice and Police Affairs (2004) <i>Purchasing Sexual Services in Sweden and the Netherlands Legal Regulation and Experiences An abbreviated English version A Report by a Working Group on the</i></p>	<p>Working group of 3 academics/police representatives appointed by Norwegian Ministry of Justice to collect experiences for/against criminalisation of purchase of sexual services. Methods include: (i) Assessment of police and social services prevalence data on street prostitution post-ban as well as data on indoor</p>	<p>n/a</p>	<p>Sweden</p>	<p>Impact of criminalisation of purchase of sex:</p> <ul style="list-style-type: none"> <li>- Experience of sex workers</li> <li>- Experience of national police forces in application of the law.</li> <li>- Implications re corroboration</li> </ul>	<p>Variations in observation data between social services and the police. Limited number of active organisations to gather experience from.</p>

<i>legal regulation of the purchase of sexual services</i>	market. (ii)Gathering experience from informants from organisations representing those who sell sexual services. Limited to consulting with 2 members and 1 board member of one organisation (National Organisation for Sexual Workers) and utilised interviews from Ostergren's published Master's thesis.				
Östergren, P. (2004) <i>Sex workers critique of Swedish Prostitution Policy</i> *unpublished Swedish masters dissertation translated into English	Interviews, informal talks and correspondence with approximately 20 sex workers since 1996, as well as published and broadcasted interviews with sex workers in Swedish media. It is also based on interviews with people working with women selling sex to support a drug habit (most of whom also are homeless).	Not provided	Sweden	Impacts of criminalisation of the purchase of sex. - Experiences of sex workers	Limited English summary of findings of Ostergren's masters' research.
Rasmussen et al. (2014) <i>Evaluation of Norwegian legislation criminalising the buying of sexual services (summary).</i> *English summary report	Government-appointed academic evaluation of the effects of the 2009 Norwegian legislation. Estimating the size of the prostitution market post 2010 based on observational data.	n/a	Norway	Impacts of criminalisation of purchasing of sex. - Demand - Trafficking - No evidence of more violence	Data on prevalence based on observations and issues with comparing this over the years.
SOU (2004) <i>Prostitution in Sweden 2003 Knowledge, Beliefs &amp; Attitudes Of Key Informants</i> *National Board of Health and Welfare	Interviews (mostly individual but some in groups) with individuals whose work involves dealing with prostitution largely from social services and the police.	Interviews with 35 individuals	Sweden	Impacts of the criminalisation of the purchase of sex: Prevalence	Focused on Malmö, Stockholm and Goteborg only.

2 <sup>nd</sup> report					
<p>SOU (2008) <i>Prostitution in Sweden 2007</i> *National Board of Health and Welfare Sweden 3<sup>rd</sup> report</p>	<p>Mixed method including interviews (individual and group), surveys and a systematic study of prostitution contacts on the World Wide Web. (ia)Semi-structured interviews with informants from public authorities and NGOs interviewed who have direct or indirect knowledge of prostitution in Sweden (Malmö, Göteborg, Stockholm, Luleå, Umeå and small towns in central Sweden). (social services, police, and other organisations). (ib)Semi-structured interviews with sex workers and purchasers recruited via posted queries via the Web and posted notices about the study at shelters with element of snowball sampling. (ii)Surveys distributed to all police authorities in Sweden and to a sample of Swedish municipalities and to youth clinics. The data in the collected municipal surveys were compiled and the results computed by extrapolating to the national level. Thus, the figures in the report show the estimated number of municipalities that have knowledge</p>	<p><b>Interviews:</b> 40 actors -14 sellers of sexual services (including 6 interviewed by email, of whom 5 have a history of street prostitution and 1 who has left prostitution) -2 clients, including 1 interviewed by e-mail -2 former “promoters” of trade in sexual services -6 representative s of the police, 14 representative s of municipal social services, 4 representative s of NGOs <b>Survey:</b> Randomly selected sample of 100 municipalities. Of the 100 municipalities queried, 71 responded to the surveys and of 21 police authorities queried, 17 responded. Follow-up questions conducted with 25 municipalities and 12 police authorities that had knowledge of prostitution. 2 of 15 youth clinics responded. <b>Web research study:</b> The database prepared for the study</p>	<p>Sweden</p>	<p>Impacts of the criminalisation of the purchase of sex:</p> <ul style="list-style-type: none"> <li>- Attitudes</li> <li>- Marginalisation</li> <li>- Safety</li> </ul>	<p>Evaluation acknowledges several limitations: (i) Initial distrust among those with personal experience of prostitution when contacted about interview specifically why the National Board of Health and Welfare wanted to talk to them. (ii)Both prostitution teams and sellers of sexual services had opinions about the previous reports. (iii)Some women in prostitution confused the Board with the social services, with which they had several associations. (iv)Unable to interview any men who sell sexual services, victims of human trafficking or recently arrived immigrants who sell or buy sexual services. Also, able to reach only a few people who have left prostitution. (v)People involved may have had vested interests in promoting certain information based on their mission, ideological grounds, orientation, experience, need for funding, etc. (vi)Limited data collection period for the web research study may underestimate number of sellers.</p>

	of prostitution in the municipality. (iii)web research study of information posted on websites over 6 weeks period.	contains data about 299 unique URLs where people working in various parts of Sweden sell sexual services.			
SOU (2010) <i>Evaluation of the prohibition of the purchase of sexual services</i> *English summary available of inquiry available as well as a translation of chapters 4 and 5 on 'Prostitution in Sweden 1998-2008' and 'A comparison to the situation in some other countries'	Swedish government commissioned evaluation on the ban against the purchase of sexual services led by a specially appointed committee. Committee of inquiry used a variety of sources, including a substantial number of studies, reports and other publications that deal with issues of prostitution and human trafficking for sexual purposes. It also gathered information from individuals who work with these issues and from others who have personal experience with prostitution.	n/a	Sweden	Application of the ban in practice. Prevalence post ban. Uncertainties around application of the law – implications re corroboration.	Evaluation criticised in literature for weak empirical base. Also, evaluation starts from the premise that purchase of sexual services remain criminalised. Difficulties of assessing prevalence of prostitution in arenas other than street settings i.e. via internet. A lot of knowledge/research shaped by operational focus and perspective of the agencies and organisations concerned.
The Swedish National Board for Youth Affairs (2014) <i>See Me</i> English version summary *** The report is based on a number of separate quantitative and qualitative studies that have been conducted by the Board itself, by qualified academics working at	2 surveys' findings drawn on: (1) A survey with year 3 (18 year old students) with comparisons made to a similar government survey carried out in 2004. (2) A youth survey of 16-25 year olds.	Not provided	Sweden	Attitudes to sex in return for payment Role of internet	Research does not examine the impact of criminalisation of purchase. Difficult to draw any conclusions as to whether the internet is responsible for the more positive attitudes found among young people towards buying and selling sex. Nor is there anything to suggest that the internet in itself has led to any increase in the number of young people who have actually sold sexual services.

Swedish universities and by RFSL Ungdom (Sweden's national lesbian, gay, bisexual and transgender youth organisation) .					
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