



# No model in practice: a ‘Nordic model’ to respond to prostitution?

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## Abstract

The so-called Nordic model to respond to prostitution has been considered in legislative debates across Europe and internationally, and hailed by some as best practice to tackle sex trafficking and is believed to support gender equality. Yet, when we interrogate the utilisation of the Nordic countries laws by law enforcers, it is not being implemented as per the law. We argue that ‘all that is occurring is the transfer of rhetoric and ideology’ in these countries ((Stone Politics, 19 (1): 51–59, 1999) at 56). In this article, we expose the cracks in the so-called Nordic model, thereby discrediting the ‘persuasive’ nature of a unified Nordic approach to prostitution. We draw on policy transfer and comparative law literature to illuminate the problems and challenges of naïve adoption of this so-called model, arguing that this can lead to uninformed, inappropriate and incomplete transfer of the Nordic model, which then becomes a policy irritant, further exacerbating the very problems it seeks to address.

## Introduction

It has been claimed that a Nordic model to respond to prostitution exists after Sweden, Norway, Iceland and Finland introduced legislation that made the purchase of sex a criminal offence. This model has subsequently been hailed as a successful policy approach across many international and European countries, and has led some nations to enact similar laws. The approach taken by the Nordic countries has been identified as a ‘neo-abolitionist’ policy approach to prostitution [1]. This approach sees prostitution as a result of men’s oppression of women and hence the legal policy approach taken focuses enforcement upon clients [2], as they are always assumed to be male. This policy approach is identified by some as best practice and has thus been identified as a progressive policy approach to follow internationally. Its widespread consideration in

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legal and policy prostitution debates demonstrates the gravitas of an apparent coherent and unified approach to prostitution and that the Nordic model has international import.

It is therefore unsurprising that other countries have looked to this model for inspiration. The Republic of Ireland Minister for Justice and Equality, Deputy Frances Fitzgerald identified the model as an approach to follow when debating the Republic of Ireland bill, before it became law [3]. In Canada, the model was discussed throughout parliamentary debates before the purchase of sexual services was made a criminal offence [4]. More recently, in the UK submissions made to the House of Commons Home Affairs Committee (2016) Third Report on Prostitution identified the Nordic model as a potential approach to follow [5].

Yet, when we interrogate Nordic countries prostitution laws and the utilisation of these laws by law enforcers, it is apparent that the laws are not being implemented. This therefore throws the claim that there is a united and compelling approach to prostitution into doubt. Rather, evidence suggests that the approaches in these Nordic countries are disparate, and that Norway, Finland and Iceland encountered many problems and challenges when they adopted the policy approach taken by Sweden. In particular, law enforcers do not utilise and apply the law. In this sense, we claim that ‘all that is occurring is the transfer of rhetoric and ideology’ in these Nordic countries ([6] at 56).

In this article, we undertake a systematic review of the Nordic countries implementation of the law to criminalise the purchase of sex. Our original contribution to these debates draws on policy transfer and comparative law literature, as well as academic research that has documented post-legislative implementation debates. We expose the cracks in the so-called Nordic model, thereby discrediting the persuasive nature of a unified Nordic approach to prostitution. We illuminate the problems and challenges of naïve adoption of this so-called model, arguing that this can lead to uninformed, inappropriate and incomplete transfer of the Nordic model, which then becomes a policy irritant, further exacerbating the very problems it seeks to address. We therefore urge governments to learn lessons from the problems and challenges of adopting the Nordic model, rather than transfer the policy approach on purely ideological grounds.

We begin the article by examining the background to the claim that a Nordic model exists. It then examines the international importation of the Nordic model. We then interrogate the implementation of these laws by law-enforcers as well as the problems and challenges associated with the adoption of the model. Finally, the article considers the reasons why the Nordic model continues to have international import and the implications this has.

## Background to the Nordic model

It has been suggested that the introduction of a criminal offence of purchasing sexual services in Sweden, followed later by Norway and Iceland, and partially in Finland, signify a unified Nordic approach to prostitution [7]. Claims that a Nordic model exists have been identified in the media, political debates, and policy circles. The UK House of Commons Home Affairs Committee (2016) inquiry into prostitution has prompted written submissions that have identified a Nordic model [5]. NGO’s and rights based organisations have also made reference to the existence of this model [8], with some groups identifying it as ‘a human rights and gender equality-based approach also known as the “Swedish model”’ ([9] at 1).

This model is sometimes referred to as the Swedish model because Sweden was the first country to introduce legislation that created a criminal offence to purchase sex in 1999 [10]. The offence, as stated in the Swedish Penal Code, Chapter 6 s.11, makes it an offence 'for anyone who: obtains casual sexual relations in return for payment is sentenced for purchase of sexual services to a fine or imprisonment not exceeding one year' [11]. The legislation in Sweden was introduced to 'act as a deterrent to those who purchase sexual services, so that the number of purchasers would decline' ([12] at 1). The Swedish government believed that:

Prostitution is considered to cause serious harm both to individuals and to society as a whole. Large-scale crime, including human trafficking for sexual purposes, assault, procuring and drug-dealing, is also commonly associated with prostitution ... criminalising the purchase of sexual services could help make it harder for various groups or individuals in other countries to establish more extensive organised prostitution activities in Sweden (ibid: ([12] at 1).

It was also felt that the existence of prostitution undermined women's position in society, and that the new law would send out an important message internationally:

it is shameful and unacceptable that, in a gender equal society, men obtain casual sexual relations with women in return for payment and that Sweden, by introducing a ban on purchasing sexual services, also sent an important signal to other countries highlighting our outlook on purchasing sexual services and prostitution ([13] at 4).

The law was believed to 'mark[s] Sweden's attitude towards prostitution' as the government believe that it 'is not a desirable social phenomenon' ([13] at 9). This attitude and approach to prostitution, it was hoped, would be adopted by other countries and as Levy has claimed:

Since the law's introduction, there have been great efforts by Sweden to export the legislation, to impact and influence law and political and academic philosophy and debate internationally ([14] at 1).

The Swedish government undertook two reviews to demonstrate the laws effectiveness and implementation in practice after ten years [13, 15]. The first review compared the assumed prevalence of prostitution in Sweden to Norway and Denmark before the ban was introduced and concluded that prevalence was three times higher in Norway and Denmark than in Sweden following the ban [13]. The second review was part of a Government action plan against prostitution and human trafficking for sexual purposes, and again concluded that demand had been reduced [15], and that overall 'the prohibition of the purchase of sexual services has had the intended effect and is an important instrument in preventing and combating prostitution and human trafficking for sexual purposes' ([12] at 1). The evaluation and implementation of the law to ban the purchase

of sexual services was therefore seen as a success [16]. After implementing similar laws in 2009, Norway reportedly witnessed a similar dramatic reduction in the prevalence of street prostitution [16].<sup>1</sup> It is this legal policy emulation, as well as the introduction of a similar offence in Finland and Iceland,<sup>2,3</sup> that has led some to claim that a Nordic model exists.

## International import

The perceived success of the Nordic policy approach has led other countries to consider transferring to the Nordic model. Calls to adopt this policy model stems from the belief that this approach tackles gender inequality, trafficking and exploitation. For example, Mary Honeyball MEP and rapporteur for the European Parliament's Committee on Women's Rights and Gender Equality published a report on sexual exploitation and gender equality on 3 February 2014; amongst other things the report said that it:

Considers that the most effective way of combating the trafficking of women and under-age females for sexual exploitation and improving gender equality is the model implemented in Sweden, Iceland and Norway (the so-called Nordic model) [22].

Although the European Union has always said that policies and laws on prostitution are outside of their competence and are, therefore, a matter for individual countries, attempts have still been made to pass pan-European laws.<sup>4</sup> Thus it has been claimed that there is a strong wind blowing from Sweden and other Nordic countries:

I support the Swedish Model (also used in Iceland and Norway), and have written a report for the European Parliament women's committee advocating it. We voted through the report today so it will go to the full parliament next month, sending a strong signal that the wind is blowing in the direction of Scandinavia [23].

International prostitution policy debates have become increasingly interested with what has been named the Swedish and Nordic model. In Scotland and Luxembourg although plans to adopt this model were rejected, the Swedish and Nordic model was identified

<sup>1</sup> The Norwegian General Civil Penal Code was amended in 2009 with a new Section 202a which 'in effect criminalis(ed) the purchase of sexual activity or a sexual act' ([17] at 1).

<sup>2</sup> Section 8 of The Criminal Code of Finland made it an offence to purchase sex from a person exploited or coerced into prostitution in 2006 [18]. Under this offence, a victim is defined as someone who is 'controlled for gain' or is a trafficked victim [18, 19]. This partial ban emerged as a compromise following intense parliamentary debates in which the Swedish model was considered as an approach to enact in Finland [20].

<sup>3</sup> In 2009, Iceland amended their Penal Code to include the offence of paying for sexual services. The Penal Code makes it an offence for 'Any person who pays, or promises to pay or render consideration of another type, for prostitution shall be fined or imprisoned for up to 1 year' (Chapter XXII. [Sexual Offences], Act 40/1992, Art. 12, cited in [21]).

<sup>4</sup> See for example an attempt to pass a motion for a resolution pursuant to Rule 120 of the Rules of Procedure by the Italian MEP Lorenzo Fontana in July 2013 on the implementation of a common framework to manage and regulate prostitution (B7-0372/2013, 18.7.2013).

in political discussions and during visits made to Sweden [24–28]. This interest is demonstrated by the introduction of somewhat similar laws in Northern Ireland<sup>5</sup> and England and Wales,<sup>6</sup> where the purchase of sexual services of a prostitute *subject to force* was criminalised. In France, following two years of debate, the French Senate introduced law making the purchase of sex a criminal offence and the offender liable for a fine and other sanctions [31–34]. In the consultation stages of this Bill, a delegation of campaigners, who were a part of the National Assembly in France, established a working group which, amongst other things, undertook a visit to Sweden to understand how the law was being implemented and what impact the law had on sex workers [35]. In French Parliamentary debates it was recognised that Finland, Norway and Iceland had followed the Swedish model and this law had changed attitudes and behaviours in these countries [35].

Other European countries, such as the Republic of Ireland, have shown their intentions to adopt this legislative approach. In June 2013, the Irish Parliament's Committee on Justice, Defence and Equality issued a report recommending a reform of the legislation on prostitution, with provisions penalising the purchase of sexual services [36]. The Committee visited Sweden to see for themselves how their 'Sex Purchase Act' worked and received a good deal of support for the Swedish approach from campaign groups in Ireland.<sup>7</sup> In 2017, Ireland became another country that made the purchase of sex a criminal offence.<sup>8</sup> Minister for Justice and Equality, Frances Fitzgerald stated in her speech to the Department of Justice and Equality that 'Ireland will be the seventh jurisdiction to introduce laws targeting the purchase while decriminalising those who provide the sexual service' ([3] at 1).

As with other countries, concerns over trafficking appear to have given this pursuit momentum. Minister for Justice and Equality, Deputy Frances Fitzgerald has stated: 'My primary concern, in introducing these provisions, is to vindicate the human rights of those trafficked for the purpose of sexual exploitation' the sex buyer law, she claims is 'the most effective tool for preventing and combating trafficking in human beings' ([37] at 1). Teresa Whitaker, of the *Sex Workers Alliance of Ireland* has said that these moves ignore women who choose to sell sex and in turn that as 'this movement is sweeping ... across Europe, it's become a modern crusade' ([38] at 1).

The international import of the Nordic model continues to be considered by other countries in Europe. Yet the degree to which there is a coherent Nordic model is questionable, not least because the Nordic laws operate in different contexts, and are not implemented in existing legislation or by practitioners in the same way. Thus, the degree to which it can be claimed that Nordic policy model exists must be considered with caution. In order to critically examine whether a so-called unified Nordic model exists amongst the Nordic countries, the next part of the article will consider these laws in their regulatory environment.

<sup>5</sup> Article 64A of The Sexual Offences Order 2008, amended by the Human Trafficking and Exploitation Bill [29].

<sup>6</sup> s.14 The Policing and Crime Act 2009 [30].

<sup>7</sup> See e.g. <http://www.turnofftheredlight.ie/>.

<sup>8</sup> The Criminal Law (Sexual Offences) Act 2017, Part 4, section 25, made amendments to the Criminal Law Act 1993 by the insertion of *S.7A Payment etc for sexual activity with a prostitute*.

## No model in practice: Implementation failure

Claims that a Nordic model exists should be viewed with scepticism when we examine the implementation of black letter law within the regulatory environment. Although there appears to be reasoned argument that a common policy approach to prostitution exists, ‘once we interrogate the regulatory environment, we are likely to find that the norms that actually guide day-to-day dealing are quite different to the rules that have achieved notoriety in the law books.’ ([39] at 199). Indeed once we examine the implementation of the law, it is evident that these Nordic countries have experienced problems post-transferal, when those whose role it is to utilise the law do not do so. Therefore, the context in which a legal policy is transferred is critical to its successful implementation and adoption. As Hage explains ‘the operation of black letter law depends on how legal agents use it in their work. And this in turn depends on the general culture of the country or region within which the law and the legal agents must function’ ([40] at 50). Thus, although legislation has been introduced to make it an offence to pay for sex, it is not necessarily being implemented which undermines the claim that a coherent ‘model’ exists in practice.

As a result, Dolowitz and Marsh claim that policy transfers can lead to policy failure [41]. They suggest there are three factors that can lead to policy failure: uninformed transfer, incomplete transfer, and inappropriate transfer. The first, uninformed transfer arises when a country borrows the policy from another but does not have sufficient information on how the policy operates. The second, incomplete transfer, occurs when key elements of the policy are not transferred. Thirdly, inappropriate transfer takes place when critical economic, political, social and ideological contexts are overlooked or ignored by the borrowing country. Zweigert and Kotz identify that when any policy transfer from one country to another is being considered that two important questions must be asked ‘first whether it has proved satisfactory in its country of origin, and secondly, whether it will work in the country where it is proposed to adopt it’ ([42] at 17). The following part of the article will therefore examine the law in context in order to explore whether there is a coherent model in practice.

### Uninformed transfer?

The adoption of the Swedish approach to prostitution without considering sufficient information about the negative effects could lead to the uninformed transfer of legal policy as ‘if there had been a more thorough analysis ... then it is likely that the government would have realized some of the drawbacks’ ([41] at 18–19). A consequence of ill-informed transfer of legal policy, could lead to what Teubner describes as a ‘legal irritant’ [43], in that ‘the attempted transfer may not just fail but further exacerbate the very problems to which a policy is addressed’ ([44] at 228). Research has shown that the Swedish approach has a number of negative consequences that should be considered by borrowing counties, as well as the negative impact this approach has had on other Nordic countries.

The negative effects of the Swedish approach has included increasing the vulnerability of those who sell sexual services and trafficked victims. Some have even claimed that the Swedish government ignores and turns a blind eye to the negative effects of the law. As one interviewee in Levy’s study stated ‘they didn’t really think about what

effects this will have on the lives of individuals. And they still close their eyes and ears for the effect it has had' ([24] at 64). In Sweden, it has been argued that rather than reducing exploitation and abuse, the law has made sex workers more vulnerable to exploitation [45]. Those who sell sexual services on the street in Sweden have been shown to take less time negotiating with clients and this therefore reduces their ability to assess the potential risks [46]. Previous studies in Sweden and the UK have demonstrated that police enforcement can push the industry underground which can lead to greater risks to both sex workers and clients as they attempt to evade police prosecution [47–49]. Likewise in France, research by Le Bail and Giametta has shown how the criminalisation of clients in France has increased levels of violence and risks that those who sell sex face and shifted the power relationship in favour of clients who feel more able to make demands and impose conditions [50].

The negative effects of adopting the Swedish approach can also be observed in Norway where the *Pro Sentret* report indicated that the law to criminalise clients made sex workers much more susceptible to violence because the sex industry moves further underground to avoid criminal prosecution [51]. According to this 2012 report, 59% of the participants said they had experienced violence after the sex purchase law was introduced ([51] at 4). In responding to the report Conservative Party Member of Parliament, Anniken Hauglie claimed that 'the reality is that the law has made it more difficult for women in prostitution' [52]. In contrast, research has demonstrated that decriminalisation in New Zealand has enabled those who sell sex to determine what services they will and will not provide, which clients they will provide services to, as well as negotiate safer sex practices [53]. Their legal position means that when instances of exploitation do occur they can take their case to a human rights tribunal or through other legal processes [54].

A further problem associated with the Swedish approach is the evidence base upon which it has been rationalised. It has been suggested that its introduction was needed to tackle sex trafficking. The belief held is that through reducing demand for prostitution, sex trafficking would reduce. This is an interesting supposition when we explore research undertaken where the purchase of sex is not criminalised in New Zealand, which found that only 4% of sex workers surveyed reported that they had been forced to work [55]. Instead, critics of the Swedish model have argued that the criminalisation of the purchase of sex in Sweden has not led to a reduction in the extent of trafficking. As the Global Alliance against Traffic in Women have claimed 'There is no evidence that criminalising or otherwise penalising sex workers' clients has reduced either trafficking in persons or sex work' ([56] at 1). Instead, the penalisation of clients has made sex workers more vulnerable to exploitation [45], and trafficked victims more reluctant to report their exploitation to the police for fear of reprisals from traffickers, and because of their inherent distrust of the authorities. Furthermore, in Finland Detective chief sergeant Kenneth Eriksson claims that the Finish law is counterproductive as clients are deterred from reporting potential evidence of sex trafficking and exploitation to the police, because they themselves fear criminal prosecution ([57] at 28). Despite these negatives consequences a report commissioned by the Finnish Ministry of Justice clearly indicated its support for a complete ban on the purchase of sex (currently Finland operates a 'partial' ban). Its preference is to follow the Swedish model which is seen as having few problems, is less ambiguous and has little negative impact on sex workers [20].

The claim that ‘the ban on purchasing sexual services has reduced demand for sex and thus contributed to reduce the extent of prostitution in Norway’ ([58] at 11), has also been put under critical scrutiny. For example, although research has identified that prevalence of the purchase of sex tends to be higher in countries where prostitution is legal, the authors also highlight that self-reporting rates are likely to be lower in a country where prostitution is illegal and this therefore explains these lower prevalence rates [59]. Indeed, research has shown that in countries where prostitution is illegal the industry becomes more hidden as those involved seek to avoid being identified or prosecuted by the authorities [48, 60]. One consequence of this can be ‘spatial switching’ where prostitution moves to less visible spaces, enabled by the developments in technology those who sell sex do not leave the industry, but instead adapt their practices to avoid prosecution [61]. Thus, the apparent reduction in prostitution is merely a reflection of the invisibility of the industry from public or visible spaces.

Spatial switching and the desire to avoid prosecution may also help to explain research that has identified that in countries where prostitution is legal, higher trafficking rates are also higher [62]. Research on male clients of commercial sex have indicated their reluctance to report instances of potential exploitation or abuse to the authorities in the UK because they may face prosecution [63]. Furthermore, whilst research by Kotasdam and Jakobsson found that sex trafficking rates are higher in countries where prostitution is legal, they also acknowledge that countries with a wealth of resources, more enhanced law enforcement skills and legal systems may be better placed to detect and prosecute sex trafficking [64]. Research has also shown that some migrants who sell sexual services have claimed victimhood status have done so to gain access to resources and avoid deportation, further complicating the findings of sex trafficking prevalence rates [46, 65].

The potential ineffectiveness and legitimacy of the Swedish or Nordic legal policy approach has however, not been ignored by other countries. For example, in Luxembourg a Bill which would have criminalised the purchase of sex was dropped by the Luxembourg government in 2014 because it was believed that the law could increase the dangers for sex workers as they would be more likely to work alone if the law was introduced [28]. According to Luxembourg MEP Cécile Hemmen ‘We’re not going to apply the Swedish model or another. On prostitution, the government’s idea is to find an approach tailored to Luxembourg’ [66]. Likewise, the Nordic country Denmark has not made the purchase of sex a criminal offence despite campaigns by women’s groups and politicians to change the law [67].

### **Incomplete and inappropriate transfer**

Simply adopting a model from another country, because it appears to work, does not take wider social issues into consideration and may thus not work in another country. Policy transfer can be a diverse, multi-faceted process which can be fraught with many challenges and problems, and may be mediated by a particular social, historical, cultural context. Canton and McFarlane argue:

Just as each policy is unique, different areas of public policy pose their own distinct challenges for transfer. This is certainly true of criminal justice. There are considerable



variations among different nations in their views about the origins of crime, and about how the state and the community should respond to offenders ... It is increasingly recognised that the trajectory of criminal justice policy development depends upon a wide range of political, economic, social, cultural and emotional influences, interacting with each other in uncertain ways ([68] at 1-2).

Issues which can cause problems for legal policy transfer may include 'economic organization', 'differences in political institutional contexts', 'the role played by the media', and 'a particular set of "cultural traits"' ([69] at 442-3). As Stenson and Edwards argue, 'if naive emulation of policies is to be avoided then greater attention needs to be given ... to the concept of "social filtering"' ([44] at 228). Indeed, the attempted adoption of the Nordic model may be rejected by the host nation because of its incompatibility with social and cultural values of that country. This was observed in the UK when United States arrangements of open access to the sex offender register, known as 'Community Notification' (or Megan's law) were rejected in parliament in 1997. As Alun Michael (for the opposition) claimed 'We may learn some lessons from the United States [but] ... our culture, law, police service and other services are different' [70].

Many comparative legal studies have demonstrated that transferred or copied laws have failed to work because of resistance to full enforcement of the law or because of non-compliance by lawmakers or law enforcers [39]. Using the example of the consumer marketplace in Europe and the increasing harmonising directives of the marketplace for consumers, Brownsword describes how 'even though directives can be copied out, they do not copy across into practice in the same way' ([39] at 198).

Thus, problems with the implementation of the Nordic model can also take place post-transferal when those whose role it is to utilise the law do not do so because they are unable, unwilling or inept. Despite the legal focus of enforcement focusing on clients in France, those who sell sex are still more heavily prosecuted and face intimidation and threats from the police [50]. In Sweden, despite selling sex not being a criminal offence, research has demonstrated the biased and discriminatory way that the police respond to and deal with those who sell sexual services [71]. The belief that a person who sells sexual services cannot be raped was expressed by police officers in Levy's research in Sweden [14], and echoed in research in England [72]. In England and Wales, Kingston and Thomas found that the police were not using the partial law that criminalised men for purchasing sexual services from trafficked women. The police were unable to detect whether a sex worker was the victim of exploitation or force because the law is either not needed, the police were not appropriately trained to identify victims or because of sex workers inability/unwillingness to report their victimisation to the police [73]. Thus although the offence of paying for sex can be prosecuted, those whose role it is to enforce this law, the police, are not doing so.

Similarly in Norway, despite the apparent success of campaign groups to bring about a change in the law, critics have argued that there has been a lack of political support for the law and a consequent lack of implementation of the legislation by the police [74]. In September 2013, Norwegian political parties such as the Liberal Party (Venstre), the Conservative Party (Høyre), the right-wing, populist Progress Party (Fremskrittspartiet), and the Green Party (Miljøpartiet de Grønne) all made repealing the Sex Purchase Act part of their

election campaign [74]. Stø and Håland claimed that there was a lack of political support for the law to criminalise clients ([74] at 4). As they state:

We could never have imagined how strong the opposition to the Norwegian Sex Purchase Act would be when it was first implemented on January 1, 2009 — by the police, who hardly enforce it; by politicians, who have made lifting the ban part of their election promises; and by the media, who are providing a platform for opponents of the act and for those who praise prostitution ... It is no secret that the Sex Purchase Act was implemented against the will of the leaders of both the Labour Party and the Socialist Left Party. Minister of Justice at the time, Knut Storberget, was a strong opponent of the new act and the one who was set to implement it. Knowing this, it might not come as a surprise that the law has been enforced in a very lax manner.

In Iceland, Stø and Håland report that the feminist movement is still fighting for the police to actually use the law against the purchasers of sexual services [74]. One underground group called ‘Stóra Systir’ (‘Big Sister’) put fake advertisements on websites such as einkamal.is, mypurplerabbit.com., raudatorgid.is and put classified ads offering ‘massages’ in the daily newspaper Fréttabladid. They obtained the names of 56 men, 117 telephone numbers and details of 29 emails of men who had shown an interest in purchasing sexual services over a three week period. The group claimed that they had decided to take action and expose the men because of police inaction [75].

In Sweden, it is clear from Levy’s work that there are many practitioners who do not support the Swedish law and have heavily criticised the evaluation of the law by the Swedish government [14]. As one participant in his study claimed, ‘by far it’s the worst crap I’ve read amongst commissioned reports ...its extremely poor, and its full of contradictions and inconsistencies’([14] at 55). Evidence of a lack of support for law and divide in public opinion in Sweden has also been acknowledged by the Swedish Institute who claim that:

despite the official position, there is still a debate in Sweden regarding attitudes to prostitution. Those who defend prostitution argue that it is possible to differentiate between voluntary and non-voluntary prostitution, that adults should have the right to freely sell and freely purchase sex, and that the ban on the purchase of sexual services represents an outdated position based on sexual morality ([13] at 5).

As with any laws that are introduced, its implementation by practitioners does not come automatically. This can be seen very clearly in the case of the UK’s 1998 Crime and Disorder Act (ss. 14–15) which allows for local authorities to apply for local curfew orders for children under 10 in specified areas. Subsequently, not one local authority across England and Wales to this day has ever sought to use this power. It could be argued that the adoption and transfer of the Swedish legal policy approach was a form of ‘coercive transfer’ ([76] at 344), and has resulted in ‘implementation failure’ ([41] at 21). As there is a lack of support for its introduction in some countries, a failure in its

implementation by practitioners has followed. These post-transferral implementation debates evidently highlight the fragmented, inconsistent, and incoherent utilisation of the law by law-enforcers and a lack of support by other practitioners. As a result, the function of the law is not put into practice.

## Discussion

Legal and public policy transfer continues to be seen as a useful strategy to employ and it is claimed that its use has grown in the context of advances in technology that has enabled the ability to communicate internationally and learn from each other much easier [41]. In an increasingly interconnected, co-dependent world, it may be unsurprising that global policies have emerged to deal with issues such as global economic pressures, as policy-makers look to other nations to see how policies, processes, and institutions work to tackle social problems. As Zweigert and Kotz suggests, 'national isolationism is on the wane' [42].

The influence of 'global policy processes' on the development of prostitution policy is nothing new, as Skilbrei and Holmstrom note countries are not closed circuits in which policies are made [7]. 'Copying', the policy from another country, and 'enacting a more or less intact program' ([77] at 27), is not limited to prostitution policy; it has been observed in many areas of welfare reform, criminal justice and public policy [41, 76]. This has led some to argue that it is a 'growing phenomenon' ([41] at 5). Its existence has also been documented in areas of crime control, and can be observed in areas such as 'privatized corrections, "zero-tolerance" policing, and "three-strikes" sentencing' ([78] at 129); counter-terrorism strategies [79]; and youth justice [80]. Likewise, legal policy transfer has been well-documented within Europe. Indeed Zweigert and Kotz has suggested 'the harmonization of laws ... is of ever-increasing significance' ([42] at 24).

It is therefore likely that we will witness the continued international interest in adopting the Nordic model. Not least because of the pivotal role that feminist groups continue to play within international political discussions on prostitution. Gender inequality, women's rights and concerns over sex trafficking have often formed the rationale for countries to consider adopting the Nordic approach. Indeed, in Norway, Finland and Iceland it is clear that feminist groups campaigned respective governments to criminalise the purchase of sex and these initiatives were successful. In Norway campaigns by feminists groups, such as The Women's Front of Norway and others groups such as the Norwegian Confederation of Trade Unions, sought to persuade the Norwegian government over many years that legislation to make the purchase of sex illegal was needed [81]. The influence of campaign groups can also be seen in Iceland, when Prime Minister Jóhanna Sigurðardóttir claimed that Iceland had followed the Swedish path to make the purchase of sex illegal, after a nine-year long campaign by the women's movement and female parliamentarians ([82] at 8). Sigurðardóttir later explained:

It took approximately ten years to get a law through Parliament to ban prostitution, or, rather, paying for sexual favours. This was due to a lot of effort by the women's movements of the political parties and also due to strong support from a

group that fights sexual violence. Public opinion polls also showed that the majority of the Icelandic population wanted this law passed, as 70 per cent wanted to ban prostitution. This was a very important legislation and stopping human trafficking was a key motivation behind this fight ([83] at 1).

Iceland subsequently went on to ban strip clubs in 2010, leading some to claim that Iceland was the ‘the world’s most feminist country’ ([84] at 1).

In the United States, feminist groups have campaigned against the legalisation of prostitution for many years, arguing that it is a form of violence against women and that clients are ‘evil’ [85]. Likewise in the UK, the campaigning of groups such as Object Now have campaigned the government over many years to move towards creating an offence of paying for sex and not limiting the offence to those who pay for sex from someone who is coerced or forced.

At the time of writing the UK House of Commons Home Affairs Committee (2016) inquiry into prostitution and the Home Office’s research into the field is still ongoing. The Committee’s inquiry, amongst other self-imposed terms of reference, sought to discuss whether criminal sanctions in relation to prostitution should continue to fall more heavily on those who sell sex, rather than those who buy it. It is already clear from the written evidence submitted to the inquiry that the Nordic Model is being put forward as a possible way forward. The inquiry has also identified in its terms of reference, the Crown Prosecution Service’s recognition of prostitution as violence against women. As with ideological rhetoric evident in Nordic political debates, concerns over sex trafficking, gender inequality and women’s position in society appear to have fuelled this focus on those who buy sex, but specifically men.

At this stage it could be suggested that England and Wales are currently at a lesson learning phase of policy transfer, because the Home Office has recognised some of the disadvantages of different prostitution policy models. Lesson learning is described as learning from the potential negative consequences of adopting a policy, and thus institutional change does not always take place [76]. However, it could also be suggested that England and Wales has already taken a hybridised approach, similar to Finland, when it introduced s.14 of the Policing and Crime Act 2009. This act made it an offence to pay for the sexual services from a prostitute who has been subject to exploitative conduct; this offence is one of ‘strict liability’. Previous research has already identified the non-implementation of this law by law enforcers [73]. Thus, we urge the Home Office to conduct further research on the use of this existing law before considering whether to introduce a full ban on purchasing sexual services in order to avoid uninformed, inappropriate and incomplete transfer.

We watch with interest the deliberations and recommendations that will be forthcoming and the UK government’s response in due course. Although it has been shown that no coherent Nordic model exists, the international import of the supposed Nordic model continues as countries look to these nations for a legal solution to sex trafficking, gender inequality and an overall reduction in prostitution. Yet whether a law to criminalise the purchase of sex is utilised by law enforcers in these countries requires further consideration, as without doing so this can lead to uninformed transfer of the Nordic model and therefore incomplete transfer by practitioners.

## Conclusion

Commentators have suggested that the adoption of the Swedish model by Iceland, Finland and Norway demonstrates the existence of a Nordic model to deal with prostitution. Although there are differences between the laws in these Nordic countries, the laws still perform the same function; that the purchase of sex is a criminal offence. In this sense, Norway, Finland and Iceland have emulated the legal policy approach taken in Sweden, retaining the functionality of the law but doing so in slightly different ways [77]. Yet, when we begin to examine these laws in their regulatory environment we begin to see that the function of the law is not wholly served; thereby undermining the assertion that a coherent Nordic model exists.

This article has shown that a Nordic model exists in law but is not being implemented, as those who are assigned to implement the legislation are not doing so and do not support the law; undermining the claim that a coherent model exists. Instead we argue that variations in the regulatory environment of these Nordic countries are not accounted for when it is claimed that a Nordic model exists. Rather, what we have seen is that there is strong political support for the criminal offence because it is believed to help in the fight against sex trafficking and gender inequality more broadly, but a lack of will or ability to implement this law. Clearly then, 'claims of transferring policies and practices must be treated with some scepticism if all that is occurring is the transfer of rhetoric and ideology' ([6] at 56).

The article has also demonstrated the reasons why the Nordic model is not working. First, the Nordic model does not reduce demand, sex trafficking, violence or exploitation. Rather, it acts a policy irritant exacerbating these very issues. Neither does the model contribute to gender equality, because the evidence base upon which the policy approach is based upon fails to acknowledge research that shows that women and couples pay for sex and that men and trans people sell sexual services [86]. If borrowing countries also fail to consider these issues, we claim that this results in uninformed transfer. Finally, the lack of implementation of the law by law-enforcers results in incomplete and inappropriate transfer because of the lack of support for the law by practitioners and a lack of implementation. These identified cracks in the apparently unified and coherent Nordic model, as the name would suggest, therefore undermines its persuasiveness. We therefore urge countries to learn lessons from the problems and challenges of adopting the Nordic model that have been documented here.

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