
Political Affairs

Sex Work Abolitionist Policy: A Counter-Productive Response To Supporting Sex Workers

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Introduction

The policing of women's bodies and rights has serviced the patriarchal capitalist society that continues to exist today, through the legislating of abortion and labour policies, and the exploitation and objectification through the media and fashion industries. With prostitutes becoming social pariahs, and those who purchase sex work maintaining their social capital, there is a clear asymmetrical power dynamic between sex workers and how their rights are taken care of. Following the introduction of the Nordic model, a Swedish framework that was introduced in 1999 that criminalizes the sale of sex, research has shown that the abolitionist motivations of the Nordic model are not an ethical way to regulate sex work. This ultimately incites more unprotected risks and human rights issues that impact sex workers (Chu & Glass, 2013). This is because of a differing model of mobilizing application that disregards the interconnectedness of class, and race to this issue. We look at how this policy from conception to implementation has been ineffective in addressing the gendered labour work and sexual exploitation occurring, through examples

from Sweden and Canada. As well, this research will demonstrate the way a singular hegemonic understanding of gender has contributed to racialized, queer, trans-identifying and migrant sex workers' inability to provide reasonable housing, health services and financial autonomy for themselves. Finally, we will be discussing the way an abolitionist approach to sex work mandates is not only rooted in sexism but xenophobia, and oppressive neo-liberal immigration policies.

The Nordic Model and Its History

Swedish Conception

To examine the effects and attitudes towards the Nordic Model of legislating sex work, it is important first to examine its origin and the motivations behind its implementation. The Nordic model which was conceptualized in Sweden, entered the conversation in 1998, as before this, the selling of sex was rarely contested due to lack of data and other states who adopted this legislation proceeded in the same way. In response to a non-nuanced perspective from feminists, attributing sex work as a form of "male violence against women" (Chu

& Glass, 2013), there began a discussion on the eradication of sex work and the international distribution of sex trafficking. Sweden introduced the *Regeringens Proposition (Women's Peace)* in 1998, which included provisions stipulating harsher penalties for sexual harassment, sexual violence and domestic violence including the *Prohibiting the Purchase of Sexual Services (Sex Purchase Act)* which was mandated on January 1, 1999. This landmark legislation was a foil to the historic sexist laws criminalizing sex workers and women – penalization under this new law sentenced the consumer, which in Sweden is a fine of upwards of one-year imprisonment under the state's Penal Code (Chu & Glass, 2013). At this same time, it was passed without a single consultation with sex workers and neglected experiences from individuals that this legislation was meant to protect. The law was created under the pretext that prostitution undermines women's position in society, and wanted to “mark Sweden's attitude towards prostitution as the government believe[d] it is not a desirable social phenomenon” (Kingston & Thomas, 2018). Within this framework, there is an evident gender binary outlining men who purchase sex as aggressors, and all women in sex work as the victims of patriarchal violence and oppression, further conflating sex work with trafficking that pathologizes male clients (Chu & Glass, 2013). This Swedish model became a catalyst for the international import of this policy approach and as a result was shared among European countries (Norway in 2009, and Finland in 2006). A call to adopt it stems from a belief

to tackle gender inequality and exploitation. Hence, in 2014, the European Parliament voted in favour of the Nordic model (Vuolajarvi, 2019) having previously viewed and denied prostitution policies as outside of their jurisdiction. The overall skeleton of the legislation has been considered in most places as a viable response to sex work, including here in Canada. Where it is important to consider these laws in their regulatory environment.

Nordic Framework in Canada

Within Canada, before the implementation of Bill C-36, the *Protection of Communities and Exploited Persons Act*, in 2015, the Canadian Criminal Code contained multiple provisions relating to sex work that connected vagrancy to sex work and promoted the criminalization of sex workers. Especially within the conception of this country under non-secular motivations, sex work was categorized as an offence against, “Religion, Morals and Public Convenience”, these ideas shifted to legislators making amendments to the act in 1915, now viewing abolition of sex work as capable through rehabilitation and social engineering (Galbally, 2016). By this same token, in 2006, the House of Commons Standing Committee on Justice and Human Rights through the Subcommittee on Solicitation Laws, mandated further amendments to be made and included in their report a minority opinion endorsing the Nordic model. This was followed in 2011 when the Ontario Court of Appeals' consideration of *Bedford v Canada* became the precedent for sex work legislation that included the Women's Coalition for the Abolition of Prostitution, a

group whose mission was that prostitution equalled a form of violence against women (Chu & Glass, 2013). Their purpose was to contest the implementation of asymmetrical criminalization, which inspired a member of parliament to introduce a bill similar to the Nordic model. This was Canada's attempt to "target the market" of people purchasing sex (Chu & Glass, 2013). The Canadian policy however considerably contrasts the Nordic model in that Bill C-36 directly criminalizes the "communication of sex services in public spaces" as well as the existence of brothels and living off the income of prostitution (Galbally, 2016), whereas the Nordic model does not go into the same specificity. Throughout the lobbying process for the implementation of the Nordic model in Canada, parts of the bill were used, while simultaneously rejecting the premise of the Nordic model's objective to "eradicate prostitution through the criminalization of related activity" (Chu & Glass, 2013), but rather focusing on those who are victims of exploitation. The oversight that exists in the Nordic model in Canada has used differing language to encompass the same ideas which do not protect the interests of sex workers.

Pitfalls of The Nordic Model

Lack of Cross-Departmental Coordination

When discussing the overseeing of the Nordic model and prostitution policies that have been proponents in an attempt to eradicate sex trafficking and commercial sex services, it often, if not always, includes a disconnect between the spirit of the law, and

the way it is enforced in practice. This is often referred to as that in-between of "law in books" and "law in action" (Vuolajarvi, 2019), where the top-down coordination is compromised by a lack of prioritizing that leaves governments and law enforcement to utilize their interpretation of how the law should be enforced. There are several problems with this, however, the root of these issues stems from the centring of gender when discussing sex work policies. As mentioned previously, the key aspect of the Swedish Sex Purchase Act is the establishment of a binary of those who are involved in sex work. It shifts the focus from sellers to male perpetrators i.e., clients, traffickers, and pimps, while establishing women as the central victims of 'exploitation' in these situations. This as well promotes bio-essentialism, which establishes a singular view of women, in law, that denies agency, autonomy and the capacity for decision-making skills (Galbally, 2016). There have been many reports that the lack of nuanced and intersectional perspective, and particularly language that exists within prostitution policies, government provisions and socio-economic programs are harmful to marginalized individuals (Chu & Glass, 2013). Specifically, the promotion of heteronormative parameters that disregard trans, queer, racialized identities, by using nomenclature such as "female" in this bill. The most compelling evidence of this is the legislation on "visible" prostitution that has significantly reduced and has moved to indoors, online, and in neighbouring countries, activities that could subject workers to criminalization, which results in low penal value for these

types of offences (Chu & Glass, 2013). Although criminalization does not happen often, violence towards sex workers has increased and continues to affect those most vulnerable. With clients fearing arrest, bargaining, and negotiations must be done rapidly. Firstly leaving workers unable to significantly assess dangerous situations, and secondly, businesses are now conducted in secluded areas (Kingston & Thomas, 2018). Unfortunately, this can initiate potential for assault and homicide. Ultimately, gender as the singular lens through which to legislate prostitution disregards the intersections of class and race as inductive factors that alter the experiences of individuals in this law who participate in sex work.

Human Rights Issues

The component of class, in the context of sex work policy laws, connects to a greater state issue of the position of women and especially racialized immigrant women's economic value. If living off of the avails of prostitution is illegal, how are individuals who have previously or are currently supporting themselves through prostitution able to ensure safety and stability? It is common for sex workers to fall homeless or lie about their income to receive proper living without discrimination (Chu & Glass, 2013). However, most sex workers are migrant individuals, and there is a precedent of double standards in the governance of national and foreign sellers of sexual services (Vuolajarvi, 2019). Specifically in Sweden, a socio-political goal of "protecting women" became a national responsibility that established humanitarianism of care,

focused on the ills of transnational sex trafficking (Vuolajarvi, 2019). The instrumentalization of art and media to lay the foundations of the "Swedish example" of higher moral principles brings with it the justification of tighter immigration laws. Commercial sex is reliant on immigration but is not seen as legitimate work therefore work permits are unavailable, transforming 'regulation' into the criminalizing of sex services from foreign nationals, especially individuals outside the EU. Consequences include deportation and denial of entry. Niina Vuolajavi, in their article "Governing in the Name of Caring – the Nordic Model of Prostitution and its Punitive Consequences for Migrants who Sell Sex", uses their fieldwork to depict migrant sex workers. This was done in Finland, Norway and Sweden, by interviewing migrant sex workers. The sex workers interviewed, Vuolajavi argues, expressed their experience with, "[this] contradictory law. They kind of let you work but they control you – at the end, they force you not to work... they say you can work, but you cannot work in an apartment because then the owner is a criminal, you cannot work in a hotel because then the hotel is criminal... They say that this law is for women, but it isn't. It affects our work" (Vuolajarvi, 2019, citing Lina, a Latin American woman, living in Norway). Denying housing should be recognized as denying human rights, however, this is a common occurrence in most countries including Canada. Furthermore, social service providers do not employ harm reduction methods, for fear of becoming "complicit in prostitution-related activity" (Kingston & Thomas, 2018) found specifically in Sweden.

This inaction leaves sex workers disenfranchised by the penal system.

This policy framework, at its motivational core, relies on social intervention in response to the perils of sex work. This, however, is where this policy falls short the most. In actual practice, this framework largely mishandles sex work and how to properly address health, safety and security risks as a result. For example, across the board, there has been little to no HIV prevention specifically for sex workers, and continued stigma from healthcare providers has displaced and neglected sex workers and increased unprotected sexual services (Chu & Glass, 2013). This stigma is incited by its criminalization. Specifically, in Bill C-36, the oversights come from the failure to define and differentiate between various forms of sex work. And despite the Canadian government's assumptions that the regulation of human trafficking will rectify this issue, is often conflated as a guise to institute stricter parameters on sex work. "Playing the Victim" by Phoebe J Galbally quotes Carole Vance to illustrate the mindset when creating Bill C-36 stating, "if all women in prostitution are sex trafficked and rescue is the only [solution] where is the need for ongoing health services and education to meet the needs of women in sex work" (Galbally, 2016). And this seems to be a commonality. Women in Sweden experience violence from law enforcement, invalidating their experiences and blaming them for the circumstances they have experienced or even intervening with services provided to them or their family. Together with an inability to obtain a work permit or a residence permit, even in

Sweden, if you are considered a Victim of Trafficking (VotS) you are not permitted the use of state services like social benefits or public healthcare, making it impossible to "exit" into a formal labour market. Harm reduction is not part of the Swedish social work model and even legitimate victims are not able to receive therapy etc (Vuolajarvi, 2019). In any event, the current abolitionism of sex work and the oversimplification of what sex work looks like is, from a radical feminist's perspective, the exact opposite way this issue should be handled.

Sex Work Policy Reform

The main discourse surrounding a reframing of prostitution policies is the complete abolition of sex work. This is under the guise of a very singular understanding of bodily autonomy and female modesty. In Victoria Bateman's article, "How Decriminalization Reduces Harm Within and Beyond Sex Work: Sex Work Abolitionism as the 'Cult of Female modesty'", they argue the harm of the end demand of sex work by comparing it to women's experiences in care work. The same way that women, either expressing sexuality or participating in it invite and warrants a violent reaction and perpetuates the notion that women are "sex objects" can be compared to the harm caregiver stereotypes reinforce (Bateman, 202). Essentially, there is a simplistic understanding of a women's agency, and capabilities that incite morality onto these actions-both in sex work and domestic labour- devalues and disrespects their contribution and hard work (Bateman, 2021). Comparatively, the Fair Labour Standard Act in 1938 highlights the experiences revealed

by African American feminists about the exploitation of domestic workers, and the parallel of the way its installation lacked the depth to support black women through the restrictive social barriers that denied the expansion of the definition of labour (Nadasen, 2012). Due to the language that characterized a small window of what would be considered labour, it became a cause for exploitative and harmful labour environments for African American women. The same can be said for most, if not all sex work policies, but what do productive nuanced policies look like? It is not so much the implementation of legitimate legislation, as it is the decriminalization of sex work totally and the implementation of a circular structure that involves agency to the primary source that will protect individuals better. Expanding the language discussed in creating legislation, as seen through the example above, can be critical in the way the law permeates social settings and navigates those contexts. Furthermore, it is about shifting the male gaze that restricts women as needing saving; this restricts both societal gender roles, and requires active unlearning and decolonizing. An important aspect to consider is the way that white colonial structures have prevailed in an anti-migrant, sexist and dominating culture that exists through abolitionist sex work policies (Bateman, 2021). There needs to be a sense of regulation rather than abolition,

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and providing free of fear control on sex work that allows for workers to feel protected and advocated through the law and that when something happens to them they are believed.

Conclusion

Although the intention of the Nordic Model, which was introduced in 1999 through the Sex Purchase Act in Sweden, became a catalyst for the overarching global conversation on sex work and how we can regulate the market, it lacks the nuance to fully address the complexities of the industry as well as factors that affect those who work within it. For example, the framework in itself neglects to dismantle the intricate experiences of sex workers based on gender identity and race. By taking a singular narrow approach many individuals are left within the margins of the law and this further perpetuates harm within these communities. It is evident through this binary framework that true justice cannot be achieved. That is why the Nordic Model does an inadequate job of representing the interests of sex workers. To enact legitimate change social services need to be decolonized and serve with the intention of rehabilitation and social and financial support for sex workers, regardless of gender, class, sexual orientation, or race.

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