

6. The Nordic Criminal Model

SIDAC Information Sheet

This information sheet is part of a series prepared for the Sex Industry Decriminalisation Action Committee (SIDAC) to support the decriminalisation of sex work in South Australia in 2019.



What is the Nordic Criminal Model?

The 'Nordic Model' (or Swedish model) criminalises sex work by targeting clients and other third parties. It has three core legal elements –

- buying sexual services is made a crime
- the direct act of selling sex is not a crime
- various third-party activities are criminalised.

The claim that the model does not victimise sex workers is false. It is not possible to criminalise one side of a commercial sex transaction without harming all parties.

In practice, the model has forced workers into more dangerous work situations, broken up homes and families and targeted ethnic minorities and migrants.

It started in Sweden

The push for a new criminal model focussed on 1995/97 Swedish parliamentary committees which presumed that “[n]o prostitution can be said to be of a voluntary nature and that all “Sex workers are victims without personal agency. It follows that their views can be ignored because they are dupes of patriarchal power structures

As noted in a Queensland Prostitution Licensing Authority analysis, the model is based on a particular stream of radical feminist thought where sex work “*is a form of male violence ... Sex workers are “prostituted women” and victims of men who are not clients but at best criminal exploiters and abusers of women and at worst are rapists. Men do not purchase sex, instead they purchase women to sexually exploit.*”

This simplistic view sees sex workers (necessarily characterised as women) as victims and other parties (male) as perpetrators. Not surprisingly, this patronising niche feminism is strongly rejected by sex workers and their many feminist allies.

An example of a more grounded feminist position was put to the SA Parliamentary Committee in 2016 by the Amnesty International representative who made the case that “*laws against buying sex*

and against the organisation of sex work can actually harm sex workers, and that's often missed when talking about the Nordic model.”

More importantly, sex workers themselves assert that they are adults who have made a choice about their bodies and sexual lives. They refuse to accept the status of victim that ‘saviours’ try to force upon them.

What happens under the Nordic model?

It is illegal in Sweden to rent a room to a sex worker. If they own their own home, it can be seized if used for sex work.

Sex workers are unlikely to report crime for fear of attracting police attention. Adult children living at home supported by their parents’ earnings have been charged with ‘pimping’. Sex workers cannot support their own safety by working together or hiring security.

Scarlett Alliance liaised with Sweden’s Rose Alliance to conclude that the “*Swedish Model’ has proven to be dangerous to the mortality of sex workers, with increases in sex worker deaths since the laws were implemented and resulted in high levels of isolation and social exclusion.*”



Is there evidence of the Nordic model working?

There is no credible official evidence to show the Nordic model decreases or prevents sex work from occurring. The main government review started with the presumption that buying sexual services will remain criminalised.

This was recognised by the NSW Select Committee on the Regulation of Brothels in 2015, which noted that “*the [Swedish] government, in fact, ‘had no evidence that fewer men are purchasing sex, that fewer women are selling sex and that fewer people are being trafficked into prostitution’.*”

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A milestone paper about the impact of the Nordic model in Sweden was produced by Ostergren and Dodillet in 2011. Contrary to official statements, they found that the law had “serious adverse effects”.

For law enforcement, this was not a problem, as noted by the head of Sweden’s anti-trafficking unit “*I think of course the law has negative consequences for women in prostitution but that’s also some of the effect that we want to achieve with the law... It shouldn’t be as easy as it was before to go out and sell sex*”.

The Queensland Prostitution Licensing Authority analysis also found that the evidence did not support the Swedish Government’s rhetoric. Its Skarhed Report at best could conclude that sex work has not increased under the new law. This 2010 Report purported to evaluate the law over its first decade of operation but rejected considering the relevance of arguments in favour of voluntary sex work. Its predetermined presumptions and dubious findings mean that it is largely discounted. It denied, for example, that pre-existing street work had been displaced and that growing use of the internet had so changed the landscape that it was not possible to prove that there had been an overall reduction in sex work.

Analysis by Levy and Jakobsson published in 2015 asserted that “*the law has failed in its abolitionist ambition to decrease levels of prostitution, since there are no reliable data demonstrating any overall decline in people selling sex. Furthermore, we argue that the law has resulted in increased dangers in some forms of sex work*”.

What other evidence is there?

New research has concluded that “the Nordic model is not working” across several relevant jurisdictions for two main reasons -

- it “*does not reduce demand, sex trafficking, violence or exploitation*” and probably exacerbates these issues
- nor does “*the model contribute to gender equality, because the evidence base upon which [it] is based fails to acknowledge research that shows that women and couples pay for sex and that men and trans people sell sexual services*”.

Sarah Kingston and Terry Thomas: *No model in Practice: a ‘Nordic model’ to respond to prostitution?* Crime, Law and Social Change (May 2019) 71:423–439

We can consider the impact of the Nordic criminal model by looking at some countries where a variant of the model is currently in place.

FRANCE

Research published in 2018 by Le Bail, Giametta and Rassouw shows that imposition of the Nordic Model has increased risks faced by sex workers in France, shifting the power relationship in favour of clients who feel more able to make demands.

“*Although most sex workers have nevertheless continued their activity since the new law, their working conditions have severely deteriorated. Contrary to claims that the new law, by decreasing demand (clients), would also decrease supply (sex workers) interviews conducted with organisations show that there has been no decrease in the numbers of sex workers. The law has had a detrimental effect on sex workers’ safety, health and overall living conditions.*”

The sex worker organisation STRASS agrees with this and argues that the Nordic model violates core human rights.

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NORWAY

A 2012 report suggested that the Nordic model had sex workers much more susceptible to violence as the industry moved underground. 59% of participating workers said they had experienced violence after the sex purchase law was introduced. A member of Parliament acknowledged that “the reality is that the law has made it more difficult for women in prostitution”.

The harsh nature of policing under the model was exemplified by “Operation Homeless,” a police initiative that saw people suspected of selling sex evicted. A law justified as a weapon to target ‘pimps’ was used instead against landlords of rental premises. The real target was sex workers and their families.

Amnesty International’s devastating critique of the impact of the Nordic model in Norway. *The human cost of ‘crushing’ the market: criminalization of sex work in Norway*, issued in 2016 contributes to an active campaign to repeal Nordic model laws.



IRELAND

Sex workers and their allies are challenging the Nordic model in Ireland. It is difficult not to be confronted by the grim impact of the relevant law since it came into force in March 2017.

At the end of 2018, 55 people had been arrested for prostitution offences in Ireland since the introduction of the ‘Nordic model’ but only 2 were clients. More disturbingly, the level of violence experienced by sex workers has escalated as they are forced to work in more clandestine situations. In March 2019, two years after the model came into effect, reported violent crime involving sex workers had more than doubled.

The real increase in violent crime, from 385 to 740 incident according to Kate McGrew of *Sex Workers Alliance Ireland*, is underreported given the continued role of police in harassing sex workers. “Sex workers are afraid to report crimes to Gardai, in fear their workplace will then be surveilled to catch their clients” according to McGrew (as quoted in *Hot Press*, 27 March 2019).



“We want to be safe in our jobs. Since the laws have been enacted, workers have lost negotiating power with their clients. Ending demand has led to a drop in prices, increased risk-taking such as taking clients that they feel aren’t safe or not using a condom.”

**Kate McGrew, Sex Workers Alliance Ireland
March 2019**

The need for mutual support through measures such as sharing premises, for safety if no other reason, has been undermined by the Nordic model. Shared arrangements are deemed to be ‘brothel keeping’ with these charges having doubled under the new law. Sex workers now must risk working alone.

Mirroring efforts here in South Australia, Sex Workers Alliance Ireland is calling for full decriminalisation.

“We deserve to be safe, but instead of decreasing demand the laws have created a buyers’ market, where the purchasers of sex hold the power.”

**Kate McGrew, Sex Workers Alliance Ireland
March 2019**