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Selling Sex in Sweden

An Analysis of Discourses about Sex Workers and their Human Rights

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Abstract

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Sweden was the first country in the world to criminalise the purchase of sex whilst keeping its sale legal. This approach to prostitution is highly controversial: some herald it as an effective way to tackle the oppressive, exploitative nature of prostitution, whereas others claim that it worsens working conditions and denies sex workers' agency. This thesis, an analysis of discourses of two central figures in the prostitution debate in Sweden, the Swedish government and the NSWP, investigated how sex work and sex workers are socially constructed and how these constructions impact notions of sex workers' human rights entitlements. Research questions were as follows: How are sex work and sex workers constructed in the discourses of the Swedish government report and the NSWP toolkit? What aspect(s) of the sale of sex are presented as problematic in each discourse? How do these problematizations fit into the Swedish context? What do these constructions imply in terms of sex workers' human rights? The analysis found that the whether or not prostitution is considered consensual is key. The Swedish government constructs sex workers as exploited victims and prostitution as antithetical to gender equality: protective rights are necessary to shield prostitutes. The NSWP, on the other hand, builds an image of autonomous sex workers who are disempowered by Swedish legislation and are entitled to human rights on the same basis as any other citizen: they call for empowerment.

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SECTION I: FRAMEWORK

1. Introduction

1.1 Socio-political background

In 1999, Sweden became the first country in the world to criminalise the purchase of sex while keeping its sale legal. This social and legal approach to prostitution, known as the ‘Swedish Model’, has since become notorious and has led to the establishment of similar laws in Iceland, Norway, Canada, Northern Ireland and most recently France (The New York Times, 2016). The ideology behind this law is rooted in the perspective that sex work constitutes a form of oppression and violence against women, and the best way to combat this is by totally eliminating the demand for sex work (SOU, 2010: 30).

Interestingly, the Nordic countries have a tradition of sexual liberalism: as Skilbrei and Holmström (2013: 34) point out, sex education is introduced early in schools and attitudes towards sexual minorities are progressive. However, this openness does not apply to commercialised sexuality: sex work, pornography and striptease are not considered part of the norm of ‘good, healthy sex’ that is sanctioned by the state (ibid.).

The Sex Purchase Act was put into place after more than twenty years of public debate about the best response to what was considered ‘an expression of gendered dominance’ (Waltman, 2011: 450). In this way, prostitution is not typically seen as work in the Swedish context but rather as a form of sexual and socioeconomic inequality associated with exploitation and abuse (Dempsey, 2010: 1737, 1759, 1761). This approach is derived from the radical feminist perspective that was strongly supported by the ruling political parties in Sweden in the years before the implementation of the law, leading to its incorporation in *Kvinnofrid*, the Violence Against Women Act (Jakobsson & Kotsadam, 2011: 33).

1.2 What the ban entails

The Sex Purchase Act, which criminalises the purchase but not the sale of sex, was amended twice after its introduction in 1999: first in 2005 to be included in the Penal Code (Government Offices of Sweden, 2011), and again in 2010 to increase the maximum penalty from six months to one year (SOU, 2011: 4). Accordingly, ‘a person who . . . obtains a casual sexual relation in return for payment, shall be sentenced for purchase of sexual service to a fine or imprisonment for at most one year’ (Swedish Government Offices, 2014: 4). The chapter of the Penal Code in which the Sex Purchase Act is delineated also covers rape, incest and paedophilia, rape of a child and sexual molestation.

According to Florin (2012: 270), there is no legal definition of prostitution in Sweden’s prostitution policy, but the crime of the purchase of sexual services is

defined by the Swedish government as the obtainment of a casual sexual relation in exchange for payment (2010: 31). This payment can take the form of money or other means such as drugs or alcohol, and even an attempted offence is punishable (*ibid.*). As Florin (2012: 270) points out, payment for webcam sex, striptease or live masturbation are not affected by the ban.

There are several aims behind the criminalisation of the purchase of sex: firstly, there is the normative intention of establishing prostitution as an unacceptable activity in Swedish society. Next, the Sex Purchase Act was intended to deter against the pursuit of 'organised prostitution activities' in Sweden by foreign groups and finally, this legislation makes an international statement about Sweden's outlook on prostitution (SOU, 2010: 4).

The Swedish government claims that street prostitution has been halved since the implementation of the act and that it has served to combat and prevent sexual exploitation and trafficking. Furthermore, the legislation has received widespread support amongst the Swedish public: 71% of 1,100 participants in a 2008 government-led survey agreed that it should be upheld (SOU, 2010: 30).

1.3 Sex workers' objections to the Swedish Model

While the Swedish Model has been heralded internationally as a progressive and important step towards gender equality, it has been also disputed both because of the reasoning behind it and because of how it has been implemented in practical terms (The New York Times, 2016). A recurring argument, as Levy and Jakobsson (2014: 598-599) point out, is that it pushes sex work underground and worsens conditions for sex workers, leading to increased abuse and violence as well as poor working conditions overall. In this way, by creating a reluctance on the part of sex workers to report abusive behaviour for fear of losing clientele, it is argued that the ban serves to decrease possibilities for intervention and control of dangerous situations (*ibid.*).

Carson and Edwards (2011: 78) claim that in Sweden there is no 'legitimate market in sexual services' because of its partial criminalisation. Therefore, sex work is not considered a normal economic transaction (*ibid.*) and Skilbrei and Holmström (2013:119) contend that although legal, selling sex is not a regularised or legitimate act in Sweden. As such, they argue that sex workers are denied many rights such as parental insurance, pension insurance and sickness insurance, despite their obligation to pay tax (*ibid.*).

In addition, it is maintained that the Swedish approach to sex work has negatively impacted the measures taken by social services to aid sex workers: Levy (2015: 130) claims that harm reduction is considered incompatible with the official stance of the government whereby sex work must be completely eliminated. Instead, Florin (2012: 274) argues that social workers actively defend the ban and the provision of condoms, counselling, practical assistance and treatment is conditional upon sex workers voicing a desire to leave the profession. Sex workers who defend their profession are thus often left without adequate assistance: Levy (2015: 150) maintains that those who do not cease sex work or who are currently involved in it continue to experience difficulties that could be mitigated or avoided through harm reduction measures.

Furthermore, the Swedish government has been accused of conflating trafficking and sex work: according to Levy and Jakobsson (2013: 335) the ban has been lauded by the state as an effective measure against trafficking, thus further amalgamating the two concepts. This is highly problematic for sex workers who argue that they have voluntarily chosen their profession and do not wish to be placed in the same category as those forced to do so under exploitative and dangerous conditions. Hence, Florin (2012: 270, 273) argues that consensual sex work is portrayed as impossible: sex workers are consistently denied their agency.

There are some organisations in Sweden such as the Rose Alliance, a sex worker-led organisation, that promote sex workers' rights and dispute the criminalisation of the purchase of sex, but they claim that their voices are silenced and discredited by policy makers as an exception to the overwhelming majority of sex workers that the Swedish law claims to benefit (NSWP, 2011).

These are some key points of contention raised by sex workers, researchers and advocacy groups. They are discussed in further detail and in relation to other objections in section 3.2, *Problematizing the Swedish Model*.

1.4 Prostitution vs. sex work

Concerning the language of prostitution, it is important to note that terminology often implies a specific standpoint. Thus, Della Guista and Munro (2008: 6) point out the following:

The language of 'prostitute' and 'prostitution' have been closely aligned with abolitionist perspectives that see the sale of sex as entailing women's exploitation and objectification, both by those who manage and create the opportunity for the sexual transaction as well as by those clients who make the purchase and maintain the demand. By contrast, the language of 'sex workers' and 'sex work' has typically been preferred by those who emphasise women's agency in entering into commercial sex transactions (albeit perhaps under conditions of constraint) and who call for the regulation of the sale of sex as akin to the sale of non-sexual labour or services . . . Despite their heated disagreement, each of these positions falls into a significant epistemic pitfall by presuming the existence of a unitary truth, not only of the practice of prostitution but also of . . . sexuality itself.

This paper will use both terms interchangeably to acknowledge the complexity of experiences and understandings of prostitution: a conscious decision has been made to make room for this divergence.

1.5 Human rights

As a set of universally applicable standards, human rights constitute a compelling instrument for claims-making: as Sen (2004: 315) asserts, every individual, irrespective of territorial legislation or citizenship, has basic rights that demand others' respect. Despite their universality, human rights are applied in highly different ways by the Swedish government and the NSWP when it comes to prostitution. This is possible because, as Boersema (2011: 140) points out, human rights are inherently

vague. This ambiguity is intentional: it extends the applicability of human rights across contexts and increases the likelihood that they will be ratified by nation-states. However, Boersema notes that it also leads to disputes concerning the specificity and legal application of human rights (ibid.).

In order to have a clear, unambiguous framework that is applicable to the arguments of both the NSWP and the Swedish state, the human rights discussed here are those recognised by the UN and signed and ratified by the Swedish state. The conventions that will be used here are the *International Covenant on Social, Economic and Cultural Rights* (ICESCR), the *International Covenant on Civil and Political Rights* (ICCPR) and the *Convention on the Elimination of all forms of Discrimination Against Women* (CEDAW). They are cited in further detail in the Appendix.

Whether or not the sale of sex can truly be consensual is at the heart of the prostitution debate in Sweden. Although many human rights are implicated in this debate, two are key: the right to self-determination (ICESCR, Art. 1.1) and the right to be free from exploitation of prostitution (CEDAW, Art. 6). The former is about free choice (Merriam-Webster, n.d.): it can be argued that the Swedish Model denies sex workers the right to self-determination by obstructing the exercise of their profession, but it can also be argued that prostitutes are never able to fully exercise self-determination as long as they continue the oppressive practise of selling their bodies. The ambiguous right to be free from exploitation of prostitution (CEDAW, Art. 6) is the only instance where prostitution is mentioned in any UN convention, and it leaves considerable room for interpretation. Is all prostitution exploitative? If not, what constitutes exploitation? As will be discussed later on in this paper, the Swedish government explicitly ascribes oppression and exploitation to all prostitution (cf. 5.3 *Categories and constructions of victimhood*) whereas the NSWP argues that experiences of sex work are highly variable (cf. 4.2.3 *Identities: an antagonistic state, autonomous sex workers and third parties as a potential threat*). Both of these rights therefore call for detailed discussion within the context of this paper, and will be considered separately from the other rights applicable to sex workers in Sweden in the sixth chapter.

It is important to note here that the framework of human rights that will be used is one of legal rights. According to Boersema (2011: 87), these are rights accepted as legitimate because they are acknowledged within the relevant legal system in contrast to moral rights, which are justified by moral principles independently of any legal system.

1.6 Purpose of this study

This study consists of a critical discourse analysis of two key documents in the prostitution debate in Sweden: extracts of the official government report entitled *The Ban against the Purchase of Sexual Services. An evaluation 1999-2008*, and a report by the Global Network of Sex Work Projects (NSWP), a prominent sex workers' advocacy group, entitled *The Real Impact of the Swedish Model on Sex Workers*. Each presents a highly different understanding of sex work and how it should be dealt with: the former considers that very basis of prostitution is anti-feminist and promotes the ban on the purchase of sexual services while the latter claims that the attempt to

eliminate sex work constitutes a violation of human rights and therefore is highly critical of the legislation.

This aim of this paper is to explore how such different conceptualisations of sex work and sex workers imply different understandings of what human rights a sex worker is entitled to. Accordingly, this study unpacks contrasting understandings of the sale and sellers of sex using Loseke's theory of constructionism and examines them through the lens of human rights.

The research questions are as follows:

- How are sex work and sex workers constructed in the discourses of the Swedish government report and the NSWP toolkit?
- What aspect(s) of the sale of sex are presented as problematic in each discourse? How do these problematizations fit into the Swedish context?
- What do these constructions imply in terms of sex workers' human rights?

1.7 Relevance of this study to social work

Language is a powerful tool: discourse strongly impacts public understandings and perceptions of different phenomena. In the case of the Sex Purchase Act, different groups' constructions of what sex work is and who sex workers are have been pivotal in how sex workers are treated and conceived of by both the public and professionals.

In the field of social work it is crucial to be open to a variety of perspectives and to understand the power dynamics behind the dominance of one over another. Swedes are taught about gender inequality from a young age, and this education largely corroborates mainstream Swedish understandings of sex work as oppressive and violent. Understandings are constructed through discourse, and while the analysis of this discourse may appear abstract, it has significant practical implications. Those providing social services to sex workers play a vital role in their wellbeing, their relationship to authorities and their experiences of sex work. It is therefore crucial that these service providers, including social workers, understand why there is debate about the Swedish Model, how different reasonings are built and what this implies in practical terms. This debate is highly contentious and engaging in both pragmatic and moral terms, leading partisans to become unyielding and even emotive. Examining these claims through the lens of human rights enables the reader to step back and disengage from enmity. Accordingly, human rights allow the reader to understand the impact of prejudice: how we conceive of sex workers significantly impacts our interactions with them as well the experiences of the sex workers themselves.

1.8 Structure

This thesis is divided into two parts: the first section, the framework, supports the second section, the analysis. The framework begins with the literature review (Chapter 2), which provides an overview of the Swedish Model, its background and points of contention raised by sex-as-work advocates. Next, Chapter 3 consists of a

discussion of the methods of this paper, including human rights and critical discourse analysis. The second section, findings and analysis, begins with a preliminary critical discourse analysis of both the NSWHP toolkit and the 2010 report (Chapter 4). Then Chapter 5 explores the construction of a social problem both by the NSWHP and the Swedish government. Discussion here revolves around power, claims-making, and audiences. The penultimate chapter of analysis, Chapter 6, reviews the constructions explored in the previous chapters through the lens of human rights and examines how different versions of sex work imply different human rights entitlements. Finally, Chapter 7 concludes this thesis.

2. Literature

2.1 The context behind the Swedish Model

2.1.1 Ideological background

According to Levy (2015: 41), Sweden's feminist movement played a significant role in establishing both political consensus and support for the Sex Purchase Act from the general public. The feminist approach underpinning the Swedish Model is commonly referred to as abolitionist feminism due to its goal to totally eliminate both sex trafficking and prostitution (Dempsey, 2010: 1730). The assumption that this aim is predicated upon is that prostitution 'provides the clearest example of institutionalised and informal male sexual violation against women' (Saunders, 2005: 349).

According to Miriam (2005: 9), abolitionist feminism is underpinned by radical feminist theory. Shulman (1980: 590) contends that radical feminism was bold in its approach when it appeared in the 1960s: the declaration that 'the personal is political' opened the most intimate aspects of female-male relations for political analysis. The Guardian (2011) describes radical feminism as distinct in its emphasis on how gender inequality is created and maintained through male violence against women.

Campaigns around issues such as domestic violence, rape and sexual harassment garnered widespread support thanks to this strand of feminism (ibid.). Willis (1984: 82) argues that radical feminism was at the origin of the legalisation of abortion and that radical feminists were the first to demand full equality in the private sphere, i.e. in terms of childcare, housework, and sexual and emotional needs. Consequently, it can be argued that radical feminism was pioneering in its scrutiny of the political dimensions of women's sexuality and the power relations between men and women (Shulman, 1980: 590).

Florin (2012: 270) argues that in contemporary public debate in Sweden, the Sex Purchase Act has come to be equated with the dominant opinion that prostitution is a male form of domination, oppression and objectification of women. In this way, the selling of a woman's body to a man represents harm to all women and thus the selling of sex by a woman can never be consensual (ibid.). To acknowledge voluntary prostitution would, according to Levy (2015: 76), invisibilise and legitimise exploitation. Dempsey (2010: 1761) explains that the abolitionist feminist approach assumes that even when someone is said to have chosen to sell sex, they have probably done so out of financial need and therefore their choice was not made freely. This is why, according to Carson and Edwards (2014: 78), only men, as sex buyers, are held criminally responsible for engaging in prostitution: it is assumed that they are the only ones exercising free choice. Thus, Florin contends (2012:270), because prostitution is always forced it cannot be considered as 'work'. This discourse constructs, according to Hulusjö (2013: 179), 'the prostitute' as 'a victim of patriarchy'.

In this way, Dempsey (2010: 1733) argues that the harm inflicted in prostitution serves to maintain and perpetuate patriarchal structural inequalities: here, as Hulusjö

(2013:178-179) points out, the focus is not on individual but on structural factors, with gender as the prime axis of differentiation. This is manifested, according to Dempsey (2010: 1736), through sex discrimination, misogyny and sexism. Thus Dempsey (2010: 1737) argues that trafficked women are denied the adequate range of choices necessary to lead a fulfilling life because of their gender. In this way, Carson and Edwards (2014: 77) describe prostitution in Sweden as ‘a problem of male desire, and their economic capacities to purchase sex, and exploit women’. Here, as Waltman (2011: 450) argues, buyers are seen as predators exploiting sellers’ vulnerability for their sexual gratification. Farley (2006: 134) goes further, equating prostitution to slavery: according to her both are the result of relations of subordination and domination. This inequality, Waltman (2011: 456) contends, is manifested in buyers’ feeling of entitlement to demand whatever acts they wish: many buyers feel that they can buy the right to treat prostitutes however they please. Dempsey contends that this relation of subordination is due to ‘a failure to value women and girls as human beings’, which is conducive to abuse against prostituted persons, which in turn serves to perpetuate the pre-existing sexist social conditions (2010: 1737). Thus, when women are not valued as human beings, harms against prostituted persons are frequent, and when such harms are frequent, women tend not to be valued as human beings (ibid.). These harms are often physical: Farley (2006: 105) argues that physical assault and sexual violence are the norm in prostitution, but Dempsey (2010: 1738-1739) highlights psychological symptoms as well such as posttraumatic stress, anxiety and depression.

2.1.2 Justification behind criminalising the buyer

The Sex Purchase act is primarily justified through the reasoning that by simply ending the demand for prostitution, the inequality it fosters will also end and therefore the Swedish goal of gender equality will be achieved (Waltman, 2011: 451).

Scaramuzzino and Scaramuzzino (2014: 4) therefore describe the Swedish Model as

The realisation of positive freedom because it supports individuals on their way towards self-realisation by preventing them from making choices that in a certain situation, both as sex clients and providers of sexual services, might seem rational, but in fact would lead to misery and unhappiness.

Dempsey goes into more detail and identifies two main arguments used by abolitionist feminism to justify the criminalisation of the purchase of sex, beginning with the complicity of buyers. Here, sex buyers are ‘complicit in the harms directly inflicted by traffickers and abusive pimps, in virtue of the market demand generated by the buyers’ purchase of sex and the influence this demand has on the conduct of traffickers and abusive pimps’ (2010: 1752). Thus, although buyers are not directly responsible for the abuse committed against prostituted persons, they contribute to it by fuelling the demand for the sex that they sell. As such, by buying sex, clients are supporting a practice that Farley (2006: 126) describes as always including ‘the dehumanisation, objectification and fetishisation of women’.

The second reason justifying the criminalisation of the purchase of sex is, Dempsey (2010: 1763) argues, that when a prostitute has been threatened, deceived or coerced by a trafficker and then has sex with a buyer, this sex is in itself an infliction of harm. Here, the buyer is not only complicit but is directly responsible for harm that is

‘tantamount to the harm experienced in the paradigmatic sexual offenses of rape and sexual assault’ (ibid.). Although Dempsey acknowledges that not all prostitutes are trafficked, she argues that the knowledge that they might be means that the buyer is still responsible for what she calls ‘endangerment’ (2010: 1764). Thus, this perspective argues that the buyer is accountable for inflicting severe harm by virtue of being aware that forced prostitution is a possibility and this harm is considered akin to intentional sexual violence.

In practice, the Swedish Model consists of various initiatives and measures. These, according to Dempsey (2010: 1730-1731), include public education campaigns to change social norms and raise awareness of the abuse experienced by prostitutes, social welfare policies to help in exiting and avoiding entering prostitution, and of course legislation penalising pimping, trafficking and the purchase of sexual services.

2.2 Problematizing the Swedish Model

As Florin (2012: 269) argues, the Sex Purchase Act has been ‘widely celebrated and widely condemned’. Indeed, this unprecedented approach to sex work has undergone widespread scrutiny and has provoked strong reactions. While the broader, political context of these arguments is acknowledged, the focus here is on the micro- and meso-level impacts of the Swedish Model.

2.2.1 The Swedish Model as a form of social engineering

From a political perspective, the prominence of radical feminism (cf. 2.1.1 *Ideological background*) coincided with Sweden’s aspiration to achieve a *folkhemmet* or a People’s Home, supported by a strong welfare system and paternalistic governance (Levy, 2015: 3-4). Such a high level of state protection also means a high level of state control: Levy (2015: 4-5) argues that those considered disruptive and deviant to the *folkhemmet* have been oppressed by, for example, being forced into care. The Swedish Model can be seen as an extension of Sweden’s attempts at social engineering, using radical feminist justifications to control groups perceived to be at odds with normative society (Levy, 2015: 8).

2.2.2 Reductionism

The first source of discord with this approach is its tendency towards reductionism: as Saunders (2005: 350) points out, it presumes that all prostitution is inherently abusive and leaves no room for alternative interpretations. Saunders argues that positive experiences of sex work are frequently excluded from publications using the abolitionist feminist perspective and that often, reports of extreme abuse are too readily accepted as indisputable (ibid.). This unwillingness to acknowledge positive accounts of prostitution is linked to the Swedish Model’s assumption that a consensual exchange of sex for money is not possible: as such, Scaramuzzino and Scaramuzzino (2014: 8) describe sex workers’ capacity to make their own decisions as unrecognised by social services. Sen’s concept of ‘capability’ (2004: 332, 334), which highlights the importance of having the possibility to make choices regardless

of the eventual outcome, can be applied here. It is discussed in further detail in 6.6.1 *Sen's capabilities approach*.

2.2.3 The stigmatisation of sex workers

Although the abolitionist feminist approach can be lauded as a means of shifting the blame for the nefarious aspects of sex work from seller to purchaser, Dodillet and Östergren (2011: 21) contend that sex workers experience higher levels of stigmatisation under the legislation. They argue that many don't feel they are treated respectfully or fairly: one manifestation of this is the 'silencing' of sex workers in the policy making process (Carson & Edwards, 2014: 81). Thus, those who advocate for the recognition of sex work as a legitimate form of work are ignored in official discourse (ibid.). In this way, according to Dodillet & Östergren (2011: 21), sex workers are typically portrayed as victims under the Swedish Model and the fact that they are unable to change their legal and societal situation furthers this feeling of powerlessness.

It is often argued that this stigmatisation, although operating under the guise of protecting and defending vulnerable women, is actually a reflection of moral principles condemning sex work. Thus, Scaramuzzino and Scaramuzzino (2014: 8) discuss the claim that the Swedish state is working to prevent free expression of sexuality and free pursuit of sex workers' chosen lifestyles. In this way, Levy (2015: 2-3) contends that female sex workers are often perceived as a 'social risk', a threat to themselves, male clients, the nuclear family model and society as a whole. Dempsey (2010: 1749) claims that the 'touchstone' of the abolitionist feminist approach is the provision of 'realistic and valuable alternatives' for prostitutes, implying that prostitution is not valuable and that others are in a position to determine what is of value for 'prostituted people'. Waltman (2011: 450) acknowledges that as recently as 1995, prostitution was considered immoral and dishonest in official Swedish government discourse. This, Scaramuzzino and Scaramuzzino (2014: 8) argue, is based upon old Christian morality: according to Nussbaum (1999: 286), nonreproductive and extramarital sex has traditionally been seen as immoral. Sex workers have described this perspective as suffocating and hostile (Scaramuzzino & Scaramuzzino, 2014: 8).

Furthermore, Levy (2011: 10-11) claims that sex workers are often harassed by police and other state authorities, that their reports of violent crime and/or rape are often not taken seriously and they are sometimes even abused by the police themselves. This type of treatment is both a product of and a factor contributing to the marginalisation of sex workers: accordingly, Levy and Jakobsson (2013: 337-338) criticise the insinuation that sex workers are dishonest, deviant and immoral in mainstream Swedish understanding. This, according to them, furthers their disempowerment and enables, ironically, the maintenance of patriarchal control. In this way, they question the unusual alliance between feminists and representatives of government, contending that it does not serve the interests of women sex workers as it professes to (ibid.).

The way sex workers are typified is also contested by Saunders (2005: 355): she argues that abolitionist feminists 'tap into widely held beliefs about the harms women face due to their sexual vulnerability', thus aligning themselves with conservative ideology about femininity. Saunders neglects to point out that each side uses this

creed differently, notably in terms of its role in patriarchal structures, but their failure to acknowledge and allow for diversity and agency within this conception of female vulnerability is certainly a point they have in common.

2.2.4 Does the Swedish Model force sex work underground?

A possible consequence of the criminalisation of the purchase of sex is that sex work is not eliminated but instead becomes more invisible, leading to increased likelihood of abuse and violence committed against sex workers. Dempsey (2010: 1775) acknowledges this possibility but states that ‘the risk of increased harm to a relatively smaller number of people does not in itself defeat the feminist abolitionists’ argument’. However, a central element of the abolitionist feminist argument is that ‘to risk the infliction of harm on another person is to endanger that person’ (Dempsey, 2010: 1764), revealing a gaping hole in their reasoning. If those who choose to continue to work in prostitution under the sex purchase ban find themselves in even more dangerous situations because of a greater need for secrecy, the criminalisation of buyers not only risks the infliction of harm upon this sex workers, but is highly likely to do so. As such, Levy (2015: 120) claims that sex workers have moved from public places to more clandestine spaces that are hidden from the law, increasing the risk of danger. This leads to the question of whether the benefit of reducing the risk of harm to those who are trafficked is worth the increasingly dangerous situations sex workers now find themselves in.

The precise factors leading to higher levels of danger when prostitution is forced underground are as follows: Dodillet and Östergren (2011: 22) argue that increased difficulty in making direct contact with potential clients under the ban means that the role played by pimps is even more important to a sex worker’s livelihood. In effect, an informant in Gothenburg claimed that the ban has resulted in a larger market role for pimps because prostitution must take place more discreetly (National Board of Health and Welfare, 2008: 47). Farley (2006: 103) argues that pimps are guilty of methods of control such as violence, threats, verbal abuse, economic exploitation, sexual assault, social isolation and captivity. Thus, the workers who do not wish to exit prostitution are disempowered: the secrecy forced onto sex workers by the ban increases their reliance on such notoriously abusive networks. In addition, Dodillet and Östergren (2011: 21) point out that it is more unlikely under current Swedish legislation that clients will act as witnesses in cases against perpetrators of sexual exploitation because they would also be found guilty of a crime. In this way, if a sex buyer suspects that the person they are buying sex from is trafficked, the buyer will be reluctant to report this to the police because they would therefore be admitting their guilt in the crime of purchasing sex.

Furthermore, Zeegers and Althoff (2015: 370) argue that because of the reduction in street-based sex work, vulnerability is increased: because supply now outweighs demand, sex workers’ bargaining powers are significantly reduced. This increases the likelihood of unsafe sex, lower prices, and acceptance of dangerous clients and circumstances (Dodillet & Östergren, 2011: 22-23). Ironically, this reasoning uses the same market economy logic of demand and supply that abolitionist feminism uses to justify the ban in the first place.

Thus, Scoular (2010: 22) contends that because Swedish legislation has focused disproportionately on the forms of sex work that are the most visible, there has been a displacement and even a tolerance to other forms of commercial sex that are more private. Levy and Jakobsson (2014: 598) conclude that

Sweden's mainstreaming of radical feminism appears, therefore, to be used to justify a law that has resulted in the policing and moralising of public space, ridding Sweden of the perceived aesthetic and social blight of prostitution by displacing visible prostitution, while Sweden postures as a progressive state that recognises prostitution as a form of violence.

As such, Levy and Jakobsson (2014: 598) contend that sex work's move from the street to more hidden places increases the gap between sex workers and healthcare and service provision and the police, thus lowering opportunities for contact, protection and intervention.

2.2.5 Harm reduction

The 2010 Swedish government report (2010: 6) acknowledges the importance of providing assistance to prostitutes. As such, the state purports to help prostitution groups through motivational interviews, outreach activities, psychosocial support and different forms of therapy. However, it is important to distinguish such support from harm reduction: the latter although typically applied to drug use, is also relevant to sex work. According to Open Society Foundations (2013),

Harm reduction refers to a range of services and policies that lessen the adverse consequences of drug use and protect public health. Unlike approaches that insist that people stop using drugs, harm reduction acknowledges that many people are not able or willing to abstain from illicit drug use, and that abstinence should not be a precondition for help.

In this way, Levy (2011: 3, 7, 8) argues that assistance is provided selectively and often upon the condition of exiting sex work, whereas harm reduction is considered to be contrary to the abolitionist approach because it facilitates and encourages people to continue selling sex.

Harm reduction includes several elements, beginning with condom provision: as such, the right to HIV prevention, treatment and support is acknowledged by UNAIDS (2012: 4) as especially important for sex workers, for whom rates of transmission are high. However, according to Levy and Jakobsson (2014: 601), this is seen as being outside the Swedish state's responsibility and condoms are rarely provided in outreach work, further aggravating the stigmatisation and marginalisation experienced by sex workers. Another feature of harm reduction is the provision of information on how to sell sex safely, which Levy (2011: 5-6) argues is almost non-existent in the Swedish case: such information is seen either as redundant because prostitution is assumed to be inherently dangerous, or as a potential incentive for people to begin selling sex, because this information will make them assume that doing so presents no danger. A further element of harm reduction is the provision of clean needles for the large number of sex workers who use drugs. This, according to Levy (2011: 6), is also not condoned by Sweden's abolitionist approach: distributing clean needles is seen as being akin to legitimising and endorsing drug use.

Furthermore, Sanders (2009: 79) argues that when sex workers are forced to change working locations because of policing, it is more difficult for outreach programs to regularly and effectively assist them. Thus, she argues, policing works as a barrier to sexual health and safety, drug treatment and other important services (ibid.). As such, Scoular (2010: 31) maintains that the protection promised by Swedish legislation has actually led to ‘the increased policing of many women’s lives’.

Levy (2015: 157, 159) contends that when assistance is provided to sex workers, it is not done in a consistent, inclusive manner: those who do not want to leave sex work are excluded from state-sponsored service provision such as medical assistance and psychotherapy. In this way, Scoular (2010: 33) describes those who are seen as responsible because their lifestyles conform to the prevailing norms of work and sexuality as being included in Swedish society, whereas those who live outside of these norms and instead continue work in the sex industry are increasingly excluded. Thus, although it is legal to sell sex, sex work ‘retains its criminal label’ (ibid.).

2.2.6 Judicial treatment of sex workers

According to Dodillet and Östergren (2011: 22), the legal position of sex workers is ambiguous: while they can be required to testify in court they ‘neither enjoy the rights of the accused nor of the victim’. This means that sex workers feel hunted instead of protected by police (ibid.). Waltman and MacKinnon (2010: 21), proponents of the Swedish Model, recognise this shortcoming and urge that because prostitutes are victims of crime, they should be entitled to recompense, which should be borne by those exploiting their vulnerability. As such, Waltman (2011: 464, 468) argues that the Swedish judicial system has failed thus far to treat prostitutes as the victims of exploitation that legislation recognises them to be, significantly reducing the potential to support prostitutes and facilitate their ‘escape’.

2.2.7 The labour rights of sex workers

According to Zeegers and Althoff (2015: 374), the Swedish tax agency does not accept sex work as a legitimate business. This means that although the income from sex work is taxable, if sex workers wish to receive social insurance they are obliged to register a company as a different form of business and it is therefore difficult to deduct their expenses (Dodillet & Östergren, 2011: 6). The only other option sex workers can choose is to work on the black market, which disentitles them to the right to social security. Showden (2011: 149-152) discusses the perspective taken by ‘sex-as-work activists’, whereby sex work needs to be recognised as a legitimate profession not only to decrease stigma and violence, but also to allow sex workers proper recognition and to enable them to unionise, claim freedom of movement, increase their bargaining power and improve their working conditions.

2.2.8 The exclusion of non-female, LGTBQ sex workers

According to Dempsey (2010: 1735), abolitionist feminism views prostitution as a harm primarily done to women and girls. However, because women and girls are human beings, this means that prostitution is harm to all human beings (ibid.; SOU, 2010: 5). Although this implies that the focus of abolitionist feminism encompasses all genders, it fails to acknowledge the specificity of the challenges faced by non-female

sex workers. In effect, Levy and Jakobsson (2014: 595) contend that the construction of prostitution as a manifestation of violence against women excludes any sex worker who is not a cisgender woman. Thus trans and male sex workers are notably absent from dominant discourse. As such, Dodillet and Östergren (2011: 8) point out the absence of male and trans sex workers in the figures presented in the 2010 Government report, and Levy (2011: 7) notes that they are also largely excluded from harm reduction measures. Showden (2011: 140) argues that the reason why male sex workers are not considered germane to the abolitionist discussion of prostitution is because it is assumed that ‘men can separate self from sex without being deficient in some way’. Levy (2015: 79), on the other hand, argues that male sex work is often ‘reductively conflated’ with female sex work in mainstream Swedish understanding, leading to its invisibilisation and oversimplification: intricacies and gendered power dynamics are glossed over.

2.2.9 Has the Swedish Model really reduced prostitution?

The Swedish government contends that the ban has been extremely effective: as such, Waltman (2011: 459) lists its purported achievements as the reduction of street prostitution and sex trafficking, the deterrent of potential clients and an overall change in societal attitudes towards sex work, all without any negative ramifications. Although the 2010 Government report acknowledged indications that there had been an increase in prostitution on the internet, this increase was not higher than in neighbouring countries.

The data backing these claims, however, have been widely contested as unscientific: Dodillet and Östergren (2011:2) argue that the 2010 report is filled with inconsistencies, flawed comparisons, contradictions and poor factual backup. In effect, Dodillet and Östergren (2011: 8-11) contend that the numbers used by the Swedish government in their 2010 report are problematic: the statistics presented are not accurate and they ignore the impact of overall trends such as the move towards online and indoor prostitution.

Zeegers and Althoff ‘s objection (2015: 365) lies in the argumentation itself of the report: according to them, the report has failed to establish a causal relationship between the enforcement of the ban and levels of prostitution. Furthermore, they point out that the prostitution that does still exist in Sweden is hidden, making it very difficult to detect (Zeegers & Althoff, 2015:368). Levy and Jakobsson (2014: 597) explain that the Swedish government uses only street sex work figures to support their claims, which is much more easily measured than its clandestine, indoor counterpart.

The National Board for Health and Welfare concludes that the consequences of the ban are equivocal; as such it concludes in its report (2008: 63) thusly:

[H]as the extent of prostitution increased or decreased? We cannot give any unambiguous answer to that question. At most, we can discern that street prostitution is slowly returning, after swiftly disappearing in the wake of the law against purchasing sexual services. But as said, that refers to street prostitution, which is the most obvious manifestation. With regard to increases and decreases in other areas of prostitution – the “hidden prostitution” – we are even less able to make any statements.

The Swedish government does acknowledge the difficulties associated with evaluating the extent of prostitution: the report recognises that ‘the knowledge we have about prostitution and sex trafficking can rarely be described with precise figures’ (2010: 14), however it is also claimed in the report that ‘we can feel somewhat secure in the conclusion that prostitution as a whole has at least not increased in Sweden since 1999’ (2010: 28).

2.3 Taking a rights-based approach

2.3.1 Rights as trumps

Dworkin (2011: 32-33) contends that rights are necessary when a decision that is intended to benefit a community as a whole by fulfilling some interest or by promoting the general wellbeing of its people actually injures the minority of that community. In this way, he argues, the damage that this decision results in is due to a failure to consider this minority as equal and entitled to the same concern as others: their rights are violated (*ibid.*). Thus, Dworkin (2011: 34) describes rights as trumps held by individuals: according to him, ‘individuals have rights when, for some reason, a collective goal is not a sufficient justification for denying them what they wish, as individuals, to have or to do, or not a sufficient justification for imposing some loss or injury upon them’ (*ibid.*).

Sex workers certainly do constitute a minority in Swedish society, but the way in which their interests can and should be promoted is at the core of the current prostitution debate. If the basic assumption is that prostitution is in itself undesirable, it follows that it should be criminalised. However, the official Swedish rhetoric acknowledges that total criminalisation would harm prostitutes and thereby promotes criminalisation of the buyer as the solution: lifting the blame from prostitutes is a way to promote a specific version of their rights. This approach is contested by many as being overly narrow (Levy, 2015: 57); according to dissentients it only benefits those who are forced into sex work and therefore is guilty of, as Dworkin (2011: 33) states, injuring those whose interests are not met by the collective goal, i.e. those actively choosing to sell sex.

2.3.2 Structural factors contributing to prostitution

A key element of the rights-based approach is, Jackson argues (2016: 40), a change in the framing of sex workers’ victimhood. Thus, sex workers should not be portrayed as victims of prostitution in need of protection, but rather as victims of larger institutionalised forces such as poverty (*ibid.*). This ties in with Waltman’s claim (2011: 452) that in the majority of prostitution cases, sellers have been pushed into the sex industry by circumstances such as childhood sexual abuse, racism, economic discrimination and homelessness. Although Waltman is a proponent of the Swedish Model, he directs attention towards factors that are not consistently embedded within the gender inequality that the legislation purports to combat. In order to address these factors, exploitation needs to be discussed separately from prostitution: as Jackson (2016: 34, 35, 37) argues, there needs to be a clear distinction between sex trafficking and sex work, consent, agency and autonomy need to be acknowledged and sex workers need to be recognised as knowledgeable and rational. This means reducing the stigma faced by sex workers, and Carson and Edwards (2014: 66) argue that this

can be largely achieved through labour laws which would normalise sex work and recognise it as legitimate.

2.3.3 Sen's capabilities approach

Sen (2004: 320) posits that significant social and economic freedoms can be included within the concept of human rights. These are distinct from what he calls 'functionings', or the fulfilment of some wants and needs such as being well-nourished or being in good health (2004: 334). Sen (2004: 332, 334) argues that the concept of 'capability' is valuable when considering freedom because it emphasises an individual's opportunity to choose what they value doing or being, regardless of what they actually end up choosing. Thus, this approach allows for a clear distinction between what is valued by the individual and the means available to achieve that goal. Using capability as a concept allows for a different understanding of the Swedish Model: while the ban can be seen as a method of enabling sex workers to free themselves from sex work, once the possibility for sex workers to choose to leave their profession or not is taken into consideration, it becomes clear that remaining a sex worker is rather difficult under Swedish legislation. In this way the Swedish Model, by focusing on facilitating exiting sex work, fails to acknowledge whether the sex workers themselves may desire alternative solutions. According to this perspective, empowerment should therefore not simply be viewed narrowly as enabling people to take control over their own lives, but it should be understood through a wider lens as enabling people to make choices, and providing them with the full range of opportunities available.

2.3.4 Human rights and moral pluralism

Ignatieff (2001: 321) highlights the difference between morality and justice: according to him, human rights are not about what is good, but about what is right. This Ignatieff contends, makes a universal system of human rights compatible with moral pluralism (ibid.). Accordingly, he claims that human rights are upheld when human agency is protected, and therefore, similarly to Sen's approach, individuals are empowered to define the 'good life' as they see fit. This echoes Koken's (2010: 29) definition of agency, whereby it is not simply about free will, but about having the power to make choices. The perspective that is taken on sex workers' agency, according to Koken (2010: 35), impacts how they are perceived in terms of their emotional and physical health as well as where they are situated in the larger social context. By contending that consensual prostitution is impossible, abolitionist feminism denies the reality of some experiences: Koken (2010: 38) argues that these experiences are rendered 'unknowable' and are excluded from discourse.

It is important to point out, however, that this framework of understanding does not deny the risks of prostitution, it simply refutes the assumption that they are an inherent aspect of it. As such, Carson and Edwards (2014: 66) contend that any risks are largely a consequence of the illegal status of prostitution and that improved labour laws, legalisation and improved social welfare will reduce the threat such risks pose.

3. Methods

3.1 Initial exploration of the Swedish Model

Without any previous knowledge or experience of working with sex work, I took this thesis as an opportunity to explore an entirely novel field within social work. This proved to be a significant challenge, both in terms of deciding which aspect(s) to focus on and in terms of building contacts. Several facets of sex work became possibilities for research, including the issues of recently arrived asylum seekers becoming sex workers, drug use amongst sex workers, HIV prevention and treatment, the stigma of sex work and the moral standpoint - or claimed lack thereof - of both proponents and opponents of the Swedish Model.

Literature on the topic is abundant due to the innovative nature of the Swedish Model: academics, journalists and reporters from around the world have discussed different aspects of the legislation. I chose to limit the time frame of my literature so as to avoid any irrelevant, outdated research: accordingly, anything from before 2006 was eliminated. In the context of theory and methods, however, I deemed this limitation unnecessary. Much of the literature was found via the internet in the form of journal articles or books, with some media articles also included.

This project was originally designed as a qualitative case study of sex workers' perceptions of the Swedish Model and its implications so an important step was securing contacts to find interview participants. It soon became clear how difficult it would be to gain access to this group without having any established relationship of trust. This reflects Scaramuzzino and Scaramuzzino's claim (2014: 1) that finding spokespersons to share their experiences and stories about selling sex is very difficult: they argue that it is particularly delicate to ask representatives of the marginalised and stigmatised groups of sex workers to step forward. The design was therefore adjusted as a case study of social workers' perceptions of the Swedish Model, and although building contacts proved to be relatively straightforward – snowballing meant that one researcher or social worker led to another – securing the interviews themselves proved to be extremely difficult. This was perhaps in part due to my position as an outsider and as my identity as a white, privileged woman. Having reached out to a large variety of professionals including volunteers, researchers, organisations, social workers and psychologists, it was clear that the specific topic to be studied within sex work would be determined by the participants' knowledge and experience. This meant that data collection had to begin before selecting the relevant literature and theories, making the whole process almost totally dependent on the interviews. Several individuals agreed to interviews initially but then stopped replying after receiving the informed consent form.

3.2 The incorporation of human rights

However, after beginning reading afresh in an attempt to find a novel approach, it became clear that while both opponents and proponents of the Swedish Model

employed human rights in their argumentation, they did so in highly different ways. While proponents of the Swedish Model claim that the ban defends sex workers' human rights by protecting them from discrimination, insecurity and oppression, those opposing this argument claim that rights such as the right to work, the right to social security and the right to the security of the person are violated under this legislation, which is inherently victimising.

Analysing the discourses of both perspectives and their impact on how human rights are understood in the context of prostitution thus became the new, and final topic of study. Selecting which sources to use was challenging: there were many articles, reports and papers to choose from and problems included a lack of thorough evidencing of statements and claims, an overly focused approach that only acknowledged some aspects of prostitution to the detriment of others, and problems of representativeness – one account from one sex worker cannot be used to represent the perspectives of many. Finally, the 2010 Swedish government (SOU) report, *The Ban against the Purchase of Sexual Services. An evaluation 1999-2008*, was deemed to be the most accurate representation of current official state discourse on prostitution, and the NSWP toolkit, *The Real Impact of the Swedish Model on Sex Workers*, was chosen to contrast the former. A coordinated network, the NSWP is an international advocacy group that promotes the rights of all sex workers. Their toolkit presents a comprehensive overview of all aspects of the Swedish Model that can be seen as problematic, as well as a detailed analysis of how they impact sex workers' human rights. While the inclusion of other discourses would perhaps have been insightful, it was clear that there were many different aspects to discuss and analyse in both papers, consisting of 56 and 75 pages, respectively. Thus, I decided to prioritise a more in-depth, analytical approach instead of a briefer, but more expansive analysis.

Human rights are a valuable tool in terms of their credibility, legitimacy and their universally accepted status. As such, they lend authority to argumentation by administering a clear standard, which by definition is applicable to all human beings. Arguing that victims should be protected as the Swedish government does, or that disempowered people should be empowered as the NSWP does, are valid arguments in and of themselves. However, the applicability of either of these arguments to sex workers is entirely dependent on how both sex workers and sex work are conceived of. As such, a critical discourse analysis examining the constructions of prostitution on both sides is perfectly tailored to understanding and comparing how a seemingly uniform benchmark is applied in two totally different manners.

3.3 A multitude of factors to be taken into account

Exploration of the ban and its implications revealed a multitude of varying opinions, including the official account that criminalising the buyer will and has led to a reduction of demand for sex work and thus is an important tool in combating women's oppression, the opposing position which questions the very reasoning behind criminalising the buyer, and a variety of positions that agree with the idea that sex work is a form of oppression and exploitation but that argue that the ban is not an effective measure against it (Kuosmanen, 2011: 249, 253 & 255). These positions have varying sources including scientific data such as surveys and statistics as well as interviews and inter-country comparisons, sometimes using the same data used to back up opposite conclusions.

Furthermore, understanding the context behind the Swedish Model is essential to grasping the impact it has today. Phillips and Hardy (2002: 6) argue that discourses do not inherently possess meaning but are ‘shared and social, emanating out of interactions between social groups and the complex societal structures in which the discourse is embedded’. These interactions and structures are equally meaningful in the case of this research: the Swedish Model has a history as well as a socio-political and cultural background that is fundamental to understanding its significance. Thus, the multitude of factors to take into account in analysis - context, multi-disciplinary texts and a variety of viewpoints and sources – make the integrative approach that discourse analysis provides perfectly tailored to answering the research questions.

3.4 Discourse Analysis

Jørgensen and Phillips (2002: 8) argue that the starting point of discourse analysis is that our reality is always accessed through language. In this way, ‘different social understandings of the world lead to different social actions, and therefore the social construction of knowledge and truth has social consequences’ (2002: 6). In the case of sex work as presented by the Swedish government, language is a particularly powerful tool that has been used to construct images of victims, crime and perpetrators that call for moral outrage and definitive action. An analysis of this use of language as well as contesters’ attempts to reclaim notions of sex work and what it implies thus allows for a holistic understanding of how the Swedish public’s perception is influenced and even shaped by these discourses. However, Jørgensen and Phillips (2002: 21) point out that the researcher must maintain a certain distance from the socio-cultural understandings in the discourse being studied: they should be explained instead of being taken for granted. Phillips and Hardy (2002: 7) argue that discourse is not only a reflection of social reality but it participates in its production and maintenance, making its analysis perfectly suited to examining the complexity of the debate surrounding the Swedish Model: by taking into account socio-political, cultural and historical context as well as the dialectic relationship between various texts, the impact of constructions of sex workers on their human rights entitlements can be understood from a variety of perspectives.

Gee’s method of discourse analysis (2005: 10-13) presents perhaps the most useful tool in gaining an understanding of the implications of both the Swedish government’s 2010 report on prostitution and NSW’s advocacy toolkit. According to Gee, whenever language is used, seven ‘areas of ‘reality’’ are always being constructed simultaneously, and the study of these areas reveals the continuous and active rebuilding of identities, activities and institutions (ibid.). These seven areas are significance, activities, identities, relationships, politics, connections and sign systems and knowledge. Gee’s method will be used to introduce the reader to the constructions present in both the 2010 government report and the NSW toolkit.

3.5 Critical Discourse Analysis

This project will use critical discourse analysis (CDA), which, according to Bloor and Bloor (2007: 2), is concerned with the role discourse plays in producing social goals and thus its participation in social change. Reisigl and Wodak (2014: 87) argue that

this type of analysis differs from discourse analysis in its use of ideology, power, and critique. Thus, the researcher must maintain a certain distance from the data by being continuously self-reflexive and by acknowledging the ideological standpoints of various social groups as well as the relevant power dynamics (ibid.). Fairclough (2010: 59) highlights the importance of looking at three dimensions of discourse: text production, distribution and consumption. These, according to Jørgensen & Phillips, (2002: 61), help construct our everyday life, how our world functions and how our norms, values, beliefs and identities are conceptualised. It is therefore not only the use of discourse that is important in examining the human rights implications of the Swedish Model but also the audience targeted by each discourse and the manner in which they are targeted. Furthermore, Reisigl and Wodak (2014: 87) highlight that acknowledging the context of the discourses being studied is a fundamental aspect of critical discourse analysis.

3.6 Content analysis

While this paper is primarily an example of critical discourse analysis, it also employs more quantitative, content analysis techniques. According to Mayring (2014: 22), content analysis is primarily identified by its frequency analyses, whereby certain elements in the document(s) in question are counted and compared with the frequency of occurrence of other elements. As such, frequencies are counted in this paper when they support the argument already made using discourse analysis. In this way, this thesis uses content analysis as corroboration. Additionally, two word clouds are used as a form of illustration (cf. 5.4 *The naming and framing of a problem*). These were created with the use of an online word cloud generator, and although they are not subject to discussion in the paper, they help to visualise the contrast between the discourses of the Swedish government and the NSWP.

Interestingly, Mayring (2014: 10) argues that qualitative content analysis is a mixed methods approach whereby the ‘assignment of categories to text’ is qualitative, while ‘working through many text passages and analysis of frequencies of categories’ is a quantitative step. In the case of this paper, the assignment of categories is done through critical discourse analysis and the counting of frequencies is a second step. Mayring (2014: 24) notes a central problem with content analysis in the importance of context, which can completely modify the meaning of a word. This is highly problematic when analysis is computerised, which is why when counting frequencies, I made sure each occurrence was relevant to the category I created. This was time-consuming but essential to maintaining the credibility of the conclusions I draw.

3.7 Taking a constructionist approach

The main theory used in this thesis is social constructionism, which fits neatly with discourse analysis: according to Burr (2007: 3), using a constructionist approach means challenging the perspective that we can gain unbiased, objective knowledge through our observations. Instead, she argues (2007: 4), knowledge is constructed through interaction and language. In this way, Burr contends (2007:62) that ‘how we describe ourselves, other people and events has consequences for our action, either as individuals or as a society’. Applying the theory of constructionism to the method of discourse analysis therefore allows an in-depth insight into how sex work is

understood in Sweden and how that impacts ideas about sex workers' entitlements to human rights. However, constructionism can present several problems, one of which is the researcher's subjectivity: Burr points out (2007: 125) that a constructionist approach demands that the researcher look at structures from an outsider perspective, despite the fact the he or she is simultaneously producing and being produced by these structures. Additionally, it can be argued that constructionism over-emphasises the influence of structures and society to the detriment of individual agency (Burr, 2007: 184).

3.8 The constant state of flux of discourse

Discourse is not static, it is, instead, constantly evolving according to social interaction and change, which means it cannot be delineated and defined. According to Jørgensen and Phillips (2002: 61), critical discourse analysis perceives the social world as both constituted by and constitutive of the texts that form discourse: discourse is in constant dialogue with social reality. This is clear in the controversy surrounding the Swedish Model: assumptions and understandings are continually under revision with one attitude bouncing off another, reiterating the importance of examining viewpoints holistically. Thus, Wodak & Krzyzanowski (2008: 5) argue that discourse 'is not an object but rather a set of relationships existing between discursive events'. It is the evolution of these relationships and their interaction that give discourse meaning and power. In this way Fairclough (1995: 7) argues that texts serve a purpose of negotiation: when a topic is contested, discourse allows the disputation of representations, beliefs and knowledges. An analysis of how this contestation occurs through various arguments for and against the Swedish Model is extremely useful in understanding how different groups believe rights are protected or violated by the same law.

3.9 Human rights discourse

According to O'Byrne (2012: 1084), specific rights claims are articulated through a 'discourse of rights', which serves to define and inevitably restrict the meaning of the concept of rights. Discourses of rights, he argues, are heavily ideological, and they have a persuasive function (ibid.). While human rights are indeed universal in nature, Ignatieff (2001: 300) points out that they are not a straightforward solution to competing rights claims: instead, he argues, they present a 'common set of reference points', a common framework that facilitates negotiation between opposing parties. Both the NSWP and the Swedish government use this common framework to support very different lines of reasoning: their discourses of rights are decidedly partisan.

The Swedish government argues that partial criminalisation is justified from a 'gender equality and human rights perspective' (2010: 5), but the report fails to discuss the applicability of human rights in further detail. In the case of the NSWP, human rights are referenced directly and explicitly in the four final papers of the toolkit whose very purpose, according to the NSWP (2015: 2), is to 'highlight how the criminalisation of sex work . . . undermines and violates sex workers' human rights'. Using rights as a framework to understand the sale of sex is an approach, according to Carson and Edwards (2011: 65), that draws from liberal feminism and emphasises the notion of equality based on gender neutrality, the legitimacy of consent and the rights of sex

workers. Accordingly, knowledge and experiences are presented from the perspectives of sex workers and their allies, thus creating what Jackson (2016: 28) calls a 'counter-story'. Counter-stories, according to her, 'challenge the hegemony of policy and media constructions of marginalised and oppressed groups as deviants, criminals, and victims' (ibid.). The NSWP uses a clear, precise discourse of rights in its toolkit which includes multiple counter-stories. The Swedish government, however, fails to address specific rights in its report, although notions of rights entitlements are implied in its discourse. Both of these discourses will be examined within the context of human rights in the sixth chapter of this thesis.

3.10 Ethical considerations

When conducting a critical discourse analysis, Bloor and Bloor (2007: 4) point out that it is important to remember one's positionality: they claim that objectivity cannot be attained because each person has their own experiences that inherently affect how data is collected, processed and analysed. Thus, Bloor and Bloor argue that analysts must remain critical of and open about their position (ibid.). But a researcher's involvement in their topic does not end there: Wodak and Meyer (2014: 7) highlight the importance of recognising not only the bias intrinsic to social science, but the actual participation of the analyst in the structures she or he is analysing. Thus, they contend that 'researchers, scientists and philosophers are not outside the societal hierarchy of power and status but are subject to this structure' (ibid.). It must not be forgotten that by conducting a critical discourse analysis, new discourse is created which, in turn, as Fairclough (2010: 59) identifies, means contributing to the reproduction and transformation of the structures that have shaped this discourse in the first place. To simplify, discourse analysis cannot be separated from the discourse it analyses: it is subject to the same processes of mutual construction and reflection. Awareness of this is key to a reflexive and therefore comprehensive analysis.

Another important ethical consideration is the normative aspect of critical discourse analysis. As Fairclough (2010: 7) argues, 'critique is grounded in values, in particular views of the 'good society' and of human well-being and flourishing, on the basis of which it evaluates existing societies and possible ways of changing them'. Thus, unlike standard discourse analysis, critical discourse analysis makes an assessment of the discourses it studies, and this is of course problematic in that it implies that the researcher's standpoint is one of authority and superior knowledge. This is why, Fairclough contends, 'a coherent set of values' must be the basis of this critique (ibid.). In this research human rights will serve as the source of these values. Their strength, as previously discussed, lies in their inalienable and universal nature, as well as in their internationally recognised legitimacy.

It follows that by investigating whether or not international human rights conventions are applied in Sweden in the sex work context, this research questions the legitimacy of the Swedish Model. This is certainly a bold move, but a necessary one: Reichert (2007: 87) maintains that the use of 'rights' language instead of 'needs' language is an important advocacy tool because it instigates a stronger demand for action.

However, it must be stressed that this paper does not make claims in terms of the veracity and accuracy of the claims made by either party: neither does it aim to be yet

another contribution to the arguably flawed and poorly supported empirical data that already exists. Instead, its purpose is to investigate how the discourse of two powerful entities shapes understandings and builds different models of sex workers and their human rights. I recognise that I lack the on-the-ground experience and concrete data to support any sort of empirical argument. Rather than attempt an unsubstantiated contestation of others' arguments, I seek to analyse the power of discourse instead.

3.11 The problems with human rights

According to O'Byrne (2012: 1079-1081), the application of human rights presents three main problems, beginning with that of Western individualism. This means, he argues, that civil and political rights (freedoms from state interference) are seen to reflect notions of Western imperialism and are frequently portrayed as superior to economic and social rights (freedoms to act). This, I argue, is irrelevant in the context of this paper because it considers human rights solely in a Western context. Furthermore, there is traditionally a high degree of state intervention in most areas of Nordic society, and the state, Skilbrei and Holmström (2013: 33) contend, is typically viewed as a 'partner' by Nordic women. This means that economic and social rights are given a high level of importance in the Scandinavian context.

Next, human rights are often debated in terms of universalism and relativity: how can a universal set of standards be applied to diverse cultures (O'Byrne, 2012: 1082)? As Reichert (2007: 76) notes, this critique is concerned with applicability of the Western values embodied by human rights in other contexts - again irrelevant in the context of Swedish society.

O'Byrne's (2012: 1083) third critique is that human rights face the problem of legalism, whereby it is difficult to articulate the former as 'rights' when they are not always legally guaranteed. In response to this critique, O'Byrne contends that while human rights abuses are often justified in a nation state by its national law, human rights serve 'as a moral framework, ammunition to be used against the law when the state is the criminal' (ibid.). Accordingly, Sen (2004: 319-320) points out that human rights do not merely serve a juridical function: they can also engender public recognition and upheaval, as well as encouraging the public to monitor violations. Here, the human rights used are those signed and ratified by the Swedish state, making them legally binding within this context.

Boersema (2011: 140) identifies the vagueness of human rights as a further problem: he describes the lack of clarity concerning the content of rights as leading to numerous disputes about specific rights and about legal interpretations of rights claims. This vagueness can be a strength in that it extends the applicability of human rights, but it also means that the same rights can be used to support different arguments, as evidenced in the sixth chapter of this thesis.

3.12 Limitations

As a social scientist, I am by no means claiming objectivity in this study. I acknowledge my bias as a critic of the Swedish Model, but I also wish to highlight that I am not conducting this research in order to confirm pre-existent suspicions.

Instead, I seek to gain knowledge and understanding of the positionality of both sides of the debate. This research cannot empirically prove how discourse impacts the reality of sex work, but as Jørgensen and Phillips (20012: 21) argue,

In discourse analytical research, the primary exercise is not to sort out which of the statements about the world in the research material are right and which are wrong . . . On the contrary, the analyst has to work with what has actually been said or written, exploring patterns in and across the statements and identifying the social consequences of different discursive representations of reality.

3.13 Analysis

In response to the research questions, the discourse used by the Swedish government in the summary of their report, *The Ban against the Purchase of Sexual Services. An evaluation 1999-2008* will be examined as well as the discourses of opponents in the NSWP toolkit, *The Real Impact of the Swedish Model on Sex Workers*. The theories of othering, the construction of a social problem, moral panics and human rights will be integrated into the analysis chapters.

A preliminary overview of both texts will constitute the first step of the analysis, using the tools set out by Gee (2005: 10-19). As such, fundamental elements of each text will be identified including significance, identities, relationships, activities, politics, connections and sign systems and knowledge. This will provide a basic understanding of both approaches: each discourse's use of language serves to construct a specific image of the sex worker, the sale of sex and its circumstances. Examining how identity is constructed discursively is particularly relevant in understanding how sex workers and their work are conceived of and how thus how behaviour towards them is justified. An in-depth, discursive analysis of the construction of identities will allow, according to Bloor and Bloor (2007: 85), an insight into the role language plays in the creation and maintenance of inequality. The concept of power, who holds it and how will be useful here.

Next, the manner in which each discourse constructs a social problem will be examined. Thus, the abolitionist approach whereby prostitution is problematic in and of itself will be compared with the NSWP's view that it is the Swedish government's endorsement of this conceptualisation of sex work that is problematic. In this chapter the naming and framing of a social problem will be examined as well as the role of claims-makers and their audiences, how a moral panic has been constructed, the power dynamics at play in such a debate and the problems involved in using a constructionist approach.

The sixth chapter of this thesis will look at the rights entitlements espoused by each discourse. As such, the human rights applicable to both the Swedish government's and the NSWP's constructions of the prostitute are divided into two categories, protective securities and empowering rights. Then, a discussion will follow of which rights are espoused by which discourse, the justification behind them and their implications in terms of sex workers' lived experiences.

Throughout, a key concept that will be used is intertextuality. According to Gee (2005: 21), this is when one text is referenced or alluded to in another, which is useful

when considering how discourses reflect and shape each other. Thus, Bloor and Bloor (2007: 54) argue, it 'can reveal traces of the dominant ideology or evidence of ideological struggle and cultural change'.

SECTION II: FINDINGS & ANALYSIS

Preface

It is important to note that while this analysis aims to examine how discourse shapes what it means to be a sex worker and a rights holder in Sweden, it is not within the scope of this paper to discuss the credibility of claims made by either the Swedish government or the NSWP. Thus, while thoroughness of referencing is looked at, the veracity itself of any claim, sourced or not, will not be called into question here. As such, value judgements, qualifying adjectives and moral perspectives are under primary consideration here rather than the reliability of data used.

Furthermore, the human rights that will be taken into consideration will be those signed and ratified under the framework of the United Nations, meaning that those proposed by for example the International Labour Organisation or the European Social Charter will not be taken into account. The limited length of this thesis mandates this choice.

This thesis attempts to discuss sex work in gender-neutral terms because, as aforementioned (cf. 2.2.8 *The exclusion of non-female, LGBTQ sex workers*), male and trans sex workers are largely disregarded in dominant discourse. However, much of the literature used focuses solely on female sex workers, and even the human right to be free from exploitation of prostitution (CEDAW, Art. 6) is addressed only to women. The scope of the analysis is therefore significantly limited by these constraints: it cannot claim full inclusivity or representativeness.

Finally, the rights of the child, while extremely important and pertinent to the wellbeing of sex workers who are parents, will not be discussed in detail. This is again due to the limited length of this paper: the rights of the child are a complex and contentious topic and they cannot be given the full attention they are due here.

The following chapter (4) is intended to provide the reader with a synopsis of the constructions built in both the NSWP toolkit and the 2010 Swedish government report before going into further detail in the next chapter (5) about how each party constructs its own social problem. The penultimate chapter (6) will examine the implications these constructions have on what human rights a sex worker is entitled to.

4. Preliminary overview: Gee's multiple areas of 'reality'

Gee's method of discourse analysis (2005: 10-13) presents perhaps the most useful tool in gaining an understanding of the implications of both the Swedish government's 2010 report on prostitution and NSW's advocacy toolkit. According to Gee, whenever language is used, seven 'areas of 'reality'' are always being constructed simultaneously, and the study of these areas reveals the continuous and active rebuilding of identities, activities and institutions (ibid.). This analysis will borrow Gee's method and examine the significance, activities, identities, relationships, politics, connections and sign systems and knowledge built by the language used in both papers. This chapter therefore responds to the first research question of how the discourses of both the NSW and the Swedish government construct sex work and sex workers.

4.1 Overview of the Swedish government's 2010 report on prostitution

The official English language version of the 2010 Swedish government report consists of a summary of the report, a translation of chapter 4 covering prostitution in Sweden from 1999 to 2008, and a translation of chapter 5, which consists of a transnational comparison of the situation. Here, the primary focus is on the summary and the translation of chapter 4.

As was noted previously (cf. 3.5 *Critical Discourse Analysis*), CDA is characterised by its critical approach that takes into account language as a tool of ideology and power. The standpoint of the Swedish government will be heavily criticised here, and although this is in part due to my personal bias, I believe that reading other works written from differing perspectives reveals discrepancies and weaknesses in this report regardless of one's positionality. As such, Levy (2015: 54-55) points out that critics of the report include the National Board of Health and Welfare, the LGBT organisation RFSL and Rose Alliance. They argue that the report is methodologically unsound, biased and includes numerous inconsistencies.

4.1.1 Significance: sex work as a threat to society

According to Gee (2005: 11), looking at the significance of discourse means looking at how language makes certain things significant or not and how it does this. What is immediately noticeable when reading through the report is that a clear conflict exists between Swedish society where 'ideas on freedom of the individual and gender equality' have 'long been prevalent' and the phenomenon of prostitution, which is seen as a 'pressing social concern' that is 'not acceptable in our society' (2010: 4-5). Throughout the summary of the report, the message that prostitution is in and of itself inadmissible is made clear through the use of strong, decisive language. As such, sex work is described with adjectives like 'shameful', 'unacceptable', 'harmful', 'undignified' and 'incompatible with human integrity and value' (2010: 4, 14, 28): it could not be clearer that prostitution is seen as highly problematic and undesirable by the Swedish government.

The threat that sex work poses is evident in the report: it is described as ‘seriously harmful’ not only to those directly involved, but to society as a whole. As such, Swedish society is described as a gender equal environment that prioritises ‘the right to live a dignified life’, and prostitution is represented as endangering Swedish values.

The report therefore makes strong claims that arguably serve more to proselytise than to present objective, evidence-based facts. The assertion that Swedish society must fight to overcome the nefarious threat that prostitution poses leaves no doubt as to the Swedish government’s positionality.

4.1.2 Activities: partial criminalisation as an active response to fight prostitution

Another area of ‘reality’ that Gee discusses is that of activities, or the action that the discourse in question supports (2005: 16). In other words, the way language is used to express activity, how it is enacted and what it means, is an important aspect to take into consideration in discourse analysis according to Gee.

Action in the report is described as being taken in a decisive manner for specific purposes, namely the deterrence of potential criminals and the protection of Swedish society. As such, a combative vocabulary is evident throughout: prostitution is described as an ‘offence’ and a ‘crime’ that must be ‘fought’ and ‘combated’ (2010: 4, 5, 28, 29). In the 56 pages of the report, the words ‘combat’ and ‘fight’ are used 29 times: sex work is depicted as an injustice that must be overcome.

The ban is portrayed as a proactive response to prostitution: it is described as an ‘action plan’ that is ‘effective’ and ‘far-reaching’ and it also serves the purpose of ‘sending an important message’ to other countries (2010: 2, 4, 5). The Swedish government, by banning the purchase of sexual services, is therefore taking significant, definitive action according to the report, not only to combat crime but also to further the wider interests of Swedish society.

4.1.3 Identities: perpetrators, victims and a disapproving society

Gee describes language as building a certain identity: the discourse used to refer to others as well as the discourse we use to describe ourselves constructs different roles (2005: 11). As such, in the 2010 report, four main identities become apparent:

1. The Swedish government and its representatives or various bodies (such as the National Board of Health and Welfare, or the Swedish Police)
2. Swedish society as a whole
3. The victims of prostitution (i.e. sex workers and trafficked persons)
4. The perpetrators (i.e. pimps, traffickers, and sex buyers).

The Swedish government and its representatives are entities that, in the report, do not necessitate any introduction: their authority and official status is clear and therefore their identity is not shaped by discourse as the others are. As publishers of the report, they have ‘evaluated’ and ‘investigated’ (2010: 4) the effects of the ban: their scientific objectivity is taken for granted.

Swedish society is presented in the report as both potentially vulnerable due to the threat that prostitution poses and as concerned and eager to combat this threat. Prostitution is labelled as a 'pressing social concern' (2010: 4), implying that its impact is not limited to those directly involved but rather it is more far-reaching. The report repeatedly states that prostitution is 'not acceptable in our society' (2010: 2, 4, 5, 14, 31), which suggests that this is an unquestioned and unanimously agreed upon view, in alignment with the 'Swedish' values of gender equality, dignity and freedom (2010: 5).

The report goes to great lengths to paint a vivid picture of those it regards as the victims of exploitation, namely the sex workers themselves. It describes sex workers as being 'exploited' 45 times in the report. Levy (2015: 66) describes this type of terminology as a way to add shock value, emphasise passivity and erase agency. In addition, women sex workers are portrayed throughout the report as being particularly vulnerable: they are described as having been 'enticed' into prostitution (2010: 28, 34), suggesting they were tricked instead of making an informed decision. Furthermore, their private lives are depicted as being rife with abuse, in line with Levy's (2015: 69) claim that sex workers are often pathologised and portrayed as traumatised in mainstream Swedish discourse. As such, when discussing the relationship between violence and prostitution, the report claims that 'many of the women exploited in prostitution are subject to violence from men other than the clients, for example the men with whom they live' (2010: 33), suggesting that violence is normalised for women sex workers. This sort of 'idiomatic' and 'emotive' language is common in abolitionist feminist discourse according to Doezema (2010: 1). In addition, the report claims that young sex workers aged 16 to 25 have 'difficulty setting boundaries' and 'difficulties with mental health, sexualised behaviour and transgressive behaviours, such as alcohol consumption, drug abuse and criminality' (2010: 25): here, without referring to any specific statistics to back this claim, the Swedish government constructs a powerful image of young women falling down the wrong path, unaware of its ramifications. This image is backed up by 'studies that confirm a strong link between exposure to sexual abuse and providing sex for money' (ibid.): although there does appear to be some sort of scientific method supporting this claim, the titles of the specific studies used are unfortunately lacking.

Finally, the discourse of the report is quite careful when it comes to the portrayal of perpetrators, i.e. pimps, traffickers, sex buyers and prospective sex buyers. While pimps and traffickers are flat-out condemned due to their responsibility in exploiting those prostituted, buyers and prospective buyers of sex are more anonymous: in effect, the report describes buyers as 'fairly invisible' (2010: 7) and acknowledges the need to conduct research in order to identify these buyers (2010: 11).

4.1.4 Relationships: collaboration, protection and ambiguity

The fourth area of reality that Gee notes as relevant in discourse analysis is that of relationships, or what sort of relationships the discourse seeks to enact with others (2005: 12).

As the publisher of the report, the Swedish government has different relationships with each of the three other aforementioned identities within it. Firstly, its relationship with Swedish society is one of collaboration and agreement: according to the report,

the ban serves as ‘a statement of society’s view that prostitution is an undesirable phenomenon’ (2010: 9), implying that there is widespread acceptance of the ban. Although the report acknowledges some dissent amongst the public, it claims the attitude towards the ban is positive overall (despite a mere 45% response rate in the survey in question) (2010: 29-30).

The Government’s relationship to the sex workers impacted by the ban is somewhat different: although the report acknowledges the controversy surrounding the ban among sex workers, with some expressing their approval of it and others claiming its consequences are largely negative (2010: 34), the official standpoint is that sex workers, as vulnerable people, need above all to be protected (2010: 6, 8, 28).

Regarding sex buyers, the lack of identity assigned to this group severely limits possibilities of constructing a relationship through discourse. On a purely conjectural note, perhaps this lack of strong language in regards to buyers is in order to avoid alienation: buyers could of course belong to any segment of the population, and maintaining public support of the ban is key.

4.1.5 Politics: Swedish society jeopardised by prostitution

According to Gee (2005: 12), language is used to convey a perspective on how social goods are distributed: discourse shapes what is seen as ‘normal’, ‘correct’, ‘appropriate’, ‘valuable’, etc. Here, the social goods at stake are the wellbeing, safety and values of Swedish society. As such, prostitution is described in the report as being ‘an obstacle to the right to live a dignified life and to society’s efforts to achieve equality between the sexes’ (2010: 31). In this way, a society that prioritises gender equality, dignity and individual wellbeing is held as the ideal that prostitution directly undermines.

4.1.6 Connections: prostitution’s inherent link to other criminal behaviour

The sixth area of reality to which Gee draws attention is that of connections: how does language build relevance by connecting certain concepts or phenomena (2005: 12-13)?

While prostitution is described in the beginning of the report as obtaining ‘a casual sexual relation for compensation’ (2010: 2), it is recurrently grouped throughout the report with other, different, phenomena without any clear distinction. As such, sex work is associated with ‘human trafficking’ or ‘one of the most profitable forms of international organized crime’, ‘violence against women’, ‘sexual harassment’, ‘sexual slavery’ and ‘heavy crime organizations’ involved in ‘drug, weapon and human smuggling’ (2010: 5, 14, 28, 29). This report thus suggests that they are all linked in some way, but conveniently avoids any sort of explanation of their correlation by simply grouping them together in one sentence. In this way, the reader is encouraged to accept prostitution and ‘transgressive behaviours’ (2010: 25), for example, as inherently linked, without being presented with any supporting evidence.

4.1.7 Sign systems and knowledge: recurrent inconsistencies

Gee (2005: 13) claims that sign systems, or communicative systems, are varied, with language being an important aspect of them. Through these sign systems, humans make knowledge and belief claims, and the final area of reality to be explored through discourse analysis is how language privileges or disprivileges certain sign systems.

In the 2010 report, the type of sign systems used are inconsistent at best. While the report contains four pages outlining the sources used to support the arguments presented including surveys, academic research, interviews and other government sponsored reports, the majority of the claims made throughout the 56 pages of the report lack specific citations from these sources. As such, statements are often vague, and formulated for example thusly: ‘as far as we can tell from the written material and the contacts we have had with authorities and people with experience of prostitution...’ (2010: 32).

Furthermore, while the report acknowledges the limited availability of data concerning incidences and prevalence of prostitution on 17 of the first 34 pages, it nonetheless claims that ‘despite these reservations, we still consider it possible to draw conclusions based on the material to which we had access and, in our view, the results we are presenting based on this data provide as clear a picture as it is currently possible to produce’ (2010: 7).

In addition, while the style of language used in the report is relatively formal overall and attempts at objectivity, some sections contain biased and distortional statements, such as the claim that prostitution is ‘shameful’ and ‘unacceptable’ (2010: 4). This suggests that the report is not aimed at academia or researchers, who would see such language as discrediting, but is instead targeted at the wider Swedish society, to whom the wealth of sources and overall formal presentation of the report would likely create the impression of scientific rigour and clear, evidence-based arguments.

4.2 Overview of the NSWP toolkit ‘*The Real Impact of the Swedish Model on Sex Workers*’

The Real Impact of the Swedish Model on Sex Workers is an ‘advocacy toolkit’ published in 2015 by the Global Network of Sex Work Projects. It contains eight papers, each covering different aspects of the flaws of the legislation. The first four papers discuss the impact the Act has had on sex workers in Sweden, while the other four explore how the Swedish model violates and undermines sex workers’ human rights. All eight papers will be used in this analysis.

4.2.1 Significance: misinformation, misconceptions and ineffective measures

Throughout the toolkit, the language used is careful: it avoids being presumptive, all claims are carefully sourced and value judgments are few and far between. Quotes, figures and claims are carefully referenced and rather than being purported to be fact, they are presented as the findings of the research cited. Conclusions are based on

academic and applied research by well-reputed bodies such as the Human Rights Watch, the International Labour Organisation and the UN, and consist of statistics and direct citations from officials, experts, sex workers and various professionals working in related areas.

Causality is understood equivocally: in effect, rather than alleging that many factors impede sex workers' access to health care, it is stated that many factors 'may impede sex workers' access' (2015: 6:2). In all 75 pages of the toolkit, the usage of probable rather than definite causal statements can be counted as follows:

Term hinting at causality	Occurrence
'May'	37
'Can', e.g. 'rates of violence and harm that can be associated with sex work' (2015: 1:1)	44
'Often', e.g. 'sex work is often not viewed as legitimate work' (2015: 5:1)	25
'Likely/unlikely', e.g. 'it is unlikely that sex workers are legally able to form collectives' (2015: 5:1)	9

In addition, the continued use of a legal, human rights framework supported by direct citations from declarations and conventions further boosts the credibility and image of objectivity cultivated by the toolkit.

However, as is evidenced in the introduction, it is nonetheless clear that the overall purpose of the toolkit is to push for decriminalisation of sex work (2015: 1):

'NSWP members stand firmly in opposition to the criminalisation of the purchase of sex, the so-called 'Swedish Model'. This is a legal model based on ideology, misinformation, moralisation and a disregard for the agency, health, safety and wellbeing of sex workers'.

4.2.2 Activities: uncongenial constructions with disempowering consequences

An exploration of all the activities discussed throughout the 75 pages of the toolkit is outside the scope of this overview. Instead, the two that are arguably central to the overall argument of the NSWP will be focused upon here: the deliberate construction by the Swedish government and its affiliates of what sex work entails and their active disempowerment of sex workers. The toolkit repeatedly highlights that the Swedish state has constructed, or socially engineered, sex work as inherently violent, abusive and oppressive (2015: 1:1, 1:2, 1:3, 1:4, 1:8, 3:1, 3:3, 3:4). In this way, the government, its officials and various representative bodies are presented as actively contributing to the promulgation of this radical feminist perspective which is shown to directly impact sex workers by disempowering them and denying them agency and, the NSWP argues, basic human rights. The implications of this construction are put in no uncertain terms: as such, the end goal of this perspective is 'an abolition of sex work, which is seen to be a blight on society and on efforts to undermine patriarchal subordination of women' (2015: 1:1). The consequences of this construction are evident throughout the paper, and can be grouped into 8 categories:

1. The 'silencing [of] the voices of sex workers so that broad consensus in understanding may be established' (2015: 1:2);

2. Sex workers having ‘decreased power when negotiating with clients’ due to increased competition (2015: 2:1);
3. ‘The refusal of service providers to provide even the most basic services and harm reduction initiatives to sex workers’ (2015: 3:6);
4. That, ‘for all intents and purposes, sex workers themselves remain persecuted and criminalised in Sweden’. This means, according to the NSWP, that they risk deportation and losing custody of their children and they are often evicted from their homes due to other, older legislation that is still in place (2015: 4:5);
5. ‘Failing to respect, protect, and fulfil the labour rights of sex workers’ (2015: 5:6);
6. That ‘sex workers are routinely kept from realising their right to health by stigma, discrimination, criminalisation, unjustly punitive health regulations, violence, and ill-conceived donor policies’ (2015: 6:9);
7. That sex workers face ‘the removal of their children from them on the basis of arbitrary and moral judgments, or by unjustified depictions of sex workers as irresponsible and lacking agency’ (2015: 7:6) and
8. That ‘many experiences of violence recounted by sex workers around the world stem from stigma and discrimination, which are heightened when sex work is criminalised’ (2015: 8:1).

As aforementioned, the discourse in the toolkit aims to be impartial, systematic and factual: the actions undertaken by the Swedish state are described unambiguously and forthrightly, lending a persuasive yet seemingly balanced appearance to the NSWP’s argument.

4.2.3 Identities: an antagonistic state, autonomous sex workers and third parties as a potential threat

The identities built by the discourse in the NSWP toolkit are numerous, but three stand out:

1. The Swedish government
2. The sex workers themselves
3. Unpropitious third parties, including social service providers and Swedish authorities.

In sharp contrast to the inferred image of the Swedish government as authoritative, trustworthy and infallible in the 2010 Swedish government report, the NSWP uses discourse to point out its inconsistencies and its shortcomings in the same factual, impartial manner as is used throughout the toolkit. In this way, it is primarily seen as responsible for propagating the construction of sex work as inherently abusive (2015: 1:1), and thus is the purveyor of fundamentally flawed information.

The NSWP positions itself as representative of sex workers themselves (2015:1). They are subject to two constructions, both of which are acknowledged in the discourse of the toolkit. On the one hand, the image of victimhood as constructed by the abolitionist feminist perspective is recognised, as well as the manner in which any sex workers who do not conform to this model are discredited. As such, ‘sex workers in Sweden are belittled when speaking about their own experiences, unless they buy into

mainstream perceptions of sex work and/or unless they have ceased their sex work *and* have come to regret it' (2015: 1:4). Sex work as inherently victimising, the NSWP argues, is wholly false, and this construction contrasts sharply with the image propped by the NSWP whereby sex work is 'enormously variable' and many sex workers 'stress agency and self-determination in the context of their sex work' (2015: 1:1).

The third and final identity discussed here are third parties that come into contact with sex workers, including social service providers, health carers, social workers and Swedish authorities. The toolkit describes these professionals as being conditioned by 'generalisations of sex work as problematic and violent': they are misinformed and therefore they fail to assist sex workers to the full extent that is possible. In effect, 'harm reduction for sex workers is opposed, since it is not just seen to be pointless in the context of what are asserted to be unavoidable harms, but is actually seen to *encourage* and *facilitate* sex work [sic]' (2015: 3:2). Swedish authorities, according to the NSWP, routinely target sex workers through 'highly invasive raids', reporting sex workers to their landlords or hotels and venues, deporting them internationally and removing their children from their custody (2015: 4:3, 4:4). However, this emphasis on 'conditioning' (2015: 1:4) implies that ultimate responsibility lies with the Swedish government for promulgating the feminist abolitionist perspective rather than that of the service providers themselves.

4.2.4 Relationships: routine targeting of sex workers

The Swedish government is portrayed throughout the paper as unhelpful and even actively antagonistic towards sex workers, primarily due to the implementation of the ban and its negative consequences. Thus, the Swedish Model expedites the propagation of the image of sex workers as 'disempowered victims' working in 'inevitably violent' circumstances (2015: 3:6), as well as forcing sex workers into 'greater danger and difficulty' because they are compelled to work in 'increasingly clandestine locations' (2015: 2:5). Furthermore, it is argued in the toolkit that sex workers in Sweden regularly experience 'state-sponsored harassment', including 'deportations internationally, evictions from private property and their own property, and issues related to child custody' (2015: 4:1).

The relationship between sex workers and service providers is complex: while sex workers are in need of measures such as HIV testing, condom provision, health care and police protection, they face discrimination and denial of services despite the fact that selling sex is not illegal. In this way, the NSWP repeatedly describes sex workers as being targeted (2015: 4:1, 4:2, 4:3, 4:5, 5:4). Thus, although the discourse in the toolkit acknowledges instances of cooperation, the overall image constructed is one of animosity between this third identity and the sex workers who claim agency.

4.2.5 Politics: the unjust criminalisation of the purchase of sex

The political perspective built by the discourse in the toolkit is clear: from the very first page, the NSWP states that 'NSWP members stand firmly in opposition to the criminalisation of the purchase of sex, the so-called 'Swedish Model'. This is a legal model based on ideology, misinformation, moralisation and a disregard for the agency, health, safety and wellbeing of sex workers' (2015: 1). In addition, harm reduction is

highlighted as essential to the wellbeing of sex workers: as such, it is stated that ‘harm reduction is imperative, whether or not the political ambition is to decrease levels of sex work, as is the case in Sweden’ (2015: 3:2).

This perspective is explicit throughout the toolkit: calls for modifying legislation and improving harm reduction measures are repeated throughout in no uncertain terms.

4.2.6 Connections: sex workers as holders of human rights

While the toolkit makes clear the links between the abolitionist feminist construction of sex work and the nefarious effects its implementation in legislation has on sex workers, another connection that is made that has not yet been considered in this overview concerns the human rights of sex workers.

In the latter half of the toolkit, or its final four papers, the human rights sex workers are denied under the Swedish Model are examined.

The rights considered include the right to work, health care rights, the right to protection from arbitrary interference with families and the right to the security of the person. In order to extend the applicability of these rights to sex workers, the discourse of the toolkit makes several connections as follows:

1. The Swedish state is legally bound to respect the human rights it has ratified (2015: 5:1);
2. Sex workers are human rights holders just as any other human being (2015: 5:6);
3. Sex work is work and ‘the criminalisation of sex work prevents sex workers from enjoying labour rights and protections against unfair treatment in the workplace’ (2015: 5:1);
4. The right to health, although universal, is systematically denied to sex workers through criminalisation, which ‘contributes to violence against sex workers, bad practices in health services such as mandatory reporting to police, stigma and discrimination in health services, and fear of seeking government-supported services’ (2015: 6:9);
5. The stigma faced by sex workers often leads to the perception that they are unfit parents, meaning that ‘sex workers can face losing custody of their children just by virtue of being sex workers’ (2015: 7:1);
6. ‘Violence and related abuse against sex workers are a violation of fundamental human rights’ and ‘where there is criminalisation of sex work – including criminalisation of third parties such as clients – violence against sex workers will, and does, flourish’ (2015: 8:1), and
7. Sweden and many other countries are therefore ‘in breach of the commitments they have made to workers’ rights and women’s rights and to fundamental guarantees of safety and non-discrimination’ (2015:5:6).

All the aforementioned connections are made in a clear, methodical manner whereby firstly the human rights standards in question are described, followed by an overview of why they are disregarded and finally a list of recommendations is given.

4.2.7 Sign systems and knowledge: scientific methods make for persuasive arguments

The NSWP is careful throughout the toolkit to use transparent, impartial language, in contrast to the frequent use of qualifiers in the 2010 Swedish government report. As such, any conclusions drawn follow a clear-cut pattern whereby evidence is presented and supported by numerous, varied and well-reputed secondary sources. The positionality of the NSWP, that is its support of decriminalisation, is made clear from the beginning, but this transparency arguably increases its credibility. Qualifying adjectives are limited to terms such as ‘unfortunately’ (2015: 5:3, 5:5, 6:1, 7:3, 8:2) and ‘alarmingly’ (2015: 6:4, 7:4).

This type of methodical, apparently factual discourse is extremely persuasive: the reader is disinclined to suspect bias because qualifying adjectives are largely absent and instead a legal framework and both academic and applied research are clearly presented and referenced. Nonetheless, a sense of urgency is obvious in the recommendations that are given, such as ‘there is a clear need for legally binding UN-level human rights law on violence against women that recognises the vulnerability of women in sex work to violent abuse’ (2015: 8:8). However, the methodical argumentation preceding these recommendations lends them credibility and a sense of legitimacy without distracting from the meticulous structuring of the toolkit.

4.3 The construction of the Other

According to the perspective of the NSWP, it can be argued that sex workers are portrayed as ‘Other’ by mainstream Swedish discourse. Hulusjö (2013: 178) contends that the Other is ‘what ‘we’ are not’. According to Schwalbe et al. (2000: 422), othering occurs when a dominant group defines an inferior group as Other through the invention of ideas and categories about what being the Other entails. Accordingly, the NSWP (2015: 1:9) argues that reasoning behind the Swedish Model makes ‘inherently flawed’ generalisations about sex workers that ‘maintain crude mainstream understandings’. In effect, the 2010 government report carefully constructs a category of what it means to be a prostitute: they are labelled as ‘exploited’ and their work is described as ‘shameful’ and ‘unacceptable’ (2010: 4, 5). This type of language positions the Swedish state as an outside onlooker that is simultaneously authoritative, sympathetic, protective and morally superior.

Correspondingly, Krumer-Nevo and Sidi (2012: 299) argue that the representation of the Other is ‘always a process of dominance and control, in which the person represented is reduced to an object’. In this way, Hulusjö claims that othering involves disempowerment, stigmatisation and silencing. This echoes the NSWP’s claim (2015: 1:2) that sex workers ‘have been systematically excluded and silenced’ and prevented from participating in political debate. Furthermore, Krumer-Nevo and Sidi (2012: 299) contend that when there is a wide gap in social power between the researcher and the group being researched, i.e., when that group is particularly marginalised, there is great potential for their representational vulnerability. In the case of sex work, Levy and Jakobsson (2014: 595) point out that it is extremely

difficult to obtain a representative sample of sex workers due to their clandestinity because of routine marginalisation, social exclusion and stigmatisation.

According to Hulusjö (2013:178), discourse shape ideas, concepts, practices, institutions and the meaning we ascribe to bodies and objects: it is therefore a powerful way of defining the Other. Hulusjö (2013: 177) draws attention to the importance of challenging dominant discourse by focusing on subjugated knowledges, or knowledge of the Other. This entails, according to her, attempting to take on the perspective of the Other while simultaneously recognising the multiplicity of the Other's experiences. The NSWP toolkit thus describes experiences of sex work as 'enormously variable' and 'nuanced' (2015: 1:1, 1:2) and uses sixteen accounts from sex workers. This contrasts sharply with the Swedish government's complete lack of citations despite a total of fourteen interviews having been conducted in the for the report (SOU, 2010: 18). Thus, othering processes reflect numerous power structures as well as patterns of inclusion and exclusion, domination and oppression (Hulusjö, 2013: 179).

According to Schwalbe et al. (2000:425), such dominance of one group through the othering of another, can lead to a defensive reaction on the part of the oppressed group. Defensive othering does not serve to legitimise this category of the Other, they point out, but it is rather a reaction to label already imposed on them by the dominant group (ibid.). Unfortunately, this defensive response is often detrimental to the cause of the oppressed group: as such, Schwalbe et al. (ibid.) contend that:

Though defensive othering is an adaptive reaction, it nonetheless aids the reproduction of inequality. When members of subordinate groups seek safety or advantage by othering those in their own group, the belief system that supports the dominant group's claim to superiority is reinforced.

Thus sex workers face a doubly difficult situation: their identity in the eyes of the Swedish government is one of both prostitute and trafficked, and they are consistently discredited when they protest these categories (cf. 5.5.3 *The audience targeted by the NSWP toolkit*). Furthermore, when sex workers in Sweden distance themselves from those who are forced into prostitution, they engage in defensive othering and this arguably supports pre-existing prejudices. In fact, Goffman (1963:16) warns that an oppressed individual's defensive response may be perceived as a 'direct expression of his defect'.

It is because of this that Hulusjö (2013: 182-183) proposes using academic discourse to destabilise the identity category of 'the prostitute'. Academic discourse, including this thesis, can serve to reinforce power: Hulusjö points out that the production of knowledge about a stigmatised phenomenon such as prostitution risks reinscribing sex workers as the Other. However, it can also be used to undermine power: by taking the multiplicity of sex workers' experiences into account, academic discourse can become a tool against their othering (ibid.).

4.4 Conclusion

The 2010 Swedish government report constructs a free, gender equal Swedish society that is threatened by the oppression that prostitution represents. Prostitution is akin to trafficking according to the report: prostitutes are vulnerable victims that have often

been traumatised and forced into prostitution and they therefore require the state's protection. Here, partial criminalisation is the most effective method to combat the crime of prostitution. Contrastingly, the NSWPC constructs an image of variability: sex work can be exploitative but it also can be a legitimate choice. Accordingly, the toolkit constructs the Swedish Model as uncongenial to sex workers: they are portrayed as being disempowered, discredited and even targeted by state authorities. The NSWPC toolkit thus constructs partial criminalisation as unjust and contrary to sex workers' human rights because it denies them their agency and worsens their working conditions. It can therefore be argued that the Swedish state constructs sex workers as Other: this perspective sees them as stigmatised and silenced in a process of domination and control.

5. The construction of a social problem

In Sweden sex work has been constructed in multiple ways, notably according the abolitionist feminist perspective which views it as inherently harmful, and according the sex-as-work activists' view, whereby selling sex is a job through which individuals can (legitimately) earn their living (Showden, 2011: 150). Prostitution in Sweden is problematic for both perspectives for different reasons: the former sees it as exploitative and oppressive, and the latter argues that the Swedish Model exacerbates phenomena such as violence and stigmatisation. This discrepancy between both accounts of what constitutes a problem illustrates Goode and Ben-Yehuda's (2009: 159) contention that social problems are constructed, rather than determined by fact. This analysis of both constructions of sex work does not feign impartiality: it uses, in line with CDA methods (Reisigl & Wodak, 2014: 87), concepts of power, ideology and critique to examine the discourses in question. This chapter seeks to respond to the second research question of this thesis: what aspect(s) of the sale of sex are presented as problematic? How do these problematizations fit into the Swedish context?

5.1 What is a social problem?

5.1.1 How abolitionist feminism problematizes prostitution

According to Loseke (2003: 7), four components are necessary in order for a social problem to be defined as such: a condition must be evaluated as 'wrong, widespread, and changeable' and it has to be a condition 'we believe *should* be changed [sic]'. Thus, in its 2010 report, the Swedish state decisively defines prostitution as a social problem: it is described as 'an undesirable social phenomenon' (2010: 29). The consequences of prostitution are also widespread; it is correspondingly claimed that it causes 'serious harm to both individuals and to society' (2010: 4). This in line with Florin's (2012: 270) assertion that the abolitionist feminist perspective, from which the Swedish Model emerged, views the sale of a woman's body to a man as representative of harm to all women. Additionally, prostitution is viewed by the Swedish government as changeable: the ban is described as having been expected to have 'a deterrent effect on prospective buyers of sex and . . . [to] have an inhibiting effect on the prevalence of prostitution here' (2010: 4). Furthermore, the report (2010: 20, 29, 31, 32) supports Waltman's claims (2011: 459) that the ban has already had a significant impact in terms of deterring potential buyers, a change in societal attitudes towards sex work and a concrete reduction in sex trafficking and street prostitution. Finally, the report emphasises the 'value and necessity of continued and sustained social measures [to combat and prevent prostitution]' (2010: 11): currently, sex work is seen as a phenomenon that needs to change.

The abolitionist feminist perspective, from which the Swedish Model originates, uses specific claims to construct the 'problem' of prostitution. Weitzer (2007: 451-458) lists seven of them, the majority of which can indeed be found in the 2010 report:

1. First of all, abolitionist feminists view it as a form of exploitation and oppression against women, so prostitution is inherently evil (cf. 4.1.3 *Identities: perpetrators, victims and a disapproving society*).
2. Next, they argue that violence and prostitution are inseparable: one can exist without the other (cf. 4.1.3 *Identities: perpetrators, victims and a disapproving society*).
3. Thirdly it is claimed that traffickers and buyers are the personification of evil: they are predators, kidnappers and rapists.
4. Next, abolitionist feminists construct sex workers as incapable of making free choices: they are victims who lack agency (cf. 4.1.3 *Identities: perpetrators, victims and a disapproving society*).
5. The fifth claim is that sex trafficking and prostitution are one and the same: this claim is motivated, Weitzer argues, by the goal of entirely eliminating the sex trade (cf. 4.1.6 *Connections: prostitution's inherent link to other criminal behaviour*).
6. Next, it is argued that prostitution and sex trafficking are urgent problems that have vastly grown in recent times: this magnification of the extent of the problem helps increase both attention from policy makers and media coverage (cf. 4.1.1 *Significance: sex work as a threat to society*).
7. Finally, abolitionist feminists claim that legalisation would only serve to worsen the current situation: it would serve to sanction men's oppression of women and would increase sex trafficking.

Showden (2011: 139) adds another claim: according to her,

8. Prostitution cannot be considered labour because it has no inherent value: it does not satisfy any social need and it does not produce anything of value.

Showden (2011: 137) argues that abolitionist feminism contends that women are selling themselves because sex 'is a fundamental form of self-expression and self-knowledge'. She goes further, adding that according to this perspective prostitutes are contributing to the construction of women as 'always available to service men': sex work serves to limit possibilities to challenge the sexualised archetype of women (2011: 139). Accordingly, the 2010 report states that 'in an equal society it is undignified and unacceptable to have casual sexual relations with women for money' (2010: 14). The solution to this negative construction of women lies, according to abolitionist feminism, in the total elimination of prostitution: in effect, the ban is designed, according to the Swedish government, to 'fight' and 'combat' prostitution (2010: 4).

5.1.2 The role of the Swedish state in the construction of the problem of prostitution

Bacchi (2009: 1) argues that through policy formulation, governments do not react to problems. Instead, they actively contribute to their creation. The goal of a policy is to tackle a problem and bring about change, so the formulation of this policy necessarily implies a certain representation of that problem (ibid.). It is precisely because problems do not exist outside of how they are conceptualised or thought about that

contestation occurs: if a problem were objective and factual, there would be no room for disagreement (Bacchi, 2009: 262).

This is helpful when considering the case of prostitution in Sweden: the ban, by condemning sex work as a form of gendered oppression, presupposes that sex work in itself is problematic by its very nature. Thus, according to the official Swedish perspective, prostitution is not problematic because of risks such as high prevalence of STIs, but rather because of its role in gender equality. While this interpretation cannot be acknowledged as an objective fact, it is nonetheless treated as such by many because, according to Bacchi's perspective, the Swedish state has formulated the problem of prostitution this way.

While Bacchi's approach relates to policy formulation and can therefore not be applied consistently to reports of pre-existing policy such as the 2010 report studied here, the role that official conceptualisations of a phenomenon play in public understandings of a problem and how it should be tackled is a key element to draw from Bacchi's theory. Accordingly, the 2010 report begins by stating that 'one starting point of our work has been that the purchase of sexual services is to remain criminalised' (SOU, 2010: 4): the basis of the report, i.e. the problematic nature of prostitution, is not questioned because its legitimacy is presupposed. This affirmation is extremely powerful in shaping audience's responses: if an authoritative, accredited body such as the Swedish government discusses a social problem as fact, why should a typical audience member bring that problem into question?

It is important to note here that Bacchi's approach is different to social constructionism: while the latter recognises the constructed, subjective nature of all social realities, Bacchi acknowledges the power of the version adopted by the state because it is purported to be an objective truth.

5.1.3 The social problem constructed by the NSWP

The NSWP also constructs a social problem in its toolkit, the problem of the Swedish Model. It is wrong in the eyes of NSWP because it 'undermines and violates sex workers' human rights' (2015: 2), it is clearly described as 'widespread' (2015: 1), and although already entrenched in the Swedish legal system, it is seen as changeable: the toolkit 'suggests some ways to use human rights norms to address this widespread abuse' (2015: 8:1). Although the root of this problem is seen as the Swedish state's solution to what it defines as a problem, both sides often draw from similar sources to inform their highly different conceptions. To simplify, if the Swedish government views prostitution, (A), as a problem, it enforces the Sex Purchase Act, (B), as its solution. However, the NSWP does not view (A) as a problem in and of itself, rather it views the circumstances, (C), that can be associated with (A) as problematic, such as violence, sex trafficking and abuse. According to the NSWP, (B) exacerbates (C), which worsens the conditions of (A). As such, they argue that the solution to the difficulties within (A) is not (B) but decriminalisation, (D).

5.2 Subjective interpretations of objective conditions

This follows Loseke's assertion that the conditions on which a social problem is based are objective, but their interpretation as a problem is subjective. In this way, while the Swedish government, as Dempsey argues (2010: 1749), takes the abolitionist feminist approach whereby violence, exploitation, human trafficking, harassment, and involvement of minors are all inherently tied to sex work (2010: 4, 5, 25), the NSWP argues that 'not all sex work is violent or problematic', and the harms associated with sex work are rather associated with the *context* in which prostitution occurs and therefore can be challenged (2015: 1:1). Furthermore, according to them, the Swedish Model directly exacerbates these harms: they argue that sex work has been pushed underground with the enforcement of the Sex Purchase Act and that this 'places sex workers at risk of danger and violence, and concern about arrest also means that clients are disinclined to report suspected abuse and exploitation' (2015: 2:5). In addition, according to the NSWP any harm reduction measures are opposed because they are 'seen to be pointless and actually counterproductive in their apparently encouraging and facilitating sex work' (2015: 3:6). In this way, while both parties acknowledge similar objective conditions, i.e. the associated harms, of their respective social problems, they use them to support entirely different arguments.

In other words, the empirically proven fact that sex workers suffer a high risk of violence (World Health Organisation, 2002: 155) is used by the Swedish state to support the argument that prostitution is inherently harmful and a social problem, while the NSWP uses it to contend that the Swedish Model is not a viable solution to this violence and even worsens it. This follows Loseke's assertion (2003: 7-10) that the worry associated with an objective condition is dependent upon how others choose to define and formulate the corresponding social problem. This construction matters because, according to Loseke (2003: 15-16), 'it is important to know *how* we give meaning to objects in our environment because those meanings will encourage us to react toward those objects in particular ways'.

5.3 Categories and the construction of victimhood

Another element of constructionism, according to Loseke (2015: 17), is the creation of categories. We create categories of objects or people or conditions by recognising similarities among them despite their objective diversity, but, Loseke (2003: 18) warns, these similarities can never be representative of the individuality of every person, thing or condition. While it is important to be aware of this caveat, she argues that this is not necessarily negative and that instead it is a tool we can use to comprehend the world, which is simply too big to avoid categories. In this way, she argues, 'typification and image should be understood as social resources to help us get through our days' (ibid.). Furthermore, Loseke contends that social problems claims are successful because 'they deny the complexity of the real world' (2003: 93).

In the case of the 2010 report, the Swedish government creates a clear category of what it means to be a sex worker: they are 'vulnerable' (2010: 9, 11, 23, 28, 32, 37, 42), they have troubled pasts (cf. 4.1.3 *Identities: perpetrators, victims, and a disapproving society*) and they are 'exploited' (2010: 3, 5, 6, 7, 8, 10, 11, 12, 18, 24,

25, 26, 28, 32, 33, 34, 55). In the report, ‘people being exploited in prostitution’ is used interchangeably with ‘prostitute’ (2010: 3), leaving no room for choice and autonomy. As such, Levy and Jakobsson (2013: 338) describe sex workers as being constructed as passive victims who lack self-determination and agency. This is what Loseke (2003: 79) calls ‘the typification of victims’. Victims, according to her (2003: 78-79), solicit sympathy, and we decide that they are worthy of sympathy if they are a) not responsible of their circumstances, b) persons belonging to higher moral categories, c) persons in conditions more or equally troublesome than our own and d) if we feel inclined to help them. While the moral category of a sex worker is arguably amongst the lowest in contemporary society, the Swedish government report paints a portrait of sex workers as victims that aligns closely to the other elements of Loseke’s account of victimhood. Levy (2015: 72) notes that mainstream Swedish discourse portrays sex workers as suffering from trauma and inequalities that result in mental instability that undermines their free will. Therefore Levy depicts selling sex as a compulsive re-enactment of past trauma and distress (ibid.). Thus, Swedish government describes prostitutes as ‘blaming themselves . . . for the emotional scars and painful memories they must deal with for the rest of their lives’ (SOU, 2010: 34).

The NSWP however, attempts to escape this typification, arguing that ‘many sex workers do not identify as victims’ and instead ‘stress agency and self-determination in the context of their sex-work’ (2015: 1:1). In this context Dodillet and Östergren (2011: 21) note that many complain that the Swedish Model propagates stereotypes of sex workers as weak, powerless and exploited victims. The categorisation created through the Swedish state’s construction of sex work as a social problem is, according to the NSWP, inherently damaging through its denial of human rights and its exacerbation of pre-existing stigma and discrimination (2015: 3:1, 8:1).

Both approaches can be interpreted through Scaramuzzino and Scaramuzzino’s (2014: 4) explanation of two different conceptions of freedom: the Swedish Model and the sex-as-work model claim to promote sex workers’ freedom, but the ways in which they purport to do so are vastly different. Specifically, the model of negative freedom described by Scaramuzzino and Scaramuzzino (ibid.) applies to the sex-as-work camp, whereby one is free to purchase and sell sexual services without interference on behalf of the State or any other individuals or groups. Here, sex workers act as autonomous agents as proponed by the NSWP. On the other hand, the Swedish Model follows the notion of positive freedom, whereby the State supports the self-realisation of sex workers by enabling them to make the ‘right’ choices, i.e. by avoiding choices that although apparently rational, would in fact lead to unhappiness (ibid.). The State therefore plays a paternalistic role according to this perspective, protecting the victims from the dangers of their predicament.

5.4 The naming and framing of a problem

Michailakis and Schirmer (2014: 432) argue that in order to correctly interpret a social problem, it is important to not only look at the factual elements of the problem but at how these facts are described. In this way, Best (2015: 19) identifies the naming and framing of a problem as the most fundamental elements of constructionism. As acknowledged by both the Swedish government and the NSWP, much can be gleaned from how the problem is labelled (cf. 1.4 *Prostitution vs. sex work*). Thus, the former (2010: 3) notes that deciding what to call those involved in prostitution is ‘a sensitive

5.5.1 My role as an audience member

I am part of the audiences of both the 2010 report and the NSWP toolkit, and I believe it is clear from my analysis so far which camp has persuaded me. In spite of my extensive reading concerning the arguments of both sides, I cannot be representative of a typical audience member because:

- a) I am not Swedish and therefore lack the socialisation concerning gender equality that every Swede experiences,
- b) My academic background means that I am more critical of the methods used to draw conclusions, so the demands I place upon sourcing are more stringent than those of a typical lay person, and
- c) My background as a student of social sciences means that I have encountered people of the sex-as-work perspective in an everyday context unlike, I would guess, a typical audience member of the 2010 report. This means I have been able to escape the mindset that this model is radical, and instead I was encouraged to explore it out of curiosity and interest.

I therefore acknowledge my position as both subject to discourse and as participating in discourse, but I believe I cannot use my experience here to explain how claim-makers target and seek to persuade their audiences. This section therefore analyses the assumptions made in both discourses about their audiences disregarding from here onwards my own status as an audience-member.

5.5.2 The audience targeted by the 2010 government report

In the 2010 government report, a societal attitude of disapproval is taken for granted: in effect, it is repeatedly stated that the ban reflects ‘society’s attitude that prostitution is an undesirable social phenomenon that is important to combat’ (2010: 29). Furthermore, the report claims that since criminalisation in 1999, public support for the ban has increased, implying that it has had a normative effect (2010: 31). Those who disagree with the legislation, the report claims (2010: 34), are either a minority of the general public or those ‘still being exploited in prostitution’. Some of the negative effects of partial criminalisation include, according to this perspective, increased stigmatisation of prostitutes, a feeling of being hunted by the police, a failure to acknowledge the difference between voluntary and forced prostitution and prostitutes being treated as ‘incapacitated persons’ (ibid.). Those who continue to work in prostitution, it is suggested, are against the ban because they are unable to escape the perspective that they themselves ‘are responsible for the emotional scars and painful memories they must deal with for the rest of their lives’ and therefore are against blaming the buyer (ibid.). This deeply discrediting explanation leads the Swedish government (ibid.) to somewhat patronisingly conclude that

For people who are still being exploited in prostitution, the above negative effects of the ban that they describe must be viewed as positive from the perspective that the purpose of the law is indeed to combat prostitution.

The report therefore assumes that its audience is in agreement with the perspective that partial criminalisation is beneficial: in the context of the report prostitution is a pre-established social problem, which only serves to reinforce the justifications behind it.

5.5.3 The audience targeted by the NSWP toolkit

The NSWP toolkit, on the other hand, makes a concerted effort to persuade the reader that it is the Sweden's criminalisation of the sale of sex and the ensuing treatment of sex workers in Sweden that is the social problem rather than sex work in and of itself. This goal to 'raise awareness' is clearly stated in the introduction: the toolkit is described as aiming to 'challenge widespread promotion of this detrimental legal and political approach to the regulation of sex work' (2015: 1). The NSWP argues that the Swedish government has repeatedly silenced the voices of the sex workers advocating decriminalisation, either by claiming sex workers are not fully self-aware and do not fully comprehend their situation, by arguing that sex workers put on a brave face and deny their difficult circumstances, by claiming that the sex workers who are critical of the law are misrepresentative, or by exaggerating or caricaturing a sex workers and their testimonies as a means of distracting from their argument (2015: 1:9). In this way, the NSWP argues, the Swedish government has created a 'discursive vacuum', that undermines accounts diverging from mainstream understandings of sex work (ibid.). Levy (2015: 44-45) found in his research that those with divergent perspectives were actively excluded and blacklisted from the debate surrounding the legislation, and one of his respondents recounted being fired from social services once her opposition to the ban became known. The NSWP faces a significant challenge here: they acknowledge that the public is already largely persuaded by the Swedish Model, leaving them with the monumental task of convincing it otherwise.

5.6 Textual realities

Del Rosso and Esala (2015: 36) discuss how the 'reality' that claims-makers uncover, interpret and strategically use in their claims is often supported by depictions and accounts of phenomena they call 'textual realities'. These accounts can take diverse forms, including horror stories and atrocity tales which bring the audience close to the violence, and statistics which are useful in illustrating the scope of a problem or in revealing how the public conceives of the problem at hand (2015: 37-38). They argue (2015: 42-43) that texts lend claims-makers' constructions of reality durability, whereby they become a resource and a reference in defining and interpreting social problems. Both discourses contain multiple examples of textual realities, beginning with the repeated use of statistics in the 2010 Swedish government report. Statistics are used to show public support for the ban, estimates of the amount of women in street prostitution and the extent to which people are offering sexual services for money online (2010: 20, 21, 29, 30, 31). Contrastingly, statistics are notably absent from the NSWP toolkit, except concerning the right to health, where figures are presented about HIV prevalence amongst sex workers (2015: 6:4, 6:5). Instead, the toolkit relies heavily on direct accounts from sex workers, social workers and various experts: 42 direct quotes are used throughout the toolkit. These accounts are highly variable: from an observation by the UN Special Rapporteur on the Right to Health (2015: 6:1) to sex workers' accounts of their experiences with social services (2015: 3:5) and on to quotes by representatives of *Socialstyrelsen* (2015: 1:3). Although some accounts are highly personal, such as the description by one sex worker about what it felt like to be reunited with her child (2015: 7:1), this does not make the toolkit sensationalist or overly dramatic. Instead, by borrowing from the knowledge of

many, the NSWP adds multidimensionality to its toolkit and strengthens its own arguments.

5.7 Moral panic

When a problem is perceived to threaten the basic values, well-being and the interests of the society in question, Goode and Ben-Yehuda (2009: 35) argue, a ‘moral panic’ occurs. A key element of such a panic is deviance, or a violation of social rules and norms that provokes punishment, condemnation or censure for the violator (2009: 110). What is crucial to deviance, according to them, is not the act, behaviour or belief in itself, but rather the audience and how they evaluate it (ibid.). Echoing Loseke’s thought process, a moral panic is therefore not defined as such by the objective facts leading to it, but rather by how it is constructed and the attention it generates. Here, sex buyers are clearly deviant according to the Swedish Model: the report (2010: 4) claims that it is ‘unacceptable that, in a gender equal society, men should obtain casual sexual relations with women in return for payment’. The transaction of sex for money is therefore seen to stand against equality, a fundamental value of Swedish society. The report claims that prostitution seriously harms society as a whole, and of course, under the ban, the violator, or sex buyer, is condemned: Östergren and Dodillet (2011: 16) found reports of 3440 prosecutions of sex buyers between 1999 and 2010.

Goode and Ben-Yehuda (2009: 37-43) identify five elements of a moral panic, beginning with worry over the problematic behaviour in question. This concern, they argue, is a key element that should be measurable through e.g. media attention, legislative proposals, public opinion polls or social movement activity. The attention that the Swedish Model has received in the media, in political arenas and in legislature has been considerable: as the pioneering model for criminalising sex buyers, it has been the topic of much discussion internationally. With Norway, Iceland, Canada, Northern Ireland and most recently France having followed suit (The New York Times, 2016), it is clear that governments and populations are increasingly concerned about the perceived threat of prostitution.

Next, they note that a moral panic is manifested through increasing levels of hostility towards the group perpetrating the perceived harm, which leads to a distinction between ‘us’, the decent segment of the population, and ‘them’, the deviants. Accordingly, the NSWP (2015: 8:1) argues that partial criminalisation increases the stigma and discrimination faced by sex workers: they are seen as unfit parents (2015: 7:1), the violence they may experience is often dismissed as an ‘occupational hazard’ inherent to their work (2015: 8:3), health services can act disrespectfully and even abusively towards sex workers (2015: 6:1) and police often target them by charging them with pimping one another (2015: 4:2). In this way, Levy and Jakobsson (2013: 338) state that the construction of sex workers’ victimhood is often conflated with an image of immorality, deviance and nuisance.

The third element of moral panic according to Goode and Ben-Yehuda is consensus amongst a relatively large segment of society that the threat posed is real, serious, and a result of the behaviour of the wrongdoing group. The 2010 report cites Kuosmanen’s research (2008) on public attitudes, which found that 70.7% of the sample surveyed supports the ban on the purchase of sex, thus supporting the Swedish

government's claim that prostitution is a 'pressing social concern' (2010: 4). Florin (2012: 270) asserts that the Swedish Model represents the 'ruling opinion that prostitution is a male mode of dominating, objectifying, and dehumanizing women': a majority of Swedes believe that men are to blame for the damaging behaviour they commit by buying sex.

Fourthly, a moral panic is usually disproportionate. In fact, Goode and Ben-Yehuda argue that the impact and extent of the threat is exaggerated, both in terms of the amount of people assumed to be engaging in the problematic behaviour and the danger it poses. In this way, the degree of public concern far outweighs the actual purview of the harm itself. Of course, the Swedish government itself does not recognise any such exaggeration, to do so would be counter to its goals to affirm the 'seriousness' of the 'crime' of purchasing sex (2010:12) and the necessity of 'far-reaching measures' to combat it (2010: 5). Levy and Jakobsson (2014: 594), however, point out that radical feminism not only sees sex work as a form of violence, but it portrays sex workers as unstable, passive, traumatized, tortured and exploited slaves as a result of their selling sex. This portrayal, endorsed by the group whose theory underpins the Sex Purchase Act, stands at direct odds with the NSWP's affirmation that 'not all sex work is violent or problematic' (2015: 1:1). However, it is important to remember here that the purpose of a constructionist approach is not to examine the truthfulness of claims but instead what the audience believes (Loseke, 2003: 35). Because of the inherently hidden nature of sex work, the proportionality of the moral panic as constructed by the Swedish government cannot be examined satisfactorily here.

Finally, Goode and Ben-Yehuda contend that a moral panic is intrinsically volatile: there is an ebb and flow of the intensity of public concern. They point out that although an issue may be long lasting, it can still be a panic because the public attention it receives is not constant. As with all news stories, the Swedish Model is not constantly a topic of media coverage. However, because many countries have begun to adopt and are considering similar legislation, it is currently in vogue. Accordingly, Dodillet and Östergren (2011: 19) note that 'every week there are several articles on different aspects of prostitution'.

5.8 Resources, interests and legitimacy

When looking at how a moral panic arises, Goode and Ben-Yehuda (2011: 154-156) argue that considering who 'discovered' the issue and why is essential to properly understanding the source and dynamics behind a claim. Thus, it is important to look at the role that resources, interests and legitimacy play in the construction of a social problem. The NSWP acknowledges that there is a 'consensus' in Sweden on sex work (2015: 1:2), which motivates the NSWP to contest this understanding by 'upholding the voices of sex workers globally' (2015: 1). This reveals the power dynamics at play: the 2010 report, published by perhaps the most reputable and powerful institution in Swedish society, the government, is much more likely to have a receptive and believing audience than the NSWP toolkit.

The Swedish government report relies heavily on the reputation of its publisher, to the detriment of its accuracy. The lack of referencing and use of misrepresentative data throughout the document appears lazy at best: for example, when discussing the

attitude of the public in regards to the ban, the report claims that the results of Kuosmanen's surveys (2008) show such a 'great' difference in perceptions of criminalisation before and after the ban went into effect that 'it is reasonable to assume that an actual change in attitudes has occurred' and that therefore the ban has had 'a normative effect' (2010: 31). However, Kuosmanen's research published three years later on the same topic concludes that after the enactment of the legislation 'most continue to maintain their views . . . about men who buy sex' and that therefore 'the impact of the legislation on public attitudes to prostitution . . . has been relatively mild' (2011: 259-260). This discrepancy between the report's findings and the findings of the researcher it cites was encountered by chance, but it puts the viability and reliability of all of the report's findings into question.

The report's reputability does not only come from its institutional standing but also from its political and ideological origins: as Carson and Edwards (2011: 72) point out, gender equality is part of Sweden's cultural heritage: gender education begins at a young age and concepts like power, violence, oppression and exploitation are commonly discussed in relation to gender. As Florin (2011: 270) argues, the basic thought process behind criminalisation, that male exploitation of female sexuality, or prostitution, should be eliminated, follows a line of reasoning that uses concepts that are highly familiar to the Swedish public. This of course lends credibility and coherence to the report. On the other side, as a global representative of sex workers, the NSWP upholds the voices of the stigmatised, discriminated against and the shunned in most modern societies. A sceptical audience can therefore be expected for the toolkit, which may explain the concerted effort made by the NSWP to use reliable and varied sources to back up their carefully explained and referenced arguments.

5.9 The problems with constructionism

Loseke (2003: 166) acknowledges three main criticisms of the constructionist perspective, beginning with the objection that constructionism simply distracts our attention away from the very real harms caused by social problems. In this way, it could be argued that instead of looking at how the Swedish government and the NSWP construct sex work, it would be more useful to take concrete steps towards understanding it for ourselves. Goode and Ben-Yehuda (2009: 159) address this concern: according to them, the objective seriousness of certain situations is not denied, but rather they argue that this objective aspect does not define the problem or determine the extent of concern accorded to it. In this way, constructionism enables us to understand why the perspective underlying the Swedish Model is so prevalent, and examining how claims-makers have convinced and continue to convince their audiences gives an insight into how they could be convinced otherwise and therefore how to implement change.

Next, Loseke points out that constructionist perspectives are criticised for their 'lack of explicit value judgments': because this approach avoids stating what is right and what is wrong, it can be seen as 'morally suspect' (2003: 167). In response to this critique, I am aware that I myself have criticised the Swedish government for making moral judgments of sex workers (cf. 2.2.3 *The stigmatisation of sex workers*), and therefore have avoided using morality in my own argumentation here.

Finally, another potential weakness of constructionism is that while it attempts to understand how the audience evaluates claims as truthful, it does not examine the truthfulness of the claims themselves (ibid.). In the case of this paper, I argue that examining the truthfulness of claims is beside the point: doing so without sufficient evidence is the trap that many other articles and papers have fallen into in the past. Because the data being used is already-published discourse, I lack any new information that could support my argumentation and am therefore as equally ill-placed to judge what is true and false as many researchers before me.

5.10 Conclusion

The discourses of the Swedish government and the NSWP each construct their own social problem: the former sees prostitution as harmful, oppressive and exploitative, not only because of its immediate consequences but also because of the symbolic significance of selling one's body. A moral panic has thus been formed concerning prostitution: a majority of Swedes appear to agree that prostitution threatens the values and welfare of Swedish society. On the other hand, the NSWP views the Swedish Model as the problem: partial criminalisation is depicted as undermining sex workers' human rights and exacerbating risk and harm, as well as serving to propagate negative stereotypes and therefore increase stigmatisation. The contrasting nature of both documents hints at different target groups: the carefully supported, academic style of the NSWP toolkit suggests that it seeks to persuade a professional audience whereas the 2010 report presumes its audience is in agreement with the Swedish Model, provides few direct citations and uses a more emotive language. This is probably because the Swedish state, as the publisher of the report, has an authority and a reputation much greater than that of the NSWP. The Swedish state is a powerful institution, and it has formulated the problem of prostitution in a larger context of women's rights and gender equality, values that have long since been viewed as essential to Swedish culture.

6. A different model of human rights for each construction

This chapter answers the third research question of this thesis: what do the constructions discussed in the previous chapters imply in terms of sex workers' human rights? The conventions that will be used here are the *International Covenant on Social, Economic and Cultural Rights* (ICESCR), the *International Covenant on Civil and Political Rights* (ICCPR) and the *Convention on the Elimination of all forms of Discrimination Against Women* (CEDAW). They are cited in further detail in the Appendix.

To begin, the format according to which human rights are used in the discourses of both the NSWP and the Swedish government will be discussed, as well as the ways in which human rights can be hierarchised and categorised. The category applied here will be protective versus empowering rights. The main body of this chapter will examine the rights implicated in each discourse through the lens of this categorisation. The rights to self-determination and to be free from exploitation of prostitution encapsulate the prostitution debate in Sweden (cf. 1.5 *Human rights*) and are therefore considered separately.

This project does not engage in the debate of which rights are being violated in which specific instances: instead, it examines how different constructions of sex workers imply different rights entitlements. Also of note is that this chapter declines to discuss the rights of the child. Although highly relevant to the experiences of sex workers who are parents, time and length constraints of this project mean that they cannot be given the detailed attention they are due.

6.1 The role of human rights in discourse: where they fit and how they are employed

6.1.1 Explicit references to human rights in each discourse

As pointed out in 3.9 *Human rights discourse*, the NSWP toolkit explicitly refers to human rights in its four final papers and discusses how the Swedish Model violates them. Discourse here is deliberate and systematic: the obligations of states under international human rights law are listed and evidence is given as to how these obligations are often not respected in the context of sex work, followed by recommendations as to how they can be properly fulfilled. This procedure is conducted methodically and the papers are replete with authoritative references. As such, the sixth paper, entitled *Sex Work and The Right to Health*, begins by noting that according to the ICESCR, 'all people have the right to the 'highest attainable standard of physical and mental health'' (2015: 6:2). In the next section, evidence is given to show the 'reality of health rights for sex workers': for example, a study by the United Nations Programme on HIV/AIDS is cited that found that sex workers face a HIV infection rate that is on average 12 times higher than that of the general

population (2015:6:4). Subsequently, in the section entitled *Sex worker-led services as best practice*, recommendations are given as to how implement such practices, through e.g. drop-in centres that promote safety and provide referral to health services (2015: 6:7). This careful structuring demonstrates the NSWSP's goal to appear objective and credible. Nonetheless, the NSWSP admits in certain sections a lack of evidence-based information: in the seventh paper, *Sex Work and Arbitrary Interference with Families*, it stated that concerning the stigmatisation of sex workers as unfit parents 'there is no global data on this particular point' (2015:7:3), with anecdotal accounts their only source of information.

The human rights discourse used by the Swedish government in its 2010 report is sparse at best. The term 'human rights' is only used three times in the report, twice in the context of Norway or 'countries around the world' (2010: 50, 36), and all of which lack referencing to any specific human rights law. A language of rights (in contrast to human rights) is also sporadic and used in an uncorroborated manner; e.g., '[prostitution] is an obstacle to the *right* to live a dignified life' (2010: 31), or 'men also 'buy the *right*' to use violence against prostitutes' (2010: 33).

Rights discourses in both texts are a useful illustration of intertextuality, or when one text is referenced in another. As Bloor and Bloor (2007: 54) point out, intertextuality reveals ideological struggle by calling attention to the dominant ideology. In this way, the Swedish government report acknowledges that 'those who defend prostitution argue . . . that adults should have the *right* to freely sell and freely purchase sex' (2010: 2), although in the next sentence this perspective is claimed to be counter to gender equality and human rights. The NSWSP also repeatedly refers to the arguments made by those defending criminalisation: for example, the toolkit states that 'depicting sex work as inherently victimising and a form of violence against sex workers . . . contradicts the spirit of human rights protections' (2015: 8:1). Here, the struggle between proponents and opponents of the Swedish Model is clear. The Swedish government refers to the latter as 'an important instrument in preventing and combating human trafficking and in protecting those people who are, or who risk becoming involved in prostitution and other forms of sexual exploitation' (2010: 6), while the NSWSP views it as '[the] widespread promotion of [a] detrimental legal and political approach to the regulation of sex work' (2015: 1).

6.1.2 A hierarchy of rights

Boersema (2011: 138) acknowledges that there are, at times, conflicts between rights, and then a decision has to be made about which rights trump the others. This implies a hierarchy of rights, but the construction of this hierarchy is highly controversial. As such, Montgomery (2002: 373) contends that priorities of rights change over time and place, making their hierarchy an empirical question bound by context.

Such a hierarchy is implicit in the discourse of the Swedish government's 2010 report. As Levy and Jakobsson point out (2013: 335), the Swedish government conflates sex trafficking and prostitution, and the ban is based upon the assumption that 'the primary factor that perpetuates both human trafficking and prostitution is demand, that is, that people, primarily men, purchase sex' (SOU, 2010: 5). Prostitution and human trafficking are labelled 'a form of sexual slavery' (SOU 2010: 28), and by prioritising the prevention of the 'serious harm' that they present, the

Swedish state is declaring the supremacy of the right to be free from slavery (ICCPR, Art. 8.1) over other rights. This is reaffirmed through the government's statement that it is irrelevant to distinguish between consensual and non-consensual prostitution: the right to be free from slavery is more important, according to the Swedish government, than sex workers' right to self-determination. In this way, the Swedish government prioritises certain rights, including the right 'to live a dignified life' and the right to be free of gendered discrimination, or the bid for 'equality between the sexes' (2010: 31), to the detriment of other rights that the NSWP defends as equally important, such as the right to health, parental rights, and the right to security of the person (2015: 2).

6.1.3 Categories of human rights

There are multiple ways to classify and categorise human rights, including Douzina's eight general rights-claims (2000), Arvan's division of international versus domestic human rights (2014) and Sen's approach of functionings and capabilities (2004), but to name but a few. One of the earliest distinctions made between rights, Boersema (2011: 73) points out, is between negative rights, or the right to non-interference, and positive rights, or rights requiring positive action. This simplified division highlights the political implication inherent to discussions of rights, making it extremely difficult to align oneself with one theory of rights without entering the debate of, e.g. the level of involvement of the state. As such, Ignatieff (2001: 300) argues that conceiving of human rights as a way of bringing closure and conclusion to political disputes is an 'illusion': on the contrary, he contends, they create a 'spirit of non-negotiable confrontation'.

While this partisanship must be acknowledged when considering human rights, a political debate will not be entered into here. Instead, because the topic here is restricted to the Swedish context, discussion is based upon the assumption that state involvement in terms of welfare provision is an inherent part of the national system. Debating the benefits or disadvantages of this system in the context of a constructionist approach would be extraneous.

What follows uses a much more simplified approach, drawn from Boersema's claim (2011: 15) that rights can be broadly understood firstly as empowerments that enable an actor to do certain things, and secondly as 'protective securities' against what an agent might do to a specific actor. This approach fits closely with the two constructions of sex workers identified in the previous chapter: prostitutes as exploited victims requiring protection, or sex workers as autonomous agents demanding empowerment. Accordingly, the rights relevant to sex work in the Swedish context are highlighted in the figure below according to the category they belong to (cf. *Appendix* for further details).

UN Human rights relevant to sex work

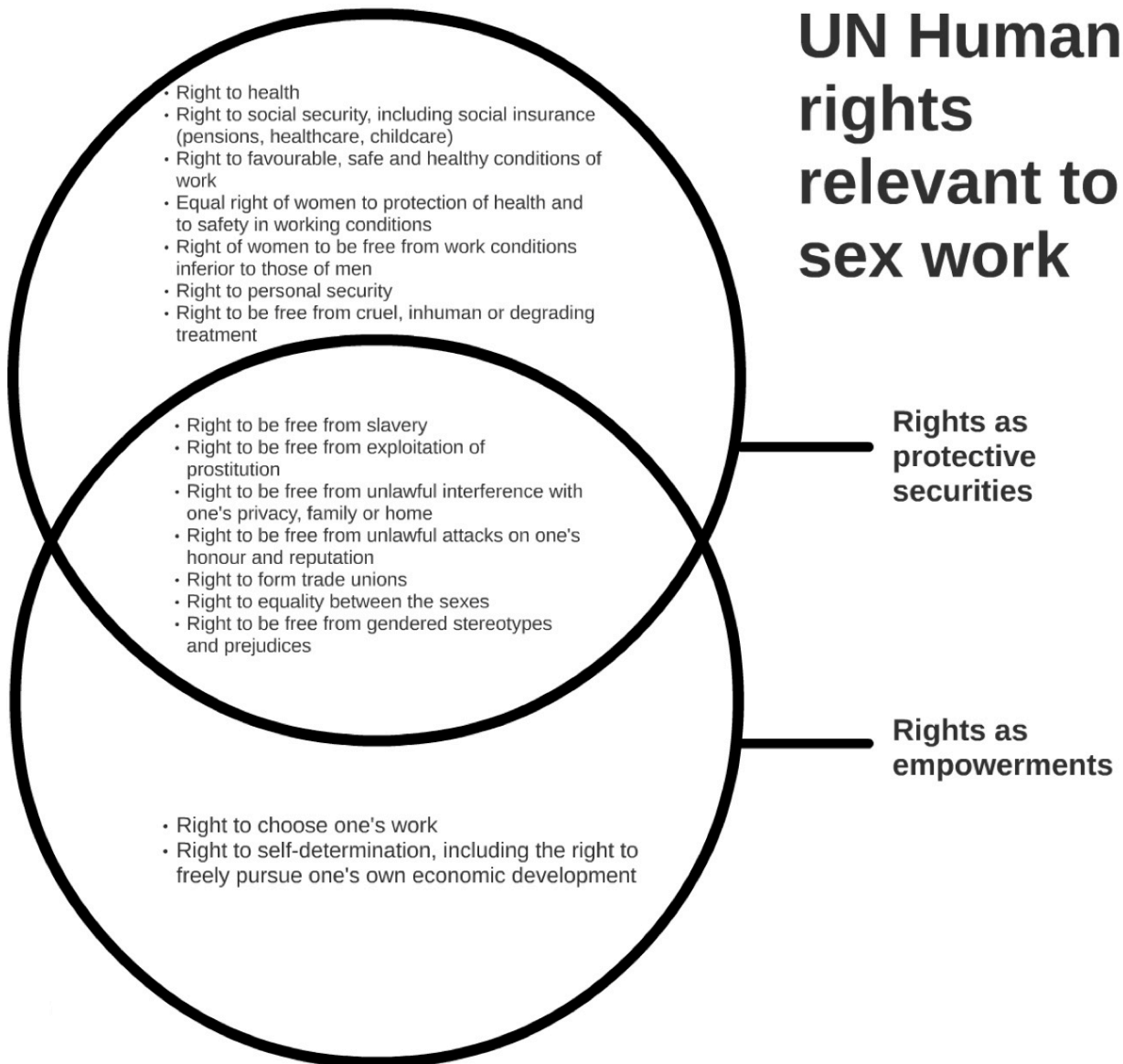


Figure 3. UN Human Rights relevant to sex work in the Swedish context.

6.2 Human rights as protective securities

6.2.1 The State's responsibility to protect

State sovereignty was redefined as the responsibility of the state to protect its population in the International Commission on Intervention and State Sovereignty (ICISS) 2001 report, *The Responsibility to Protect* (R2P). According to Falk and Skinner (2010: 493), ICISS was formed in 2000 to answer the question of how to respond to serious humanitarian issues within the context of the UN system. ICISS holds that human rights should focus on 'the human needs of those seeking protection or assistance' (2001, Para 2.22). This means that human security must be assured, which entails protecting individuals from threats to health, life, personal safety, livelihood and human dignity (ibid.). Formal adoption of R2P by over 150 states at the UN's World Summit in 2005 made this objective official, and led the UN General Assembly to state in its report *Implementing the Responsibility to Protect* that 'responsible sovereignty is based on the politics of inclusion, not exclusion. This entails the building of institutions, capacities and practices for the constructive management of the tensions so often associated with the uneven growth or rapidly changing circumstances that appear to benefit some groups more than others' (2010, Para 14).

Although human rights are most frequently considered in situations of humanitarian crisis, they are equally applicable to circumstances of precariousness, discrimination and marginalisation in Sweden. The Swedish state has the same duty to fulfil its human rights obligations as any other ratifying state: its international reputation as a human rights defender (Civil Rights Defenders, 2015) should not excuse it from scrutiny. The human rights that are implicated in considerations of sex workers' protection are discussed here, including the right to health, the right to social security, the right to favourable, safe and healthy conditions of work, the equal right of women to be free from work conditions inferior to those of men, the right to personal security and the right to be free from cruel, inhuman or degrading treatment.

6.2.2 How the Swedish government 'protects' prostitutes

The preface to the 2010 Swedish government report declines to use the terms 'sex work' and 'sex worker' because they imply a 'business transaction between two equal parties', which according to the report, 'very rarely corresponds to reality' (cf. 1.4 *Prostitution vs. sex work*). Instead, the report favours terms such as 'person who is exploited in prostitution' or 'prostitute' to highlight the sexual exploitation characteristic of prostitution (2010: 3). The image of prostitute-as-victim is thus constructed from the outset, and the ban, by assigning accountability as well as avoiding blaming the 'victim', is presented as its remedy. This is in line with Henderson's understanding of victimhood whereby 'victims have been harmed in some way by an offense, and the person who harmed them ought to be held accountable' (2011: 343). Correspondingly, the ban is described as a method of 'protecting those people who are, or who risk becoming involved in prostitution and other forms of sexual exploitation' (SOU, 2010: 6). Although the NSWP (2015: 8:1) argues that 'depicting sex work as inherently victimising and a form of violence against sex workers . . . contradicts the spirit of human rights protections', the

Swedish government's construction of prostitution as a social problem does in fact demand the defence of certain human rights. Here, the rights that function as protective securities, as outlined in Figure 3, will be discussed.

To begin, according to mainstream Swedish understanding, prostitutes' right to work conditions not inferior to those of men as outlined in the ICESCR (Art. 7.a.i) is denied. In effect, the report states that the Swedish Model is based upon the 'customary view' that prostitution typically consists of 'women providing the sexual service and men purchasing it' (SOU, 2010: 7), and that prostitution causes 'serious harm' and presents an 'obstacle' to 'dignified life'. It follows that in the context of prostitution, it is primarily women who face harmful working conditions when being 'exploited sexually', in contrast to men, who are 'usually' the sex buyers and therefore in a position of power (SOU, 2010: 3, 24).

It follows that according to this perspective, prostitutes are denied the right to safe and healthy working conditions (ICESCR, Art. 7.b). In fact, the report emphasises the 'close relationship between violence and prostitution' and the 'emotional scars and painful memories' that prostitution causes (SOU, 2010: 33, 34). Dempsey (2010:1738) argues that prostitutes suffer physical harms such as bruises, cuts, broken bones and even death, and psychological harms including depression, post-traumatic stress, dissociative disorders and anxiety. Consequently, according to the abolitionist feminist approach, prostitution is inherently contradictory to the right to the highest attainable standard of physical and mental health (ICESCR, Art. 12.1). Although the Swedish government claims that 'many people involved in street prostitution above all have regular contact with social services, medical services and volunteer organizations' (SOU, 2010: 33), prostitution is seen as inherently harmful and violent 'regardless of legislation' (ibid.).

Similarly, the right to be free from cruel, inhuman treatment (ICCPR, Art. 7) is also said to be violated in the context of prostitution. In effect, Waltman (2011: 453), a proponent of the Swedish Model, argues that female prostitutes are at high risk of homicide, are regularly threatened and physically hurt by pimps, and experience high rates of sexual torture, assault and rape. It follows that prostitutes are also denied the right to liberty and security (ICCPR, Art. 9.1). Although the report claims that 'opportunities to seek help from and contact the authorities have become better, not worse' (2010, 33) after implementation of the legislation, it remains nonetheless that prostitution is viewed as inherently dangerous and inimical to safety and freedom: a prostitute, according to the Swedish state, is necessarily 'exploited' (cf. 4.1.3 *Identities: Perpetrators, victims and a disapproving society*).

6.2.3 How the NSWP conceptualises sex workers' protection

Levy (2015: 180) found during his research that the victim status attributed to sex workers in Sweden leads to generalisations and assumptions which 'handicap' sex workers and fail to acknowledge variable and nuanced motivations and lived experiences. Koken (2010: 40) goes further, arguing that two separate categories are applied to women working in prostitution: forced, i.e. innocent, and consenting, i.e. immoral. As such, innocent women need protection from prostitution, which they do are forced into, while society needs protection from immoral women who choose to prostitute themselves (ibid.). In Sweden, Levy and Jakobsson (2013: 605) found that

sex workers are seen as both passive victims and as unwanted, deviant, nuisances. This, Koken contends, is a reflection of Western culture's enduring dichotomy between good girl and bad girl, virgin and whore (ibid.).

The NSWP avoids this dichotomy and instead acknowledges the variability of experiences of sex work (2015: 1:1). Accordingly, when demanding protective rights, the NSWP does not do so from the perspective that sex workers are an inherently vulnerable group that require safeguarding, but rather from the perspective that the Swedish Model 'is a legal model based on ideology, misinformation, moralisation and a disregard for the agency, health, safety and wellbeing of sex workers' (2015: 1). In this way, protective rights are necessary for sex workers in the same way they are necessary for any human being and not because sex workers require extra protection.

The first protective right the NSWP argues is not upheld under the ban is the right to health (ICESCR, Art. 12.1): the toolkit claims that sex workers face discrimination, disrespect and stigma within health services (2015: 6:1) and many experience problems in terms of HIV prevention, treatment and care (2015: 6:4). In addition, the Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights (RFSL) found that the increased stigmatisation caused by the ban has caused a reluctance amongst sex workers to seek health care (cited in Dodillet & Östergren, (2011: 24). The highest attainable standard of mental and physical health is therefore not being accorded to sex workers in Sweden, in sharp contrast to the OECD's description of Sweden's healthcare system as being 'one of the best in the world' (2013).

Next, the NSWP contends that sex workers' right to social security, including social insurance (ICESCR, Art. 9) is denied them under the Swedish Model. Social insurance, according to the Swedish Social Insurance Agency Försäkringskassan (2016), provides financial protection for the elderly, families, children and those with illnesses, disabilities or occupational injuries. It is important to note here that sex workers in Sweden are obliged to pay taxes, which should mean that they are entitled to the social security that is funded by these taxes. In reality, Dodillet and Östergren (2011: 6) argue, sex workers may not qualify for social insurance and are unable to claim deductions for their expenses (cf. 1.3 *Sex workers' objections to the Swedish Model*) As the NSWP states, 'it is contrary to the spirit of work-related human rights for the state to tax workers without protecting their basic rights of workers by law or recognising their chosen work as legitimate' (2015: 5:5).

Echoing the perspective of the Swedish government, the NSWP claims that sex workers are denied the right to favourable, safe and healthy working conditions (ICESCR, Art. 7). However, the NSWP makes this claim within the context of the Swedish Model: unlike the Swedish state, it is not implied that problematic conditions of work are inherent to sex work. Rather, the NSWP (2015: 5:6) argues that criminalisation of sex work exacerbates precarious health and safety situations. Dodillet and Östergren (2011: 22) found in their research that the ban on purchasing sex has meant that sex workers are increasingly vulnerable when they come into contact with their clients. Difficult working conditions are also a result of discriminatory action on behalf of the police: the NSWP contends (2015: 5:4) that sex workers are often charged with vagrancy, public indecency, loitering or

disorderly behaviour, which ‘directly obstruct sex workers’ rights to work and to safe and healthy working conditions’.

Finally, the NSWP claims that sex workers in Sweden are not guaranteed the personal security to which they are entitled (ICCPR, Art. 9.1). The NSWP (2015: 5:4, 5:5) argues that sex workers in Sweden ‘are too often easy targets for law enforcement agents’ which can lead to ‘abusive policing and arbitrary arrest and detention’. Scoular (2010: 19) found that the Swedish Model has forced those who previously sold sex on the streets to move to illegal brothels or to work alone indoors, leaving them more isolated than before and exposing them to greater risks of harm and violence.

6.2.4 Harm reduction: a form of protection or a form of legitimisation of prostitution?

The Swedish government has the duty to provide social assistance to sex workers, but this is conditional upon sex workers’ desire to exit their profession (cf. 2.2.5 *Harm reduction*). This echoes Raz’s assertion (2011: 21) that while rights imply duties, these duties can be conditional. Thus, Levy (2011: 7-8) contends that sex workers have the right to this assistance if they express a willingness to leave sex work, but according to national law as it currently stands, the government has no obligation to provide this assistance if this willingness is lacking, or if the perspective that sex work constitutes violence is not endorsed. Levy (2015: 142) notes that this is because harm reduction measures are seen to legitimise and endorse prostitution and therefore run contrary to the government’s goals to eliminate it altogether. However, depriving sex workers of harm reduction measures such as education on selling safe sex and on negotiation skills, condom provision, STI testing, counselling, peer education and empowerment (Levy, 2015: 130) runs contrary to the right to the ‘highest attainable standard of physical and mental health’ recognised in the ICESCR (Art. 12). The UN has long since endorsed harm reduction measures as a means to ‘ensure the promotion and protection of the enjoyment of all human rights’ (UN General Assembly, 2001: 9). The NSWP (2015: 5:4) notes that the lack of harm reduction measures provided in Sweden also clashes with the right to ‘safe and healthy working conditions’ (ICESCR, Art. 7.b). The UN Special Rapporteur on the right to health highlights the importance of safe working conditions and emphasises that the right to health should be the framework for regulating the sex industry (2010, Para 46).

6.3 Human rights as empowerments: the right to free choice of work

If, as the Swedish Model purports, prostitution cannot be consensual, a prostitute’s right to freely choose their work (ICESCR, Art. 6.1) is violated. Therefore, if a prostitute with a background of sexual abuse is forced by a pimp to get more customers, that prostitute is not freely choosing their work and is hence denied their human right to do so.

However, if sex work is considered a legitimate form of work, ‘an income-generating activity that, like any other, may be taken up agreeably or disagreeably and under economic necessity’ (Petro, 2010: 155), denying anyone the opportunity to pursue

such work can also be seen as a violation of the right to free choice of work. This reasoning is in line with Sen's approach whereby having the opportunity of making choices is a valuable component of freedom, regardless of the eventual choice made (cf. 2.3.3 *Sen's capabilities approach*). The NSWP (2015: 5:1) claims that such violation of rights is possible because 'criminalisation gives national governments and sub-national jurisdictions a reason for not recognising sex work as legitimate work and, consequently, sex workers' labour rights are not protected'. This follows Boersema's assertion (2011: 17) that goals can run contrary to certain rights: here, it can be argued that the Swedish government's goal to totally eliminate sex work runs contrary to sex workers' right to freely choose their work. From the perspective of the NSWP, the state is interfering by defining what is right or wrong, desirable or not, good or harmful, and determining who is the victim and who is the perpetrator (Scaramuzzino & Scaramuzzino, 2014: 7). This position claims negative freedom (cf. 5.3 *Categories and the construction of victimhood*) by arguing that the state should allow full realisation of free will: people's individual freedom should not be limited because the state prevents them from choosing to engage in sex work (ibid.).

6.4 Protection as empowerment

Protection does not necessarily imply victimhood; it can also be a form of empowerment. Ignatieff (2001: 298) contends that the protection and enhancement of individual agency is the very purpose of human rights. This sort of protection is not about sheltering the vulnerable, but rather, Ignatieff argues, 'human rights is a language of individual empowerment, and empowerment for individuals is desirable because when individuals have agency they can protect themselves against injustice' (2001: 322). Intersections between protective and empowering rights are evident in the discourses of both the NSWP and the Swedish government, as shown in Figure 3. Here, the rights that fall under the category of this intersection will be analysed, including the right to be free from slavery, the right to be free from unlawful interference with one's privacy, family or home, the right to be free from unlawful attacks on one's honour and reputation, the right to form trade unions, the right to equality between the sexes and the right to be free from gendered stereotypes and prejudices.

6.4.1 Empowering protection according to the Swedish state

The Swedish Model purports that prostitution is in violation to the right to be free from slavery (ICCPR, Art. 8.1). It is implied in the 2010 report that prostitution, as form of human trafficking is, similarly to the latter, 'a form of sexual slavery' (SOU, 2010: 28). According to the United Nations, human trafficking necessarily involves 'threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability': human trafficking is therefore exploitative by nature. In effect, Farley (2006: 102) argues that prostitution is, like slavery, 'a lucrative form of oppression'.

Next, the gendered framework through which abolitionist feminism views prostitution means that the other human rights argued to be denied to prostitutes are based upon the assumption that most prostitutes are women. As a manifestation of 'a lack of gender equality' (SOU, 2010: 5), prostitution runs contrary to Article 3 of

CEDAW, which outlines the right of women to enjoy human rights and fundamental freedoms on an equal basis to men. Dempsey (2010: 1736-1738) argues that prostitution is a form of structural patriarchal inequality: because of misconceptions and prejudices, prostitutes are denied opportunities and choices, face difficult living conditions and are not valued as human beings on the same terms as men. In this way, it can be argued that prostitutes are denied the right to be free from prejudices and practices ‘which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women’ (CEDAW, Art. 5.a).

Finally, according to the Swedish Model, prostitutes are denied the right to be free from exploitation of prostitution of women (CEDAW, Art. 6). Because prostitution is necessarily exploitative according to this perspective, it is in and of itself a violation of human rights, leaving no room for ambiguity in the interpretation of this right. It is subject to much debate in other circles, something to be examined in further detail in the final sections of this thesis.

6.4.2 The NSWP’s perspective on empowering protection

According to the perspective of the NSWP, sex workers are also denied the right to be free from gendered stereotypes and prejudices (CEDAW, Art. 5.a). Contrary to the Swedish state’s argumentation, however, the ban is seen to aggravate rather than improve these negative preconceptions. As discussed previously (cf. 2.2.3 *The stigmatisation of sex workers*), the Swedish government has been accused of promoting an archaic, moralistic view of prostitution, and the implementation of the ban on the purchase of sexual services can be seen as a manifestation of this prejudicial attitude. Levy and Jakobsson (2013: 337-338) criticise the insinuation that sex workers are dishonest, deviant and immoral in mainstream Swedish understanding, and Dodillet and Östergren (2011: 21) claim that because the Swedish Model is based upon the assumption that sex workers are weak and exploited victims, the legislation propagates stereotypes about sex workers. Many methods are used to ‘side-line the voices of sex workers who diverge from mainstream understandings of sex work’ according to the NSWP (2015: 1:9): the Swedish state is actively working to spread the typification of sex workers as female victims.

Next, according to the NSWP (2015: 5:6), ‘the right to form associations and unions’ is ‘especially lacking in the lives of millions of sex workers’ (ICESCR, Art. 8.1.a). The principle of freedom of association is essential in the eyes of the International Labour Organisation (ILO): they argue that the right to form and organise workers’ organisations is ‘the prerequisite for sound collective bargaining and social dialogue’ (2016). According to Carson and Edwards (2011: 66), the sex-as-work perspective advocates legalisation and normalisation of prostitution, which would mean facilitating the formation of trade unions. In this way, sex workers would be entitled to the same labour rights as any other professional: their working environment would be more ‘controlled’ and incidences of organised crime and violence would decline (ibid.). Accordingly, the NSWP (2015: 5:1) claims that criminalisation ‘effectively lets states get away with not protecting sex workers as workers’ and complicates ‘sex worker-led efforts to ensure safe working conditions for themselves’.

The next right violated according to the NSWP is the right to be free from unlawful interference with one’s privacy, family and/or home (ICCPR, Art. 17.1). According

to Scoular (2010: 31), the increased ‘protection’ that was promised by the ban actually resulted in ‘the increased policing of many women’s lives’. Accordingly, the NSWP toolkit (2015: 4:2) describes ‘highly invasive raids, during which sex workers have reported that police have refused to allow them to dress, have verbally assaulted them, have recorded their identity, and have documented the events on film’. This echoes Dodillet and Östergren’s findings (2011: 22) that instead of feeling protected by the police, sex workers feel ‘hunted’ by them, and are subjected to invasive questioning and searches. Sex workers’ families are also affected by these intrusions: the NSWP (2015: 7:3) argues that sex workers in Sweden are often judged as unfit parents due to the government’s construction of them as ‘traumatised’ persons with no agency’. This has led to the ‘targeting’ of sex workers by social service agents and the police, who ‘collude’ in child custody proceedings (ibid.).

This ties in with the right to be free from unlawful attacks on one’s honour and/or reputation (ICCPR, Art. 17.1): the stigma associated with sex work means that sex workers are excluded from mainstream Swedish society. Accordingly, the NSWP (2015: 7:6) argues that ‘connecting sex work to unfit parenting is not only discriminatory: it is an unjust attack on the honour, rights and dignity of sex workers’. This stigmatisation extends beyond parental rights: Hulusjö (2013: 179) argues that the portrayal of the ‘prostitute’ as a ‘commodity’, an ‘undeserving victim’ or as ‘dirty’ results in discrimination, stigmatisation but also dangerous and traumatising encounters. In fact, the NSWP (2015: 4:3) describes sex workers as marginalised, criminalised and ‘subject to gross social exclusion and persecution’ on behalf of the state and law enforcement. This, according to Levy and Jakobsson (2014: 598), is a result of the moralising and policing of public space.

6.5 The right to self-determination

6.5.1 What is self-determination in the context of sex work?

According to the ICESCR, the right to self-determination means that ‘all peoples . . . freely determine their political status and freely pursue their economic, social and cultural development’ (Art. 1.1). The Merriam-Webster dictionary (n.d.) defines self-determination as ‘the free choice of one’s own acts or states without external compulsion’. Accordingly, Murdach (2011: 371) contends that self-determination is a value in line with ideas of individual autonomy and sovereignty. Autonomy within prostitution is highly controversial: whether or not a prostitute can consent to selling sex has been subject to much debate (cf. 2.2.2 *Reductionism*). In this debate, Koken (2010: 29) claims that prostitution is either viewed as ‘a form of voluntary sexual labour or involuntary sexual objectification’. According to Carson and Edwards (2011: 65), while some argue that sex work is an ‘entirely consensual contract’, others view consent more ‘thinly’ because the choices available to the prostitute are constrained by sexual or economic inequalities. As noted previously (cf. 6.1.2 *A hierarchy of rights*), the Swedish government declines to distinguish between voluntary and non-voluntary prostitution. Accordingly, Waltman (2011:463) contends that ‘prostituted persons’ alleged consent is overwhelmingly fictional – exploiting someone’s desperate position, lack of options, or prior abusive conditions that season them for prostitution is not a situation to which a person can legitimately consent’. According to this line of reasoning, prostitution is in and of itself a violation

of the right to self-determination: because prostitutes are vulnerable and desperate, they cannot freely choose to sell sex but are instead forced to do so.

While abolitionist feminists argue that prostitution is incompatible with self-determination, sex-as-work advocates argue that it is criminalisation that impedes sex workers' self-determination. Echoing Carson and Edward's claim that sex workers can be constrained by inequality, Nussbaum (1999: 296) contends that a prostitute's autonomy is indeed limited by poor economic options, but that this is common with many workers. Furthermore, she argues that criminalisation does not improve the prostitute's circumstances: it simply limits his or her options even more (ibid.). Thus the NSWP (2015: 2:2) argues that under the Swedish Model, sex workers are forced to provide services they did not provide previously, they have fewer possibilities to reject clients and they are not able to charge the same rate for their work because competition in street sex work is now higher. Accordingly, Nussbaum (1990: 290) states that 'a woman will not exactly achieve more control . . . by becoming unemployed'.

6.5.2 The Swedish state's treatment of sex workers who claim self-determination

Although the view that prostitution can be consensual is acknowledged in the Swedish government report (2010: 34), any criticisms put forward by voluntary prostitutes are not only dismissed, but are argued to be indicators of the success of the Sex Purchase Act. In fact, voluntary prostitutes' accounts of being 'hunted by the police', of being 'treated as incapacitated persons' and that 'their wishes and choices are not respected' are interpreted in the report as positive effects of the ban 'from the perspective that the purpose of the law is indeed to combat prostitution' (ibid.). While not clearly stated as such, this explicit dismissal of complaints made by those defending their sex work as consensual is arguably a retaliatory response to those who do not fit into the prevailing model of prostitute-as-victim. In this way, the state defends and protects those who 'managed to escape prostitution' and who recognise that 'the buyer always has the power and the people selling their bodies are always being exploited', but those who are against the ban are left to languish in the difficult conditions that the Swedish state not only recognises, but lauds as successes of the ban. This is not only in violation of the right to self-determination, but also several other human rights, including the 'right to liberty and security of person' (ICCPR, Art. 9), the 'right to enjoyment of just and favourable conditions of work' and to 'safe and healthy working conditions' (ICESCR, Art. 7) and the right to be free from 'unlawful attacks on [one's] honour and reputation' (ICCPR, Art. 17.1).

6.5.3 How to promote sex workers' self-determination

Zeegers and Althoff (2015: 353) contend that improving sex workers' possibilities for self-determination can be interpreted in two ways: first, as the removal of coercion or any measures preventing them from acting freely such as force or violence, and second, as enabling them to act independently from others. Although these interpretations are not mutually exclusive, one may be executed at the expense of the other. Thus, they argue, ensuring that sex workers can freely earn an income and take decisions concerning their work and their working conditions, promotes their self-determination (ibid.). Where sex workers are actively encouraged and even

compelled to leave the sex industry as in Sweden, it is arguable whether their right to self-determination is upheld.

The NSWP endorses this perspective: the second sentence of the introduction to the toolkit states in no uncertain terms that the NSWP advocates in favour of sex workers' self-determination (2015: 1), which is undermined by the state's construction of them as victims (2015: 1:1). For sex workers' agency to be recognised, Koken (2010: 29) contends, women must not be merely viewed as exploited by the patriarchy. According to this perspective, the realisation of sex workers' self-determination requires the recognition of both their consent and their profession as legitimate.

Hence, Gauthier (2011: 166) points out that it is quite complex to craft policy that simultaneously protects the integrity and autonomy of sex workers and does not legitimate the sexist aspects of their work. Carson and Edwards (2014: 81) point to the gendered approach of the Swedish Model as a further threat to sex workers' self-determination: by asserting that women cannot truly consent to prostitution and that they are frequently victims of male violence, the Swedish government leaves gendered constructions of female prostitutes and male violence unquestioned. This powerful statement that women need to be protected denies sex workers their right to autonomy over their bodies (Carson & Edwards, 2014: 84).

Zeegers and Althoff (2015: 369) consider three specific conditions in evaluating whether sex workers' self-determination is upheld: firstly, whether perpetrators of forced prostitution are 'named and blamed', secondly, a work environment that is both safe and healthy, and thirdly, a normalised social and labour position. According to them (2015: 377), the Swedish Model negatively affects sex workers' trust in police and justice, reducing the likelihood of perpetrators being held accountable. Furthermore, the NSWP (2015: 2:3) argues that suspected trafficking is often not reported by clients because they fear arrest. The work environment of sex workers is increasingly dangerous in Sweden: the NSWP (2015: 2) contends that the Swedish Model exacerbates 'danger and risks to health and wellbeing'. Zeegers and Althoff's final condition for self-determination is not fulfilled either under the Swedish Model: they argue (2015: 377) that prostitutes in Sweden feel increasingly stigmatised, unfairly treated and disrespected, and do not have a formal legal status in the labour market. In effect, the NSWP (2015: 4:2, 5:1) claims that under the Swedish Model, the stigma experienced by sex workers is so extreme that their movements are controlled and delimited, they are not granted labour rights, and their work is not recognised as legitimate.

Finally, a further element to consider in the promotion of agency and freedom of choice is participation in policy-making and legislation formulation and evaluation. As such, Levy (2011: 12) argues that 'inclusion of . . . marginalised groups in evaluation and political process seems to be of great importance where the very group's legislation and policy pertains to continue to experience authoritative abuses and denial of services'. The NSWP (2015: 1:2) contends that in spite of a purported intent to protect their interests, sex workers 'have been systematically excluded and silenced' in political discussion and debate about the ban on the purchase of sexual services. This, Levy (2015: 224) argues, is because discourses that threaten to

undermine abolitionist conceptualisations of sex work are suppressed so as not to disrupt dominant Swedish understandings.

6.6 The right to be free from exploitation of prostitution

6.6.1 What is exploitation?

CEDAW urges states to take all ‘appropriate measures . . . to suppress all traffic in women and exploitation of prostitution of women’. According to the Oxford Dictionary (2016), exploitation is ‘the action or fact of treating someone unfairly in order to benefit from their work’. In the context of prostitution, this would mean that the prostitute is treated unfairly for others’ benefit, namely pimps, traffickers or clients. Section 3 of Chapter 6 of the Penal Code defines ‘sexual exploitation of a person in a position of dependency’ as when a person ‘induces another person to undertake or endure a sexual act by serious abuse of that person’s position of dependency on the perpetrator’ (Government Offices of Sweden, 2014: 1). According to Green (1989: 525-526), feminist attitudes towards sex work can be divided into two camps: one that purports that prostitution is sexual exploitation and that is based upon gender inequality, and the other that claims that the negative aspects of prostitution such as lack of legal redress and police protection, exploitation by pimps and brothel keepers and the close association with organised crime and drug trafficking, are caused by its illegality.

The Swedish government’s position in this debate is clear: prostitutes are invariably considered as exploited (cf. 5.3 *Categories and the construction of victimhood*). Accordingly, the report declares that prostitution is not ‘a business transaction between two equal parties’ and this imbalance is linked to gender: prostitution is deemed ‘unacceptable’ in a ‘gender equal society’ (SOU, 2010: 3, 4). Thus, Carson and Edwards (2011: 67-68) describe the neoabolitionist perspective as viewing prostitution as an inherently oppressive manifestation of gendered inequality due to the harm it inflicts upon women.

6.6.2 Prostitution as alienation

Green (1989: 530-532) argues that traditionally, sex and intimacy have been associated with the foundation of a family and privacy. The sexual self is intimate and private and very closely tied up with one’s sense of oneself as a lovable and unique being. Here, this moral connection between sex and love and self-worth is valued by society as being in the interests of both women and children (ibid.). Echoing Marxism, exploitation can be viewed as alienation according to Green (1989: 533). In this way, prostitutes’ bodies are vehicles for the fulfilment of clients’ sexual desires: prostitutes are sexual objects and there is no reciprocal satisfaction of desire or reciprocal recognition of prostitutes as individuals with desires. The reason prostitution is morally wrong according to this perspective is not because contracting the use of one’s body is in itself questionable, but because doing so requires breaking the mental connections between love, self-esteem and sexual desire (ibid.).

Gauthier (2011: 168) also connects prostitution with alienation, but for him this is because commodifying one's sexuality threatens a vital source of self-expression. In this way, even though the sale of sex can be profitable for the seller, prostitutes are selling a 'singular medium for self-expression' and this is why their work is inherently self-alienating (ibid.). Thus, Gauthier does not concede to Nussbaum's assertion (1999: 291) that a prostitute can separate the sexuality that is truly their own and that which is used in the relationship with the client. On the contrary, he contends (2011: 176) that the exploitation of prostitutes is unique in its sexual nature:

Prostitution cannot enhance the *sexual* [sic] autonomy of the prostitute when its existence depends upon her willingness to exchange sexual self-governance for economic benefits. Although the practice may be an exercise of economic autonomy, this is bought at the cost of a right to sexual autonomy.

6.6.3 The social infamy toll

The perspective that prostitution is invariably exploitative does not necessarily remove the blame from the prostitute. Indeed, Almog (2010: 723) argues that prostitution is always oppressive and exploitative and is not a legitimate occupation. He contends (2010: 724) that every woman who engages in prostitution must pay the 'social infamy toll', which is when a reputation of disgrace and inferiority is imposed upon her. This 'heavy price of social disgrace' prostitutes are 'tainted' with is 'immeasurable' and therefore cannot be compensated by the sum paid to the prostitute by the buyer. That is why prostitution is exploitative: a price cannot be put on 'the loss of social respectability and transition to an inferior, branded, humiliating status' (2010: 724, 727). This standpoint is not endorsed by the NSWP or the Swedish government, but it is important to acknowledge as a prevailing perspective.

6.6.4 The dangers of claiming legitimacy of prostitution

According to Gauthier (2011: 180), the image of sexual freedom promoted by sex-as-work advocates can be detrimental to the safety of the majority of prostitutes: he argues that if male buyers believe that a prostitute is sexually free, their demand is likely to increase as are the harms they inflict upon the prostitutes. Gauthier also argues that the majority of prostitutes do not freely choose to sell sex and therefore the majority of the burden of supplying that demand falls upon 'socially and economically disadvantaged women who are highly vulnerable to exploitation' (ibid.). Almog (2010: 731) goes further, arguing that the fact that prostitutes are not protected by the economic contract they engage in and are vulnerable to abuse demonstrates that prostitution is a form of slavery.

6.6.5 The variability of sex work

The NSWP, on the other hand, sees many problems in the Swedish government's approach. The toolkit (2015: 1:1) states that sex work is 'enormously variable' and that 'many stress agency and self-determination in the context of their sex work, and their motivations for sex work are as variable as experiences in sex work'. Furthermore, the NSWP argues that this understanding of female sex workers being exploited by male clients 'neatly invisibilises male and trans workers, and female and LGBTQ clients' (ibid.).

Furthermore, the NSWP toolkit directly addresses the ambiguity in Article 6 of CEDAW: they state (2015: 5:2) that ‘this statement does not imply that all prostitution is exploitative: rather, it is meant to suggest that where exploitation exists, it must be addressed’. Although Levy (2015: 129) acknowledges that sex work can be and even often is associated with harm including exploitation, Schwarzenbach (1990: 114) asserts that prostitution does not constitute exploitation as long as the prostitute is able to put certain limitations in place. These limitations can include when and where the sex will take place, whether the surroundings are safe and if the prostitute is able to retain the right to refuse a client (ibid.).

6.7 Concluding remarks

Whether sex workers are viewed as victims or as autonomous individuals has a significant impact on their human rights entitlements. A meticulous discourse of rights is evident in the NSWP toolkit, half of which is dedicated to discussion of violations of rights under the Swedish Model. The NSWP argues that sex workers are denied several labour rights because of the illegitimate nature of sex work in Sweden: they are denied parental rights, they are not guaranteed the right to health in the same manner as other citizens and they are not adequately protected from violence and harm. Although human rights are mentioned in the 2010 report, they are not explored methodologically as is the case in the NSWP toolkit.

In this chapter the human rights relevant to sex work have been divided according to Boersema’s categories of protective securities and empowering rights (2011: 15). While the Swedish government sees prostitutes as being entitled to protections such as safe working conditions and guarantees to liberty and security because the harmful nature of their work renders them particularly vulnerable, the NSWP argues for similar rights on the basis that every human is entitled to them, regardless of their profession. Furthermore, the NSWP argues that sex workers are frequently denied protective rights such as healthcare, social security and personal security because they are stigmatised and treated differently to other citizens. Rights that are simultaneously empowering and protective are also denied to sex workers from the perspective of the NSWP, such as the right to be free from gendered stereotypes and prejudices, the right to form trade unions, the right to be free from unlawful interference with one’s privacy, family and/or home and the right to be free from unlawful attacks on one’s reputation. Constructions of sex workers as simultaneously deviant and vulnerable therefore leave them discounted as citizens entitled to these rights. The Swedish government, on the other hand, claims that prostitution, as a form of violence and oppression, directly contradicts the right to be free from torture and slavery and the right to be free from gender inequality. Such significant differences in human rights interpretations reveals their malleability in discourse as well as their potential for hierarchization.

This chapter ends with a discussion of the rights to self-determination and the right to be free from exploitation of prostitution. These rights are central to the prostitution debate in Sweden: whether or not sex workers can truly consent to selling sex determines whether they are victims of oppression or independent individuals capable of making their own choices. In this way, either the exploitation of sex workers serves to deny their self-determination or Swedish Model prevents their self-

determination because it assumes that all prostitution is exploitative. It is important to note here that the latter perspective does not purport that all sex work is consensual: exploitation, violence and abuse are frequent but they are not seen as inherent to selling sex.

To close, Ignatieff (2001: 322) argues that human rights cannot be a tool used by a more powerful entity on behalf of a disadvantaged group as the Swedish government purports to do by 'protecting those people who are, or who risk becoming involved in prostitution and other forms of sexual exploitation' (SOU, 2010: 6). Instead, according to Ignatieff (2001: 322), human rights should be sought after *freely* by those experiencing violations of their rights, and human rights practice *must* seek consent and refrain from interfering where it is lacking (2001: 298). To do otherwise, Ignatieff contends, goes against human rights principles, which 'exist to validate individual agency and collective rights of self-determination' (ibid.). Contrary to the state's assertion otherwise (SOU, 2010: 5), it is therefore essential to distinguish between forced and voluntary prostitution in order to adequately respond to sex workers' needs.

7. Conclusion

7.1 Summary

Criminalising the purchase but not the sale of sex was, at the time of implementation in 1999, an unprecedented legal model, and it has since received considerable attention worldwide. While the Swedish government defends the ban as largely successful, others have criticised it for failing to respond to sex workers' needs and rights. These different perspectives on the efficacy of the Swedish Model reflect different understandings of what sex work represents and entails. This thesis analysed discourses representative of these understandings and investigated the impact that they have on sex workers' human rights entitlements. Discourse is not simply a static representation of self-contained thought, but the concepts and understandings it constructs influence our immediate, physical reality. Human rights, as universal and inalienable concepts, provide an effective and persuasive basis for groups to defend their interests and wellbeing, and a compelling method of giving concrete meaning to discourse.

In response to the first research question, this thesis began by examining how sex work and sex workers are constructed in the discourses of the 2010 Swedish government report and the NSWP toolkit. The 2010 report constructs prostitutes as victims who are unable to make informed decisions and are especially vulnerable to violence and abuse. They are lured and trafficked into prostitution where pimps, traffickers and clients take advantage of them. Accordingly, the sale of a woman's body to a man is always exploitative and is therefore a threat to gender equality, a long-established Swedish value. This justifies the proactive response of the government in the form of the ban against the purchase of sexual services. This legislation serves a double purpose: it protects prostituted persons and it declares to the rest of the world that the Swedish state will not accept prostitution.

On the other hand, the discourse of the NSWP toolkit describes the Swedish state as engineering understandings of prostitution as a manifestation of violence and gendered oppression: sex workers who claim agency are silenced, discredited and denied basic rights. Furthermore, the NSWP points out that the Swedish government fails to adequately acknowledge that men and trans people also sell sex. The toolkit highlights the variability of sex work: it can be harmful but it can also be consensual and a legitimate source of income. The state is therefore uncooperative and uncongenial towards voluntary sex workers, who are often targeted by various state authorities. The agency and autonomy of sex workers is emphasised in the discourse of the NSWP: sex workers are entitled to the same rights as any other citizen and the NSWP is firmly opposed to the ban against the purchase of sexual services.

Next this thesis analysed which aspects of the sale of sex are presented as problematic by each party and the impact of these problematizations in the Swedish context, as was mandated by the second research question. The Swedish government problematizes prostitution in several ways: first, its inherently violent, exploitative and oppressive nature poses an immediate threat to prostitutes. Next, the symbolic significance of the sale of the female body to a man threatens the values and wellbeing of Swedish society. Finally, prostitution undermines prostitutes' free will

because it is always forced. The ban, as an effective response to public concern, is seen as a way to enable prostitutes to make better choices for themselves. Because of the authority inherent to the state, these constructions are highly powerful in shaping mainstream understandings, particularly in the Swedish context where gender equality is a recurrent topic of public conversation. The report therefore makes little attempt to convince the reader: public consensus is presumed.

The NSWP toolkit constructs a different social problem: it is not the sale of sex itself that is problematic but the Swedish government's response to it. The NSWP does not deny that risks can be associated with sex work, but the manner in which the Swedish state copes with and portrays these risks can exacerbate them and increase the stigma and discrimination experienced by sex workers. The NSWP argues that the ban disempowers sex workers by patronisingly characterising them as incapable and vulnerable. The toolkit seeks to persuade the reader that the Swedish Model is significantly flawed: it is an effort to subvert the 'discursive vacuum' created by the Swedish government (NSWP, 2015: 1:9).

Finally, the ways in which these constructions shape understandings of sex workers' human rights entitlements constitutes the sixth chapter of this thesis. The discourse of the Swedish government report shapes sex workers as vulnerable, traumatised victims and justifies a version of human rights that protects and shields sex workers from harms intrinsic to their work. Prostitution therefore denies prostitutes' right to safe and healthy working conditions, their right to be free from cruel, inhuman treatment, their right to be free from slavery, their right to be free from gendered discrimination and their right to health. The state's opposition to harm reduction measures, despite the NSWP's assertion that this violates sex workers' right to health, is justified because such measures are constructed as inimical to the state's goal of totally eliminating prostitution.

Unlike the 2010 report, the NSWP toolkit employs human rights to support its argumentation in an explicit, meticulous manner. The NSWP contends that the Swedish Model is in violation to numerous rights including the right to health, the right to social security, the right to be free from unlawful interference with one's family and the right to personal security.

At the core of the prostitution debate in Sweden is whether or not the sale of sex can be consensual: this determines whether prostitutes are indeed invariably vulnerable and requiring state protection, or whether they can claim agency and autonomy and seek empowerment. The human rights to self-determination and to be free from exploitation of prostitution are key here. The Swedish state sees the sale of sex as a threat to prostitutes' self-determination because the decision to sell sex can never be undertaken freely. According to the argumentation of the NSWP toolkit, it is the Swedish Model that denies self-determination because it seeks to eliminate the option of selling sex, it denies sex workers the possibility to participate in policy formulation, and it re-inscribes gendered stereotypes by qualifying sex workers as women who are victims of the patriarchy.

The right to be free from exploitation of prostitution is the only instance in any UN human rights convention where prostitution is mentioned, but no explanation of what constitutes exploitation is given. While the Swedish state views all prostitution as

necessarily exploitative, the NSWPP argues that while this can be the case, it is not always so. Prostitution is frequently characterised as exploitative because prostitutes are often typified as being forced to sell sex by their traumatic pasts, abusive pimps or financial constraints. This characterisation can also be linked to moral convictions: the sexual self is often attached to intimacy, self-worth and love and sexual expression is seen as particularly precious, making the sale of sex a unique form of subjugation.

7.2 Suggestions for further research

This thesis raises numerous issues, some of which have not been given adequate attention due to spatio-temporal limitations. Firstly, the political background explaining the rise of the Swedish Model calls for further analysis: the prominence of radical feminist reasoning in policy formation is hugely significant in an international context where women continue to be regularly discriminated against, silenced and discredited. Successful contestation of the Swedish Model presupposes in-depth knowledge of how this line of thought has become ubiquitous in the Swedish context.

Next, the structural issues such as poverty and migration that were touched upon in 2.3.2 *Structural factors contributing to prostitution* warrant further discussion in order to begin to tackle the marginalisation faced by sex workers. Considering these larger, institutionalised forces draws attention away from the purchase of sex and reveals more deeply-rooted issues that require response at all levels of society. These issues are complex, pervasive and engrained: accordingly they are rarely successfully tackled by governments yet they are perhaps most significant in terms of contributing to the vulnerability of specific segments of populations.

This leads to questions about the power of the state and how it is implemented to protect, help, control or pacify populations. These wider issues are dealt with by Foucault in his lectures *'The Birth of Bio-Politics'* (2008), whereby he argues that populations are controlled by the state through subtle normalising mechanisms. Echoing Levy's reflections on Sweden's legacy of social engineering (2015: 2-8), viewing the Swedish Model through this lens raises questions about the extent of state authority and influence, how the norm is defined, and the extent to which individuals are truly autonomous when subjected to insidious population control.

Finally, traditional issues surrounding morality warrant lengthier discussion than was possible here. Why should selling sex necessarily represent exploitation and oppression of women when selling, for example, one's skills as a plumber is perceived as a normal, legitimate profession? Why is the female body ascribed special significance in a sexual context? Why is this sexual vulnerability specific to women? What is the purpose of totally eliminating even consensual sex work?

Further research examining these issues would enable a broader understanding of the complexity of sex work and a better basis upon which to contest the Swedish Model.

7.3 Final remarks

Before deciding to base my thesis on this topic, I knew of the Swedish Model but I was not critical of it. I lauded the Swedish government for taking a pioneering, progressive stance on gender inequality and for defending the oppressed. My opinion changed during the nine months that I researched and wrote this thesis: I now recognise sex work to be a multidimensional, complex phenomenon that cannot be singularly reduced to exploitation.

Sweden's declaration that sex work is unacceptable and harmful not only dismisses voluntary sex workers' autonomy as invalid, it also condemns what is for many their only source of income and exacerbates stigmatisation. Although I believe sex workers should be empowered and granted the same rights as anyone else, it is dangerous to ignore the violence and exploitation that is so often concurrent with sex work. The best way to protect the interests of both voluntary and non-voluntary sex workers is, I believe, to fully legalise and regulate the sale of sex. This would improve the economic autonomy and the dignity of sex workers, significantly reduce health and safety risks and hopefully lessen the stigma associated with the sale of sex.

Perhaps the most important take away of this thesis is that gender inequality and exploitation are not always clear-cut phenomena with perpetrators that can be held accountable and victims that can be protected. Diverging voices deserve attention no matter one's convictions: it is the suppression of such voices that causes oppression in the first place.

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Appendix

UN Human Rights relevant to sex work in the Swedish context as identified in Figure 3:

- **Right to health:**
‘The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health’ (ICESCR, Art. 12.1)
- **Right to social security, including social insurance (pensions, healthcare, childcare):**
‘The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance (ICESCR, Art. 9)
- **Right to favourable, safe and healthy conditions of work:**
‘The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work, in particular . . . safe and healthy working conditions’ (ICESCR, Art. 7)
- **Equal right of women to protection of health and to safety in working conditions:**
‘State Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular . . . the right to protection of health and to safety in working conditions’ (CEDAW, Art. 11.1.f)
- **Right of women to be free from work conditions inferior to those of men:**
‘The States Parties to the present Covenant recognize the right of everyone to . . . fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men’ (ICESCR, Art. 7.a.i)
- **Right to personal security:**
‘Everyone has the right to liberty and security of the person’ (ICCPR, Art. 9.1)
- **Right to be free from cruel, inhuman or degrading treatment:**
‘No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment’ (ICCPR, Art. 7)
- **Right to be free from slavery:**
‘No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited’ (ICCPR, Art. 8.1)
- **Right to be free from exploitation of prostitution:**
‘State Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women’ (CEDAW, Art. 6)
- **Right to be free from unlawful interference with one’s privacy, family or home:**
‘No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation’ (ICCPR, Art. 17.1)
- **Right to be free from unlawful attacks on one’s honour and reputation:**

‘No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation’ (ICCPR, Art. 17.1)

- **Right to form trade unions:**
‘The States Parties to the present Covenant undertake to ensure the right of everyone to form trade unions and join the trade union of his choice’ (ICESCR, Art 8.1.a)
- **Right to equality between the sexes:**
‘States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men’ (CEDAW, Art. 3)
- **Right to be free from gendered stereotypes and prejudices:**
‘States Parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women’ (CEDAW, Art. 5.a)
- **Right to choose one’s work:**
‘The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts’ (ICESCR, Art. 6.1)
- **Right to self-determination, including the right to freely pursue one’s own economic development:**
‘All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development’ (ICESCR, Art. 1.1).