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The Swedish anti contraceptive law 1910-1938

**- showing how the pro contraceptive discourse
advocate change**

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Abstract

Problem/Background: Sweden was organised against contraceptives through the contraceptive law between 1910 to 1938, causing many women to perform unsafe abortions. Towards the end of the period Sweden became more accepting of contraceptives.

Purpose: To further investigate the specific law “lex hinke” and the discourse or discourses that could indicate change towards a more contraceptive friendly society.

Methods: Critical discourse analysis was used. Two texts were chosen as samples to perform the critical discourse analysis on, Hinke Bergegren’s “Love without children” from 1910, and Elise Ottesen-Jensen’s “Unwanted children” from 1926.

Results: Two competing discourses were found in the samples, the pro contraceptive discourse and the anti contraceptive discourse. Both samples belong to the former one, and show the anti contraceptive discourse as an opposing viewpoint.

Conclusion: This thesis points towards a multiplicity of factors when it comes to changing a contraceptive hostile society into a contraceptive friendly one. For example it is not enough to make contraceptives accessible, they also have to be culturally accepted. The correct uses of contraceptives are dependent on that women are appreciated and have a “decent” status in the society. It is important that not only men but also women are allowed to talk about sex and, that they are allowed to seek knowledge and get proper sexual education.

Key words: contraceptives, lex hinke, elise ottesen-jensen, hinke bergegren, maternal deaths, moral, sexuality.

Lay abstract

Between the years of 1910 to 1938 Sweden had a law that prohibited spreading information about as well as advertising contraceptives. The law was constituted mainly for two reasons. First, to prevent the trend towards lower birth rates, second, to avoid a “moral breakdown” of the Swedish citizens sexual behaviour. The law mainly affected the working class, who had troubles to get hold of contraceptives as well as they lacked proper knowledge about how to use them. By this time, many of Sweden’s citizens were very poor due to the economic recession. It affected the working class who was poorly paid and lived under constant fear of being out of work. The lack of contraceptives lead to illegal abortions and problems for workers to take care of their families, being low-paid and having many family members to provide for.

Inaccessible contraceptives lead to a number of consequences for women, family and society. In this thesis, two texts has been analysed with the aid of critical discourse analysis. The authors behind the texts are both “pro contraceptive”, and advocate that access to contraceptives should be a human right belonging to everyone, not only rich people which was often the case during this period.

The first text was Hinke Bergegren’s “Love without children” which was first introduced as a speech in 1910. This particular speech resulted in the contraceptive law popularly called lex hinke. One third of the speech consists of practical advices on different contraceptive methods. The first two thirds, however, concentrate on various arguments for why it is sensible to use contraceptives. The second text was Elise Ottesen-Jensens book “Unwanted children” which was published in 1926. Ottesen-Jensen’s book focuses on why lex hinke should be abolished. The law itself was also analysed through the concept of William M. Evan on what factors make a law successful.

The results of the analysis of these two books and Evan’s factors show that the contraceptive law did not particularly fit well in the Swedish society. It also emphasises how important norms are in sexual health work. It is not enough to just provide contraceptives; in order to be used they need to be culturally adopted. A link between class and contraceptives was found, it was harder for the working class to access contraceptives than it was for the richer part of the population. Last but not least, the results imply a shift from a religious view to a more secularised one concerning society’s view on sexuality.

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1. Introduction

Inaccessible contraceptives and the criminalisation of abortion lead to a large number of illegal, and possibly unsafe, abortions (Benagiano and Pera 2000; Simelela 2006). Abortions become unsafe when they are performed in environments that do not meet medical standard, and/or the practitioner lacks proper knowledge and education (Lindquist 2008). The World Health Organisation (WHO) estimated that 19-20 million unsafe abortions are performed every year. Each year, 68 000 women die from unsafe abortion, millions more are injured, many of those damages become life-long. Every year, 220 000 children are estimated to lose their mothers due to unsafe abortions (Grimes, Benson et al. 2006). In Sweden, this situation is very distant today. However, there was a time where information and advertisement about contraceptives were prohibited by law, as well as abortions. This thesis focuses on this period and more precisely, on two texts that were written by persons who advocated accessible contraceptives for everyone.

Hinke Bergegren and the contraceptive law *lex hinke*

It all started in Stockholm in 1910, when a physician, Hinke Bergegren, gave a lecture titled “Love without children” (“Kärlek utan barn”). He presented different kinds of contraceptives and how to use them, including diaphragm and condom. This particular lecture provoked the parliament, which was in conservative majority, to constitute a law popularly called *lex hinke*¹, to stop activities such as Hinke Bergegren’s (Hackzell 1986:55; Dahlman 2003). There were two major arguments for constituting this law. First, the use of birth control methods were seen as immoral, since it encouraged sexual activities that were not meant to lead to pregnancy and giving birth to children (Lennerhed 2012:240). Second, Sweden’s population was decreasing. A broader use of contraception could make the trend even stronger. The government wanted to avoid that (Dahlman 2003). *Lex hinke* criminalised

¹ “Där någon offentligen utställer eller förevisar föremål, som är afsedt för otuktigt bruk eller till att förebygga följder av könsumgänge; eller I skrift, som han utsprider, eller eljest genom tillkännagifvande för allmänheten till salu utbjuder eller själf eller genom annan till försäljning kringför dylika föremål; eller under sådana förhållanden, att allmän fara för andras förförelse därpå kommer, vare sig muntligen eller genom utspridande af skrift söker förleda till användande af föremål, som nu sagts, eller meddelar anvisning om sättet för deras användande; varde, ändå att gärningen ej är sådan, som I 1 mom. Sags, dömd efter ty där stadgas.” (Svensk författningssamling 1911:N:r 51). (1911). Svensk författnings-samling. Stockholm, Kungliga boktryckeriet. P. A. Norstedt & Söner. .

public education about contraceptives, as well as advertisement. It was still allowed to sell, buy and use birth control methods (Hackzell 1986:55).

Between 1912 and 1925, 124 persons were prosecuted for breaking the lex hinke law (Elgán 1994:73). The number is not high, however the effectiveness of a law cannot be measured only by how many are prosecuted. The effectiveness of this law lies within its power to affect the sexual behaviour of the working class. The law concerns advertisement and information about contraceptives, and it affects people that could advertise and spread the knowledge about contraceptives. Consequently, the law affected much more people than the ones who could be prosecuted.

The starting point of this thesis is that laws can be used as a source of information about societies. I would like to quote a man that has been essential in the field of sociology of law and is one of the most influential American common law judges, Oliver Wendell Holmes, Jr; (1881:5, collected from Vago 2009) “the law embodies the story of a nation’s development through many centuries”. Legal systems are not disconnected from the society where they are in force. On the contrary, legal systems are in close relationship with ideas, aims and purposes of the specific society and time that they are enforced in (Vago 2009:3). Therefore, by studying the laws of a specific time, it is possible to collect knowledge about that particular society and its norms. The discussion and argumentation leading to changes in existing laws, as well as the creation of new laws give us a snapshot of processes occurring within society. Further, I will argue that looking at those processes happening in the past gives us opportunity to better understand processes occurring in present-day societies that are dealing with similar laws today.

Elise Ottesen-Jensen was a journalist and sexual health promoter who advocated similar messages as Hinke Bergegren. After 1910, Hinke Bergegren and Elise Ottesen-Jensen were continuously breaking the lex hinke law, despite the threat of prosecution and prison. Through the rest of their lives, they continued fighting for contraceptives and sexual equality as a right belonging to everyone. Hinke Bergegren died at the age of 75 in 1936. Elise Ottesen-Jensen continued to fight for reproductive and sexual rights until her death in 1973, at the age of 87.

The purpose of the thesis

Sweden was organised against contraceptives through the contraceptive law. Then, within the period of 1910 to 1938 Sweden became more accepting of contraceptives. By investigating this change, in the longer run I hope to find out how this sort of change can be made. Then it

could possibly be applied to other countries that have laws and or norms that are against contraceptives now in the 21st century. Therefore, the purpose of the thesis is to further investigate the specific law lex hinke and the discourse or discourses that could indicate change towards a more contraceptive friendly society. This will be done through critical discourse analysis.

Research questions

The three questions that will lead the analytical work are:

1. What does Hinke Bergegren's speech "Love without children" in Stockholm in 1910 say about the contemporary norms and moral on female sexuality?
2. What arguments for dismissing lex hinke did the journalist and opinion leader Elise Ottesen-Jensen use in her book "Unwanted children" (1926)?
3. Did the contraceptive law lex hinke fulfil the purposes behind the law, namely to increase the Swedish population and conserve the anti contraceptive discourse?

Scope

This thesis will mainly focus on Sweden in the 1910s and 1920s. The experience of women and the view on women are emphasised. The approach is to look at the crucial speech "Love without children" that resulted in the anti-contraceptive law and a book that comes out a little later, "Unwanted children" ("Ovålkomna barn"), which is full of arguments against the contraceptive law.

Operationalisation

The word "abortion" will only refer to the process were women by choice mean to terminate a pregnancy. Norms refer to "a standard or rule, regulating behaviour in a social setting" (Jary and Jary 2006:424; Vago 2009:3). Lex hinke will also be referred to as the contraceptive law. Moral in this thesis is something similar to norms, with the difference that moral is rather single acts. Moral would refer more to what is considered to be right or wrong. The level of morality is decided by the capacity to follow specific norms.

Relevance to Sociology

Sociology is the study of society. This thesis addresses the pro contraceptive discourse. The counterpart, the anti contraceptive discourse, will also be addressed through the pro contraceptive discourse's point of view. By looking at two key texts written by persons who

wanted to spread knowledge about contraceptives, it is also possible to unravel views on what men and women should be like sexually, as well as how the fertility transition (i.e. the change in fertility patterns) could happen despite the contraceptive law criminalising information and advertising about contraceptives. Therefore this thesis is in line with the interests of sociology, which is to explain and understand social processes and social change. Using law as a point of departure gives a frame to study norms and morals, just as Oliver Wendell Holmes understands law, that legal systems are in close relationship to the societies that they are enforced in (1881:5, collected from Vago 2009). For the reason of making this study accessible, I have chosen to write in English, despite that my native language is Swedish. Some of the Swedish texts I have used have not been translated before and it is my hope that through this thesis I can make some of them accessible even for people who do not speak Swedish. The topic of contraceptives and how they are made accessible is also of greater interest for other countries, since Sweden already has a well functioning infrastructure for providing contraceptives to women and men.

Disposition

Chapter 2, “Background; previous research” shortly presents descriptions of abortions in the 1930s, contraceptives as a question for women, norms in the 1930s, contraceptives as a class question, the Christian sexual moral, family planning, changes in attitudes towards contraceptives in the parliament during 1910-1938 and eugenics. Chapter 3, “Methods and theory” presents which methods has been used, and concentrates on critical discourse analysis. It also contains a theoretical framework. Chapter 4.1, “Analysis” contains the chosen texts analysed in detail, Hinke Bergegren’s speech “Love without children” and Elise Ottesen-Jensen’s “Unwanted children”. Focus lies on women’s suffering in absence of contraceptives, class, the Christian sexual moral and responsibility. Chapter 4.2, “Analysis – summary of the texts” summarises what the two texts has in common, as well as eugenic arguments, the contraceptive law and how the texts show two different discourses. A social practice analysis of both the texts. Chapter 5, “Conclusion”, answers the research questions and presents the main findings as well as suggestions for further research.

2. Background; previous research

In this chapter I will present an overview of previous research about the period of interest. I mainly focus on historian Sofia Kling, who has carried out studies with similar angles as the one of this thesis. Kling provides a good base concerning the views on female and male sexuality. Abortions in the 1930s will start the chapter. Then comes “Contraceptives – a question for women”, followed by a presentation of what norms about female and male sexuality are dominant in the 1930s. Thereafter a short presentation of contraceptives as an interest of the working class, and a discussion of the Christian sexual moral and family planning in the 1930s. Lastly, the addressing of the Swedish fertility transition, changes in attitudes towards contraceptives in the parliament and a shorter presentation of eugenics rounds of the chapter.

Abortions in the 1930s

In the beginning of the 20th century, several influential medical doctors, coroners and gynaecologists expressed their concerns about the high number of illegal abortions resulting in complications and death (Sundström 2004). Kristina Lindquist claims that many Europeans have not experienced the extensive health catastrophes leading Elise Ottesen-Jensen to start RFSU (Lindquist 2008). It is claimed that many women suffered from complications, and that some even died. Lindquist uses the strong word “health catastrophies”. But how extensive were the complications of this period? Table 2.1 shows some statistics, these numbers will be further discussed below.

Table 2.1, abortion rates vs. reported abortion-related deaths.

Description	Number of abortion-related deaths
Estimation of abortion rate in the 1930s (made by the Swedish states investigation)	10.000 to 24.000 abortions / year
Reported deaths because of abortions in the year of 1930 (Sweden)	70 women
Death rate, abortion performed in the University hospital of Copenhagen in the 1930s	3 % of women died
Calculations on death rate of 3 % 10.000 abortions x 3% = 24.000 abortions x 3% =	 300 women per year 720 women per year

The Swedish government estimated that 10 000 to 24 000 illegal abortions were performed every year in the 1930s in Sweden. In the year of 1930, 70 women died as a consequence of abortions. These numbers show that illegal abortions could be unsafe. Lena Lennerhed, researcher in the history of ideas, claim that many of them were safe (Lennerhed 2010). The question is to what extent these statistics can be trusted? Most likely, many deaths were never reported as consequence of abortion, since abortion was illegal. Furthermore, those numbers does not show how many women had to live with life-long injuries, because of abortion.

In the absence of accurate pregnancy tests, many women died because of abortion while mistakenly thinking they were pregnant. One investigation showed that out of 1400 women who had died because of abortion, 6 % (84 women) had died without being pregnant. Even “professional” abortions in the hospital were dangerous. In the university hospital of Copenhagen in the 1930s, 3 out of 100 women having abortions died (Hackzell 1986:52). It is not clear what period is actually meant concerning the 1400 women dying of abortion. If the statistics from the university hospital of Copenhagen are correct 3 % of abortions ended with death. In the light of these statistics, the previous number of 70 reported deaths in Sweden in the year of 1930 seems unrealistically low and is most likely underestimated. It seems reasonable that illegal abortions should at least have the same death rate as those performed in the University hospital of Copenhagen. This would imply a death rate of 300 to 720 women per year in the 1930s, counted on the estimated number of 10 000 to 24 000 illegal abortions. This is up to approximately ten times more than the reported deaths in the year of 1930.

It may not be possible to fully explain the differences concerning reported deaths and the estimated number of deaths according to the 3 % death ratio. However it may be concluded that many abortions were made. No matter how many abortions lead to death, many women suffered from damages as consequence of illegal abortions, performed without the minimum medical standard or educated practitioners.

Contraceptives – a question for women

Avoiding unwanted pregnancies have often been described as an interest of women. Sofia Kling, historian, describes that when the “Commission on population” (“Befolkningskommissionen”) was established by the parliament to examine the question about contraceptives distribution in the 1930s, it was exclusively women’s experiences that were investigated. Women was interviewed, women were expected to have interest in this matter. Contemporary research has also focused on women and their special interest for birth

control. As a consequence men's attitudes on family planning have been made invisible (Kling 2010:191).

In a society like Sweden in the 1930s, where contraceptives were either unknown or ineffective, women were unable to control their fertility. Women were primarily affected by the consequences, such as repeatedly giving birth. Kling means that women become especially vulnerable, when their social status is low. Their need for contraceptives was ignored and devalued to less importance than the need for the Swedish population to grow or to men's sexual demands. Contraceptive methods that require actions from men become relevant first in a society where women's well-being and rights are of interest for both individual men and for society (Kling 2010:191).

What norms are current in the 1930s about female and male sexuality?

Kling has analysed norms on female and male sexuality in letters and marital advice guides. In the marital advice guides, the ideal wife is described as loyal, graceful, shy and submissive. Her respectability is based on her relation to sexuality. She is not expected to have any autonomous sexuality detached from men. Rather, her sexuality is supposed to be "latent" until it is "woken up" by a man, and then it is supposed to stay with the man (husband). Kling is further quoting a marital advice guide, "Good wife's will take as their virtues, not to be so yearning, not so fiery as her husband, since this would be a fault in her temperament"² (Becker 1921:46). This is a quote from a marital advice guide from 1921. According to Kling it states that a woman should have less lust than her husband. Having more lust than him would be a fault in her temperament. From another book of this kind, this sentence can be found, "It is the husband's privilege to carefully and sensitively uncover the sexual secret and teach her how to give herself both in body and soul"³ (Skjerve 1926:51). This shows, according to Kling, that the man is the one of them who is supposed to have most knowledge about sex (Kling 2010:196).

Kling also analysed 497 letters that were sent to RFSU, The Swedish Association for Sexuality Education ("Riksförbundet för sexuell upplysning") during the 1930s. Her conclusion from this analysis is that men were open for knowledge about sex in a

² "Mången god hustru räknar det för en bland sina dygder, att icke vara så listen, icke så eldig som hennes man, då detta likväl endast är ett fel i hennes temperament" (Becker 1921:46).

³ "Det är en mans privilegium att hänsynsfullt och finkänsligt avslöja den sexuella hemligheten och lära henne att giva sig både kroppsligt och andligt" Skjerve, K. (1926). Äktenskapets hälsolära. Stockholm.

completely different way than women. They did not avoid showing neither the hunger for knowledge, nor the knowledge they already had. In contrast to men, women were represented as being sexually unknowing, virginal and naïve. If women were writing the letters, they made sure to present themselves in this way. The ignorance of women were real in the sense that they were kept away from knowledge that could give sexual associations, as well as it was internalised. Since sexual unawareness were seen as feminine and respectable, women had reasons for hiding the sexual knowledge that they did have (Kling 2010:196).

Men's sexuality was represented as being brutal, strong, selfish and violent in the marital advice guides. This "nature" of the man is something the respectable man is supposed to stand above, by restricting himself (Kling 2010:199). When women were acting according to the current gender norms in the 1930s, they ended up in a position inferior to the man, economically, socially and sexually. It became problematic for women to take initiative to contraceptives, since this would mean that they would have to take initiative to changes of the husbands' sexual practice and to show knowledge about sex. Women rarely had the position that they could do this, because of norms that required them to act innocent and unknowing about sex (Kling 2010:210).

A class question

Kling writes, that in the 497 letters she analysed, especially men was writing in ways that seems to be connected to the early Swedish labour movement. They described themselves as either being in the Swedish labour movement or active in a political party (Kling 2010:193). The writers who state their occupation in the letters are usually workers. Even when occupation is not stated a working class environment is shining through. It is represented by references to living conditions with scarce economy, overcrowded housing, the threat of being unemployed and difficulties to feed the family.

Lena Lennerhed gives comments on texts by Elise Ottesen-Jensen. She means that the texts she analysed published in Ottesen-Jensen's "Unwanted children" probably foremost reached people from the working class, and people interested in sexual politics (Lennerhed 2012). Both Lennerhed and Kling describe the question of contraceptives as a question of relevance for the working class. Hinke Bergegren states in "Love without children" that he was writing foremost for the working class (Bergegren 1913).

The Christian sexual moral – sexual actions belong within marriage, for reproduction.

Except norms on female and male sexuality, something that can be called the *Christian sexual moral* becomes relevant for my research question concerning lex hinke and its abolishment. This Christian sexual moral is characterised by a contradiction, namely the conflict between the duty to reproduce human kind, and the duty to deny the desire of the flesh. This conflict lays the ground for the acceptable sexuality; sexuality with the only purpose of reproduction. In the early medieval times, a clerk named Aurelius Augustinus, initiated the ideology of the Christian sexual moral, with the ideal of abstinence. For the continuation of human kind, sex within marriage was allowed. The sexual norms in the 20th century are permeated with those views. Because of this, the western culture has been seen as a culture that is hostile of sexuality and filled with guilt (Johannisson 2010).

Lennerhed means that the moral on sexuality in the 20th century went from being Christian to a secularised view with roots in medicine, psychology and sociology (Lennerhed 2012). This means that the ideal of restricted reproductive-oriented sex became replaced with the idea of sex exercised for various reasons, such as a “natural” need, an expression of love, intimacy and bond-creation between persons etc.

Family planning in the 1930s – contraceptives are the man’s responsibility.

Kling investigates fertility control, sexuality and gender of the Swedish 1930s family. She describes sexual norms of men and women. Those are used to draw the conclusion that men had more knowledge about sex, and that this must have had effects on which contraceptive strategies was used. If women are not “allowed” by norms to seek knowledge, the conversation between man and woman becomes advantageous for the man. The extensive change in birth rates during this period, from 4.5 to 1.8 children per woman, could not have come unless men were also interested in limiting births. Mainly because sexuality was connected to being a man, and contraceptives were connected to sexuality, it became the man’s domain and responsibility, according to Kling (Kling 2010).

Kling claims that using contraceptives was not a problem for married couples. Both husband and wife were eager to be able to have sex without having children. However, the man had the responsibility for the sex life, as well as having more knowledge about it. This lead to an unequal situation where men’s suggestions often were accepted without

further questioning. By being the one that had the responsibility for the use of contraceptives, the man also controlled the woman's fertility (Kling 2010:209).

Family planning, sexuality and gender during the Swedish fertility transition

In her doctoral thesis Kling examines family planning, sexuality and gender during what has been called the Swedish fertility transition. The fertility transition refers to that Sweden's demographics went from 4,5 children per woman to 1,8 children per woman, in a 60 year long period between 1880-1940 (Kling 2007:10). Fertility in this case refers to the amount of live born children that a woman has been biological mother to. The transition shows an extensive change from one pattern of fertility to another (Kling 2007:11). Timothy W. Guinnane, economic history, Barbara S. Okun, researcher in population studies, and James Trussell, researcher in public and international affairs, gives the following definition of a fertility transition, "a longer period in which the use of contraceptives continue to increase" (Guinnane, Okun et al. 1994:3).

Changes in attitudes towards contraceptives in the parliament during 1910-1938

Stefan B Dahlman, historian, investigates the arguments that has been proposed in the parliament for and against the contraceptive law during 1910-1938. Dahlman means that the main reason for the abolition of lex hinke was changes in attitudes. In the beginning of the discussion, mainly two arguments were prominent, morality and that the rate of births are decreasing. The morality argument over time had to give space for arguments about public health, and more precisely, that information is a key factor in public health. This eventually leads to the abolishment of the law in year 1938 (Dahlman 2003). Dahlman's results are useful for this thesis regarding the part that investigates whether lex hinke is well fitted to the society, and how the discussions in the parliament change throughout the period.

Eugenics

In order to understand the society in the period of 1910 to 1938, the term eugenics needs to be addressed. Eugenics is the idea to improve the human race by allowing some individuals to have children, and prohibit others (Nationalencyklopedin). Pia Laskar, researcher in the history of ideas and gender studies, explains that eugenics was a commonly accepted strategy surrounded by extensive hopes. After success in refining animals and plants, the ideas of refining humanity came to life. The eugenics or race hygiene was seen as a tool to improve the human race, a human race that according to research was in danger of degeneration.

Positive race hygiene meant to encourage some individuals to procreate, negative race hygiene was the attempt to prevent certain people from letting their genes continue (Laskar 2012:164-165). Basically it means that persons in good health and with good achievements should be encouraged to have children, while criminals and sick people should not. In this way an improved human race would be created.

Summary of the background chapter

To conclude, women were seen as almost asexual beings, not having any sexuality on their own. The norms did not allow women to be interested in sex, while this was accepted for men, who are encouraged to extend their knowledge. Since sex and sexuality are strongly connected with men and masculinity, men are advantaged in the discussion about contraceptives. Sexual actions belong according to the Christian sexual moral within marriage, and for no purpose other than leading to pregnancy and birth. This view permeates the society. Access to contraceptives is a class question during this time, where the working class is disadvantaged. Kling's studies on contraceptives and norms on male and female sexuality contribute to this thesis in several ways. Firstly it gives an understanding of the period of interest. Secondly, it gives specific information and interpretation on how men and women are portrayed as sexual vs. non- or asexual beings. Thirdly, it provides a view on which group of people, i. e. the working class, is struggling to get hold of contraceptives.

3. Methods and theory

The method used in this thesis is also considered a theory, therefore methods and theory share the same chapter. The purpose of this thesis was to further investigate the specific law *lex hinke* and the discourse or discourses that could indicate change towards a more contraceptive friendly society. Because of the interest in discourse and change, I used critical discourse analysis. Two texts were chosen as samples. This part aims to describe and discuss why this inquiry was appropriate for this study. Norman Fairclough describes his method as guidelines that should be fitted to the specific research project by the researcher (Fairclough 2011:225). Therefore I have chosen to use some of the analytical tools and omit others. The reasons for it will be described below.

Analysing social change using CDA (critical discourse analysis)

I was interested in two texts, “samples” if we are to use Fairclough’s terminology. These two texts can be seen as representations for the period of interest, the first sample “Love without children” by Bergegren (first published 1910, I use the print from 1913), and the second sample “Unwanted children” by Ottesen-Jensen (1926). The focus was to investigate whether Bergegren and Ottesen-Jensen’s texts try to reproduce a certain discourse, or tries to criticise and change the pattern of the society concerning peoples’ contraceptive habits. The choice of method fell upon Norman Fairclough’s critical discourse analysis (CDA), which is appropriate for many reasons. Fairclough is a linguist who has developed a method with the purpose of critically assessing texts, and more precisely, how these represent changes in social structures. CDA is exceptional in the sense that it is seen as both a theory and a method, since it rests on theoretical grounds, which are themselves’ intertwined with the method. The theoretical base is built of certain assumptions about what functions language has. Language is seen as the bearer of meaning. Changes in language are linked with social and cultural processes (Fairclough 2011:1-2, 63). Every society, and even every group, creates their own language built on the experiences that are relevant for the specific society or group in a specific context. I have also analysed the law *lex hinke* through Evan’s seven criteria of what characterises a law that is well fitted to society.

The central goal with CDA is to identify and describe the relation between the use of language and social practices. Focus is on the discursive practice’s role in creating social order and social change. This is investigated by analysing concrete cases of language use or the communicative action as a part of a discursive order (Winter-Jørgensen and Phillips 2000:76). Therefore CDA is an appropriate method for this study. I was suspecting that there is a breaking point inducing change within the period of 1910 to 1938, and that this change can be closer examined with the analytical tools of CDA.

CDA builds on social constructivism

Critical discourse analysis builds on social constructivism, which in turn has some essential premises:

- 1) Taken-for-granted knowledge should be critically assessed: what we know of the world is not an objective truth, and should therefore not be treated as one. Reality cannot be accessed in any “pure” form; it is always understood through the categories of knowledge we already have. This knowledge is the product of the discourse.

- 2) Our worldviews and our identities are built on previous historical happenings. The ways in which we understand and represent the world are historically and culturally specific. Our understanding cannot be detached from its context. Discourse is seen as a form of social action, and it plays a part in producing the social world, including knowledge, identities and social relations. This makes the discourse maintain specific social patterns.
- 3) Knowledge and social processes are linked. We create knowledge through social interaction, in which common truths, meaning representations of what is considered true and false, are constructed.
- 4) Some forms of actions within a specific worldview become natural, others unthinkable. This means there is a link between knowledge and social action. Understanding the world in different ways will consequently lead to different actions. The social construction of knowledge and truth has social consequences. These key premises has their roots in French poststructuralist theory, which rejects totalising and universalising theories, such as Marxism and psychoanalysis (Gergen 1985).

These premises together build the theoretical foundation for CDA.

Fairclough: discourse

Fairclough has used a combination of linguistically-oriented discourse analysis and social and political thought relevant to discourse and language, in order to create a framework with the purpose of studying social change (Fairclough 2011:62). This framework is built of three main categories, discourse, discursive practice and text. These represent different parts of society, and combined, they provide a holistic approach to what discourses are and how they are positioned in societies. When using the term discourse, language use needs to be seen as a kind of social practice, not an individual activity, neither a reflex of situational variables according to Fairclough. This means that a discourse is a mode of action as well as a mode of representation. It also implies a dialectical relationship between discourse and social structure. Social structure is both a condition for, and an effect of discourse.

Discourse both constitutes, shapes and constrains social practices (Fairclough 2011:63-64). To apply this view on my thesis in a comprehensible way, I have created the table 3.1 below. Here social practices concerning sexual moral is dominated by two discourses, the anti contraceptive discourse and the pro contraceptive discourse. These two discourses permeated by norms and moral sustain the social practice by providing

“instructions” for what behaviour is acceptable and desirable. At the same time they may change the social practice over time, either by a change of the discourses, or because of shifts in power balance between the two discourses. The presence of two or more discourses shows according to Fairclough that change is about to happen. The discourses compete against each other by giving different representations of the social practice.

Fairclough identifies three aspects in which discourse has constructive effects. First, it contributes to the construction of “social identities” as well as “subject positions” for social “subjects” and types of “self”. Second, discourse helps to construct relationships between people. Third, discourse contributes to the construction of systems of knowledge and belief (Fairclough 2011:64).

Discursive practice contributes to reproducing society, such as social identities, social relationships, systems of knowledge and belief, as well as the discursive practice transforms society. Fairclough emphasises that discourse and social structure has to be analysed as an equal pair with a dialectical relationship (Fairclough 2011:65). Social practices as well as discourses need to be identified and examined to make the analysis complete.

Discourse as a political practice establishes, sustains and changes power relations such as classes, blocs, communities, groups etc. Discourse as an ideological practice constitutes, naturalises, sustains and changes significations of the world from diverse positions in power relations (Fairclough 2011:67).

As mentioned earlier, a discourse contains norms and conventions and the relations, identities and institutions that lie behind them (Fairclough 2011:64). The discourses have instructive functions on peoples’ behaviour, similarly as norms.

Fairclough’s three dimensional model of discourse – analytical tools

According to the model of Fairclough, every use of language is a communicative action that has three dimensions or practices:

- 1) A textual dimension (speech, text, picture or mix of the written and the visual)
- 2) A discursive practice (production and consumption of texts)
- 3) A social practice

The discursive dimension concentrates on a) processes of text production, distribution and consumption, b) how the authors of the text build on already existing discourses and genres to create a text, and c) how the readers of the text also use the particular discourse and genre in the consumption and interpretation of the text (Fairclough 2011:78). The text analysis is

concerned with the formal qualities of the text (including vocabulary, grammar, cohesion and text structure) that is constructing discourses and genres linguistically (Fairclough 2011:75).

The relation between the texts and the social practice are mediated in the discursive practice (Fairclough 2011:78-79).

Table 3.1, Fairclough’s three dimensional conception of discourse + how they are represented for the purpose of this thesis.

Social practices	
(Institutional and organisational circumstances) How contraceptives are used vs. not used The contraceptive law lex hinke	
Discursive practice	Discursive practice
(Discourse 1) The anti contraceptive discourse	(Discourse 2) The pro contraceptive discourse
Textual practice	
(samples from two pro contraceptive persons) “Love without children” by Bergegren “Unwanted children” by Ottesen-Jensen	

In this case, the social practices are represented by the contraceptive law lex hinke which is an institutional circumstance. Social practices in this case also contain how contraceptives are used vs. not used, e. g. is it possible for all people to access contraceptives? How in that case are they distributed? Are there differences in access among different economical classes in the Swedish society?

The next level, discursive practice, is here represented by two discourses, which I have identified in the two samples “Love without children” and “Unwanted children”. Discourse 1 is named “the anti contraceptive discourse” and discourse 2 is named “the pro contraceptive discourse”. The features of the two discourses will be explained and discussed further in chapter 4.

The textual practice is in this study the two carefully selected samples used as empirical material, “Love without children” by Bergegren and “Unwanted children” by Ottesen-Jensen. The samples are analysed as bearer of language and meaning, as well as bearers of discursive elements. Both samples come from authors that are pro contraceptive.

This means that the prominent discourse in the samples is the pro contraceptive discourse. Ottesen-Jensen and Bergegren describes the anti contraceptive discourse from a departure of their own pro contraceptive discourse -view. Therefore, it cannot be said that the samples represent both the pro- and the anti-discourse. They describe the anti contraceptive discourse only as a representation in relation to the pro contraceptive discourse.

The choice of only pro contraceptive discourse-texts has to do with my interest in the coming change towards a contraceptive friendly society. This is important in order to answer the research question regarding whether lex hinke did conserve the Christian sexual moral, which was one of the reasons behind the law.

Critical discourse analysis – execution

In order to execute a CDA-study, the chosen texts need to be examined using a particular framework. The texts contain discursive practices, and social practices are about how the texts and the discursive practices are linked together in society. Each part is discussed in turn below. Fairclough emphasises that his framework and approach for performing CDA should be seen as guidelines, and that every researcher should adjust the methods as they see fit to the specific study (Fairclough 2011:225). I have chosen specific parts of Fairclough's analytical tools, which will be presented.

The discursive practice

The discursive practice concerns how a text is produced and consumed, and several questions helps to establish what it is all about, for example what genre should the text be classified as? Who produced the text? In what kind of context, for what kind of medium such as book, news paper article, scientific article, political critical magazine, instruction book etc (Fairclough 2011:78-79).

Textual dimension

According to Fairclough, the qualities of a text should never be assessed without a discussion about how and under which circumstances the text was made (Fairclough 2011:73). Texts are never free floating but always situated in a set of positions, just as the writer is never free from his or her upbringing, knowledge and interpretation of the world. This can be seen through intended or unintended choice of words, phrases etc that are present in certain groups or discourses. Fairclough divides the textual analytical tools into seven parts, vocabulary, grammar, cohesion, text structure, coherence and intertextuality (Fairclough 2011:75). I will

use four of these analytical tools. I have chosen the ones that are most in line with the sociological interest in this thesis. I have also taken into account my limitations as being a sociologist and not a linguist. Therefore this thesis will concentrate on vocabulary, coherence, intertextuality and grammar (modality).

First, vocabulary concentrates on what kind of words are used. The use of specific words are thought to represent different discourses (Fairclough 2011:77). In my two samples, it becomes evident that the authors refer to Marxist theory, by using specific words in specific contexts, such as “exploitation”, “worker” etc. Therefore vocabulary is chosen as an analytical tool, to find out traces of different discourses in the texts.

Second, the term coherence refers to that a subject, the reader, will interpret texts. The readers may have different backgrounds and lifeworlds, which in turn will affect the reader’s interpretation of the text. Coherence concerns how the texts are constructed in order to “lead” the reader to the right conclusion or view, meaning the conclusion or view that the author intended. Fairclough use the phrase “property of interpretations” to describe coherence, and a coherent text in turn is a text where all the pieces and sections come together and result in a product that the reader can make sense of. The interpreters will base their understanding on interpretative principles and automatically make connections between what is said in the text and ideology in their sphere. The interpreters, in this view, becomes subjects of and to the text (Fairclough 2011:83-84). Coherence will not be analysed as such in the samples, the meaning of presenting it here is rather to point out that readers interpret texts in different ways.

Third, the analytical tool or framework I will use is intertextuality. The base of intertextuality is the view that every text is a transformation of historical happenings or events with their existing conventions, into the present (Fairclough 2011:85). In this sense the texts are always a reaction to something – the author captures an interpretation as well as its norms and morals and make a text of it which is to some extent “fixed” in the sense that people who are not of the time or place may take part of it, just as I study a 100 year old text in this thesis. The term intertextuality helps to explain that texts are products of something that has already happened, and can therefore be seen as representations of different times and social spheres.

Fourth, modality is an analytical tool that focuses on grammar. In a text, there may be propositions such as “the earth is flat”. This proposition can then be denied or confirmed in clear cut ways such as “the earth is flat”, “the earth is not flat”. Other answers to the proposition could be less decided e.g. show various levels of commitment, “the earth may

be/is probably/is possibly/is sort of flat”. Fairclough uses these examples to underpin the meaning of modality (Fairclough 2011:158).

The responses to the propositions above have different degrees of affinity. In turn, the way in which affinity and modality is used can be either subjective or objective. Subjective then refers to a degree of affinity with a proposition that is made explicit, for example “I think/suspect/doubt that the earth is flat”. Objective modality on the other hand leaves the person giving the comment to be explicit “the earth may be/is flat”. The different grades of affinity show how the person links him or herself to the statement. It can either be used with a high degree of affinity where the person assigns him or herself to the statement. In using statements such as “the earth is flat”, it becomes unclear who’s meaning this is. Is it the person who says it, is it scientists’ meaning, popular medias, a friend’s etc.? Subjective modality shows that it is the speaker’s own meaning. Objective modality on the other hand is much more unclear on who actually gave the statement (Fairclough 2011:159).

Social practices

This part will go further into social practices and how these are connected to ideology and power. The aim of the social practices-part of the analysis is to contextualise the chosen texts. The relation between the discursive practice and the discursive order should be set. The partly non-discursive social and cultural relations and structures should be identified, such as; What kind of institutional and economical grounds are there for the discursive practice? This question cannot be answered with Fairclough’s conceptualisation alone. Instead, sociological theory and cultural theory should be applied (Winter-Jorgensen 2000:85-92). For this study theory of law as well as Becker’s term moral entrepreneurs (Becker 1966:147) has been used. In the social practice, attention needs to be paid to ideologies that lay within the discourses found in the texts. Ideology in Fairclough’s view is:

...significations/constructions of reality (the physical world, social relations, social identities), which are built into various dimensions of the forms/meanings of discursive practices, and which contribute to the production, reproduction or transformation of relations of domination (Fairclough 2011:87).

Ideology is the base of social practices. It affects what behaviour is seen as appropriate within a society. Discursive practices contain ideologies, and these ideologies are most effective

when they are naturalised. Effective in this sense refers to their way to affect peoples' behaviour without people being aware of it. This means that they are so well embedded that they become "common sense" knowledge, and are not questioned since they are seen as "natural" (Fairclough 2011:87). An example within the two samples of this thesis would be how the distinction between male and female sexuality becomes naturalised. Men are seen as naturally sexual while women are seen as naturally non-sexual. The "naturalisation" is the very core of the ideology.

An easy trap in CDA is to start assuming that ideologies are easy to identify in texts and that the texts would "hold" ideologies that are easily distilled. This assumption does not hold. Fairclough underlines that ideologies are not merely floating around like apples in a barrel, ready to be picked. Ideologies are in fact produced in the receiver's interpretation, and interpreters may be resilient to certain ideologies. Again, texts are not to be seen as dead instructions, but documents that are alive in the sense that the interpreter will create his or her understanding of them (Fairclough 2011:89).

To further understand discourses, ideology need to be combined with hegemony, which in Fairclough's view is:

"...a focus of constant struggle around points of greatest instability between classes and blocs, to construct or sustain or fracture alliances and relations of domination/subordination, which takes economic, political and ideological forms. (Fairclough 2011:92)."

The term of hegemony refers to that discourses are in constant competition and struggle, whether it is to avoid or induce change (Fairclough 2011:94). The intention of this struggle is to gain power, and this power will over time become normalised, i.e. reach hegemony (Jary and Jary 2006:264).

In the social practice, emphasis is put on whether the discourses are conventional and normative, creative and innovative, oriented to restructure the social practice, oppositional etc (Fairclough 2011:237). For this thesis, theory of law as well as Becker's term moral entrepreneurs has been used to discuss whether the discursive practice found in the two texts "Love without children" and "Unwanted children" reproduce the discourse order or rather transform it and cause social change. Further the analysis will go into how the two samples represent the ideological, political and social consequences of the social order, and, whether it reinforce and hide unequal distribution of power, or questions

power by representing reality and social relations in a new way (Winter-Jorgensen 2000:85-92). In this analysis colour coding was used for the four different categories found to be most relevant and reoccurring; women, class, eugenics and Christian sexual moral. Then the similarities and differences were examined, with the resulting analysis in chapter 4.

Critical commentaries on CDA

One of the problems in Fairclough's approach is the lack of a clear distinction between the discursive and non-discursive. Another problem that Fairclough share with all forms of critical discourse analysis is a weak theoretical understanding of how people form groups, and a weak understanding about subjectivity and about to what extent humans can control their use of language. By saying that discourses construct social identities and social relations as knowledge- and systems of meaning, he has not completely omitted social-psychological explanations. This is the weakest part of his theory. This weakness is also combined with a weakness of research on the consumption of texts. Fairclough has, compared to other critical discourse analysis approaches, a more poststructuralist view on discourse. The view about the discourse as partly constituting is the ground of Fairclough's empirical interest for the discourses dynamic role in social and cultural change (Winter-Jorgensen 2000:93-96).

Transparency in research

In this thesis Swedish texts and contexts are analysed during a specific period of time, 1910 to 1938. To make it as clear as possible, I will describe the idea of transparency in research, meaning that the researchers analysis and work should not be for the researcher alone. This will happen through showing the translated quotations in their original language in footnotes. This is so that the readers will be able to make their own judgement about the accuracy of the translations. The two books that are analysed can be found in Swedish, the booklet "Love without children" can be hard to find in the original edition, however it has been printed lately in "Könspolitiska nyckeltexter 1 – Från äktenskapskritik till sexualupplysning" (Laskar 2012). "Unwanted children" can be downloaded as a PDF from the Internet.

Methodological discussion

One of the weaknesses of using critical discourse analysis is the question of choosing appropriate material for the analysis. Different materials will give different results. Therefore it is crucial to choose material that presumably includes the phenomenon of interest from this

period. To counter the question of appropriate material, careful consideration has been made in the choice of samples, which will be described below.

The strengths of critical discourse analysis are the possibilities to uncover and identify hidden structural inequalities. Things that are normally taken for granted are questioned with the analytical tools of critical discourse analysis. This is why critical discourse analysis is appropriate for this study; to identify changes in the sexual moral.

Working with different languages can be problematic, especially to make sure that the specific meanings in one language transfer correctly into the next. To make it even more complicated, I handle one hundred year old Swedish in this thesis, which makes it impossible for me to translate it to its English equivalent. Therefore I chose to make my analysis first in Swedish and then translate to ensure that the analysis becomes as coherent as possible, despite the language shift.

I am born 77 years after Bergegren's speech was written. How does this affect my understanding of the texts, applying my pre-understanding on a completely different time? In discourse analysis, the aim is to explore what values and practices are taken for granted. Every scientist is a part of the discourse that he or she studies, and this makes it harder to identify things that are taken for granted. Therefore it is suggested that the researcher distances him or herself from the discourse (Jorgensen and Phillips 2002:21). In that light, it is an advantage that I am born 77 years after Bergegren's speech was written. I have to approach the text with fresh eyes instead of investigating something that I am a part of. I have had to learn a few new words, like "fosterfördrivning" (old word for abortion) and "grossess" (old word for pregnancy) in the process.

Motivation of sample choice for CDA

The contraceptive law is a direct effect of Hinke Bergegren's speech in 1910. Therefore, when studying this particular period and this particular phenomenon, I found it inevitable to analyse Hinke Bergegren's speech and booklet "Love without children". The speech provides a good view into thoughts about morality at that time, and a number of arguments for the morality of using contraceptives. There are a few persons that have been working with spreading information about and providing contraceptives to the working class before, for example Frida Stéenhoff. Stéenhoff was a writer, and she held a speech in Folkets hus, Stockholm about contraceptives in 1905, which became a booklet and was printed in 23.000 copies. She was a friend of Bergegren (Laskar 2012:162). Then there is the first female medical doctor in Sweden, Karolina Widerström, who was working with sexual education and

contraceptives. Stéenhoff's and Widerström's work was probably seen as immoral at the time, especially since they were women and should not know anything about sex, according to the norms at that time. But, it was Bergegren who caused the law against contraceptives, and therefore I find his speech to be more significant for the purpose of this thesis. The fact that this speech put Bergegren in jail for two months and caused a law against contraceptives makes it a milestone in Swedish sexual history.

Bergegren is one of the sexual health pioneers and so is Elise Ottesen-Jensen. Working as a journalist, Ottesen-Jensen wrote many books and articles and even biographies. I choose to examine the book "Unwanted children", published in 1926. The reason for this is that it complements the speech of Bergegren. It comes out 16 years after the speech and describes the actual implications of the contraceptive law, such as sexually transmitted infections, unintended pregnancies, unsafe abortions and poverty when the parents cannot provide for their children. The book is also very political and gives arguments against the law, calling it a "class law", as well as a "gender law".

It could be interesting to take samples from the opposing discourse as well. However, due to time limitations of the master thesis, this could not be done. Therefore I choose to focus on only the pro contraceptive discourse, to make the analysis more thorough.

Personal reflections on the research process

I started out this research unaware of the fact that Sweden used to have a law that criminalised information and advertising about contraceptives. My focus was set on Elise Ottesen-Jensen, because she is an interesting pioneer within the sexual health work in Sweden. Through reading everything I could find about her and of her, I found out about lex hinke and became increasingly interested. There have been some obstacles in my empirical work, mostly because I am not trained to work with historical texts or to search historical materials. It has been complicated and taken long time to build up the basic knowledge about the 1910s and 1920s society, and the actual view on sexual matters. It has helped that the texts are meant for the working class, this language is formed to be easy and without pompous and complicated words, for everyone to understand without having specific knowledge. It took some time to get hold of Hinke Bergegren's text "Love without children", eventually it was found in a newly published book about key texts on feminism, and eventually I also bought one of the original versions from the early 1910s. Ottesen-Jensen's book "Unwanted children" was easier to get hold of, it could be ordered from the university library.

Theoretical framework

In this part a number of theories relevant for the continuation of the thesis are to be presented, starting with an overview on why laws are relevant for sociology, and then continuing to discuss Weber's definition of law and Vago's definition of norms. A discussion about fitting of law into society follows, as well as Evan's analytical tools, theories about the fertility transition and a brief presentation of Becker's ideal type "moral entrepreneur". Law will be discussed extensively since it contributes to the understanding of the particular society of interest in this thesis, Sweden in 1910-1938.

The legal approach

Why is law relevant for sociology? And how is sociology relevant to law? The common ground of both law and sociology is the interest in norms, "rules that prescribe the appropriate behaviour for people in a given situation" (Vago 2009:3). Further, both disciplines are concerned with the study of conflicts, the nature of legitimate authority, the mechanisms of social control, issues of human rights, power arrangements, the relationship between public and private spheres, and formal contractual commitments (Selznick 1959). Steven Vago, sociologist, means that from a sociological perspective, the actual law book is only a guide for action. Law would be meaningless if it were not for the interpretation and enforcement of them.

Sociologically, law consists of the behaviours, situations, and conditions for making, interpreting, and applying legal rules that are backed by the state's legitimate coercive apparatus for enforcement (Vago 2009:10-11).

This means that law in itself is not interesting. It is what the particular society does with the law and how it affects the inhabitants that matter. Lawyers always make an interpretation of the formulations in the law book, and this interpretation is dependant on how their particular cases look. This interpretation is based on their own understanding of the society and of the underlying reasons behind the law. It is not possible for laymen to have understanding of all the laws in detail. Surely most persons in Sweden know that driving under influence of alcohol is illegal. This shows a popular understanding and knowledge of the law. This understanding can be set in opposition to for example questions about inheritance law, which

most of Swede's would have less knowledge about and need a lawyer for clarification of. This would imply that the pure law does not regulate social behaviour all on its own. Law is always in relationship to people's knowledge and understanding about it, as well as norms about what is considered to be appropriate behaviour.

What is law?

My thesis concerns a law popularly called *lex hinke*. Law is a concept that can be defined and perceived in a number of ways. The discussion will depart from the definition of Max Weber, sociologist, philosopher and political economist. By examining the flaws in his view it is possible to see what other factors are of importance when it comes to explaining and understanding compliance in a society.

An order will be called law if it is externally guaranteed by the probability that coercion (physical or psychological), to bring about conformity or avenge violation, will be applied by a staff of people holding themselves especially ready for the purpose (Weber 1954:5; collected from Vago 2009:9).

According to Weber a few things characterise law. They create conformity by using the threat of force. To apply this force, special institutions or organisations are used, such as the police or the justice system.

Using this point of departure, how is law distinguished from norms? Weber means that law has three features distinguishing it from norms. 1) Pressures to comply with the law must come externally in the form of actions or threats of actions by others, regardless of whether a person wants to obey the law or does so out of habit. 2) These external actions of threats always involve coercion or force. 3) Those who instrument the coercive threats are individuals whose official role is to enforce the law (Weber 1954:5; collected from Vago 2009:9).

Scholars have critiqued two parts of Weber's definition: Firstly, that Weber emphasise too much on coercion and overlooks other reasons individuals may have for not obeying the law. Secondly, Weber's use of the term "special staff" has been criticised for implying an organised and administrative apparatus that probably will not exist in for example illiterate societies (Weber 1954:5; collected from Vago 2009:9). The second concern does create problems working with certain societies, however, for the purpose of working

with Sweden in the 1910-1938, this is not relevant since Sweden do have institutions to enforce the law similar to what Weber describes in his definition. About coercion, it can be said that in the case of the contraceptive law, there were other reasons for not obeying the law than sheer force. One example is that individuals would see the benefits of using birth control methods as greater than the benefits of obeying the law. This means that Weber's definition would have to be complemented to fully grasp the phenomenon of interest. However it is a good foundation to explain what law is, with the amendment of the first critique. Other reasons than coercive ones need to be considered in order to make the analysis as complete as possible. For the analysis of this thesis, norms and moral are relevant. The pure existence of a law does not mean that it will be enforced, sometimes norms will be more prominent. There is a relationship between norms and laws. Just constituting a law does not automatically change the behaviour of people, and changes in behaviour does not automatically change the law. In our case, Vago's definition of norms seems more appropriate, "rules that prescribe the appropriate behaviour for people in a given situation" (Vago 2009:3).

Evan's seven criteria model for evaluation of laws

How would the "perfectly fitted" law look like? William M. Evan has formed seven criteria for the purpose of evaluating the fit of new laws into societies.

1. The law must emanate from an authoritative and prestigious source;
2. The law must introduce its rationale in terms that are understandable and compatible with existing values;
3. The advocates of the change should make reference to other communities or countries with which the population identifies and where the law is already in effect;
4. The enforcement of the law must be aimed at making the change in a relatively short time;
5. Those enforcing the law must themselves be very much committed to the change intended by the law;
6. The instrumentation of the law should include positive as well as negative sanctions; and
7. The enforcement of the law should be reasonable, not only in the sanctions used but also in the protection of the rights of those who stand to lose by violation of the law (Evan 1965).

These seven criteria will be applied to lex hinke later on in the analysis. Lex hinke will be evaluated through these seven criteria. It is my suspicion that lex hinke will not be well fitted, and that this can be shown with the aid of Evan's analytical tool.

Cleland & Wilson's theory about reasons for the fertility transition

In order to understand the period of when lex hinke was in play, it is crucial to look at the demographics of this time. The criminalisation of information and advertisement on contraceptives would logically lead to a decrease in contraceptive use, and an increase in birth rate per woman. This did not happen, instead between 1880 and 1940, there was an extensive decrease in births per woman. This pattern is shown in several parts of Europe and is called fertility transition. There are various models and theories that try to explain the fertility transition from an economical point of view. I find the discussion of John Cleland and Christopher Wilson, both demographers, relevant since they criticise economical explanations and instead come with explanations focused on culture and knowledge. They hold the spreading of information as well as new social norms for fertility control to be crucial for the fertility transition. There need to be a cultural innovation that is spread within culturally homogenous groups. Supposedly there is a strong connection between fertility and lingual, religious and cultural boundaries. Cleland and Wilson claim that sheer access to contraceptives does not necessarily mean that these will be used. Fertility control needs to be viewed as an acceptable alternative (Cleland and Wilson 1987). It is not only the access to birth control methods that matters, but the overall view on fertility control and whether this is acceptable to use. Concerning Sweden and the contraceptive law, contraceptives were increasingly accepted because of the moral changes in society. Despite the law, channels were established to spread the information about birth control methods, especially in the cities but also gradually in the rural parts.

Moral entrepreneurs

Howard S. Becker, sociologist, uses the following sentence to explain his ideal type of moral entrepreneurs: "Rules are the products of someone's initiative and we can think of the people who exhibit such enterprise as moral entrepreneurs" (Becker 1966:147). For rules or laws to be created, there has to be someone who takes an initiative. Rules do not simply occur by themselves but are formed by individuals and or organisations. In turn, these moral

entrepreneurs can either be rule creators or rule enforcers, the former ones referring to individuals or organisations that oppose the contemporary rules or laws and want to change them, the latter one referring to individuals or organisations that wishes to maintain certain rules or laws (Becker 1966:147).

The rule enforcer will then be the state in this case, as well as specific individuals and organisations sympathising with the state. The rule enforcers' problem or struggle is to continue claiming the situation as an actual problem (Becker 1966:156). For the state, the problem when lex hinke was constituted was a) that it was seen as immoral to use birth control methods and b) that the population of Sweden were seen as decreasing in an undesired way. This means that the state would have to withhold the view that contraceptives are immoral as well as that the population is decreasing, and, that the decrease itself is a problematic and negative matter for Sweden as a nation and as a society. This will be discussed further in the analysis.

4.1 Analysis

Part 1 of the analysis will start with Hinke Bergegren's and Elise Ottesen-Jensen's similarities shortly concluded. There after the full analysis of Hinke Bergegren's text "Love without children", which will firstly be analysed in three categories, "women's suffering in absence of contraceptives", "class" and "the Christian sexual moral". Then comes a discursive and textual critical discourse analysis, before the full analysis of Elise Ottesen-Jensen's book "Unwanted children". "Unwanted children" is also analysed in the same three categories, "the Christian sexual moral – women's task is to bear children", "women and their suffering" and "class". Follows does a short discussion about what the government or capitalism wants, and then the discursive and textual critical discourse analysis of "Unwanted children" before part 2 of the analysis.

What did Hinke Bergegren and Elise Ottesen-Jensen have in common?

Bergegren and Ottesen-Jensen had a few important things in common. Neither of them were workers, Bergegren was a physician and Ottesen-Jensen had education as a government stenographer, and worked as a journalist. They both fought for the working class, by spreading information about contraceptives and also by working on a political level. They were both socialists and had connections to people working with contraceptives in France.

Analysis of Hinke Bergegren's speech "Love without children" (1910)

Hinke Bergegren

Bergegren, born in 1861 (Source: SAC-Syndikalisterna), was a physician and a politically active socialist. He was a known agitator, but by the time of his speech in Stockholm in 1910 his political career was not going very well. The year before he had been excluded from the Swedish social democrat workers' party ("Socialdemokratiska arbetarepartiet"), accused of anarchistic opposition. In that same year he visited Paris and saw how controversial campaigns about contraceptives could be. Bergegren was, according to Laskar, most likely aware of the risk of going to prison because of his speech and work with contraceptives, which he also did for two months (Laskar 2012).

Women's suffering in absence of contraceptives

Bergegren starts his text with the subject of women who kill their infants. Bergegren puts emphasis on what pain and agony the women must have been in, seeing no other choice than to terminate the life of their own child. Bergegren describes a vulnerable woman rather than a cold-blooded murderer. The described woman is left alone and has had to go through the months of pregnancy aware of that she will not be able to provide for the coming baby. The text continues with Bergegren criticising men who are not taking their responsibility as fathers, claiming that they should be ashamed of themselves. He goes on to the topic of women already having many children and their fear of becoming pregnant, their fear of how the new child will increase the distress. "And then it is called, that they are in a blessed condition, these women, who do not wish for those children, that greet them with despair and tears!"⁴ (Bergegren 1913:9). Bergegren claims that many women live in fear of becoming pregnant. He thereby questions the "taken-for-granted" norm that pregnant women are blessed.

Class

Bergegren's text describes the living conditions of the working class as being characterised by scarce economy. He also shows how the working class and the upper class have different views on what is seen as crude. This concerns, for example, to what extent clothes can show a woman's breast. In the upper class it is accepted with revealing dresses showing most of

⁴ "Och så heter det, att de äro i välsignat tillstånd, dessa båda kvinnor, som ej önska sig dessa barn, utan som hälsa dem med tårar och förskräckelse!" (Bergegren 1910:9).

women's breast, while this would be seen as crude and immoral by the working class. The notable part is the conclusion of Bergegren: If different classes have different views, who can then decide which one is the correct one? This leads into the arguments from Bergegren that talking about something as natural as human sexuality should never be crude. And it should never be a laughing matter as long as the questions and the purpose are honest. This seems to be a part of the author's way to make the audience feel more comfortable. Instead of "pretending that it is raining", Bergegren confronts that it can be rather embarrassing to talk about sex. It is a subject that "has been made uncomfortable" but should be the most natural thing in the world. By saying this he gives the audience "allowance" to listen, after having acknowledged their feelings. Further he argues that infant mortality is significantly higher among poor workers than wealthy people. This statistical part leads into a passage about what caring and what work has been thrown away, when the small child who contributed to the distress in the end passed away. I want to emphasise that this is an interpretation of what Bergegren says. Therefore this should not be seen as a "fact" of how the reality was, but rather as how Bergegren as a supporter of the pro contraceptive discourse interprets and describes the anti contraceptive discourse.

The Christian sexual moral – gender differences concerning sexual lust

Bergegren is describing and criticising an unequal sexual moral. Women are expected to be faithful in their relationships while men are "allowed" some infidelities because it is their "sexual nature". Bergegren calls this a "double moral", giving men some exclusive liberties in the sexual area. Further, the Christian sexual moral implies that married women are meant to give birth to as many children as they can, or live in abstinence.

Bergegren is speaking about the assumed difference in men's and women's sexual lust. This view pictures men as highly sexual beings, while women are seen as passive, with hardly any sexual drive. Bergegren highlights this as a constructed norm giving men advantages. He emphasizes the view that there is no difference like this, it is just a matter of made up moral. Women claim that they do not have any sexual drive, because it is "so heavenly virtuous and moral and feminine to say that", according to Bergegren. Then he gives some examples where the woman is talked about as a dead device, and claims that this statement is truly false. The author further continues advocating that there is no evidence of women's sexual lust being smaller than men's. One of his arguments is that many women have violated chastity despite hard judgement and the risk of unwanted pregnancies or sexually transmitted infection. According to Bergegren's text, this must have been out of

great devotion and passion, which in turn would be evidence of the female sexual drive. Therefore it is an injustice to retain the double moral. Bergegren uses a clear and logic-based argumentation for that men and women's sex drive is in fact the same.

Responsibility instead of moral

Bergegren argues in his text that fertility should be responsibly monitored, not all people are fit to have children. If a person is sick physically or mentally, has drinking problems etc, Bergegren recommends them not to set children into the world. Contraceptives can help to avoid much of the distress in the working class and needs to be spread so that anyone can have access to it, according to Bergegren's text. The discussion goes that it is far more immoral to accidentally set children into the world, than it is to make sure that conception does not happen unless this is intended.

Discursive practice analysis of "Love without children"

The speech in 1910 had an audience of around 700 women and the booklet was released in 50.000 copies. The advertisement of the speech had been made in the magazine The social democrat (Social-Demokraten), which would imply that many of the participants were socialists and presumably working class. Two thirds of the speech is used for arguments that legitimize the use of contraceptives morally. Only one third of the speech actually takes up birth control methods. It is my judgement that this would indicate a debate about contraceptives. If the main subject of the speech were not sensitive, the speaker would not have needed to spend so much time on justification. A demonstration of contraceptives was simply not enough, women also had to be persuaded that it is morally appropriate to use them.

Textual analysis of "Love without children"

Transivity refers to how events and processes are connected with subjects and objects in a text. Bergegren starts with an example of women who kill their infants, and he connects this to the state. The state does not help women to support for their children, neither does the state help women to avoid unwanted pregnancies. Therefore, it is not women's fault that they kill their children, they are victims of problematic circumstances.

Among the circumstances it is stated that men do not take responsibility for their children, leaving women in despair. Further Bergegren takes up an opposing view concerning the common view that pregnant women are blessed. He claims that many women live in fear of becoming pregnant, and that they are hardly "blessed" when the child is unwanted.

The view that women are blessed can be seen as a part of the anti contraceptive discourse, where a child is considered a gift from god. However, Bergegren connects this moral with views on men as sexual beings and women as asexual ones. It is claimed that men's cheating is "natural" and connected to their "naturally high sex drive". Bergegren opposes this and claims that this is a norm or moral made up by men to give them advantages such as easier getting away with cheating. In fact, Bergegren claims that women and men's sexual drive is the same and that there is no reason that it should not be.

Further, differences in what is seen as crude are connected to different social classes. Here the author questions who is right if the different classes has conflicting views. As I understand it from his text, Bergegren connects sexual practices with responsibility, and claims that the anti contraceptive discourse is uncivilised because it does not offer control over fertility other than with abstinence. It is claimed that abstinence is not an actual option since people will have sex despite the Christian sexual moral.

Analysis of Elise Ottesen-Jensen's book "Unwanted children" (1926)

Elise Ottesen-Jensen

Elise Ottesen-Jensen, popularly known as "Ottar", was born in 1886 on the west coast of Norway. Ottesen-Jensen was a journalist on the paper *New time* ("Ny tid") in Trondheim where she was persuading labour union work. She continued in this line and worked at another paper, *The work*, ("Arbeidet") in Bergen. Ottesen-Jensen came to Sweden in 1919 (Glans 1998:287), after she and her husband lived in Copenhagen, Denmark for a few years. In Copenhagen Ottesen-Jensen gave birth to a son who died very early (Hackzell 1986:3). In Sweden, Ottesen-Jensen starts her career as a sexual educator, writing about birth control methods in the position of being the editor of the "womens' page" in the paper *The worker* ("Arbetaren"). She travelled around in the whole of Sweden to give lectures about birth control methods, wrote articles, memoirs and other texts where she argued for the abolishment of the contraceptive law and for allowing free abortion (Hackzell 1986:3-5; Sundström 2004). In connection to the lectures, she also helps women with fitting diaphragms. Ottesen-Jensen founded the Swedish organisation for sexual education, RFSU (Riksförbundet för sexuell upplysning) in 1933, and later on she founded International Planned Parenthood Foundation (Glans 1998:287). IPPF is today a global organisation working in over 170 countries, providing and campaigning for sexual and reproductive health care and rights (IPPF). One of the goals Ottesen-Jensen had was "I dream about the day when

all children that are born are welcome, all men and women are equals and the sexuality is an expression of heart, affection and pleasure”⁵ (Hackzell 1986:2; Lindberg 2005:182).

Analysis of the book “Unwanted children”

The book “Unwanted children” came out in 1926, 16 years after Hinke Bergegren held his speech “Love without children” in Stockholm. It describes the living conditions of the working class, as well as presents arguments against the contraceptive law and even critique of the Swedish state.

The Christian sexual moral - women’s task is to bear children

I will start the analysis with a quote.

In older times, for example the ones in the bible, or under more primitive living conditions, not only many children, but many wives were a source of wealth. Among primitive and wild tribes it is still the woman’s first responsibility to bear children, many children, to give birth without no return⁶ (Ottesen-Jensen 1926:5)

The book starts with Ottesen-Jensen’s description of the Christian sexual moral. This means that women are meant to give birth again and again, until they either die or reach menopause. It is women’s task to fill the world with god’s children. Sex has the purpose of reproduction, not pleasure. This is Ottesen-Jensen’s interpretation and understanding of the Christian sexual moral. The Christian moral is compared to tribes, a way of making the Christian sexual moral seem old in opposition to the “modern” views that the author describes. The text holds a quote from Martin Luther in the mid 1600rds, basically saying that it is the woman’s task to bear children, and that she can just as well die completing this task. Ottesen-Jensen opposes here by emphasising the cruel and inhumane meaning of this statement, and as described before, by referring to it as outdated and old. The present society has norms that view contraceptives as immoral. Ottesen-Jensen turns this argument around, and points towards the immorality of having children that one cannot provide for. In this passage, comparisons are made with the animal kingdom, that humans mate like animals. Mankind should, according to Ottesen-

⁵ ”Jag drömmer om den dag, då alla barn som föds är välkomna, alla män och kvinnor jämlika och sexualiteten ett uttryck för innerlighet, ömhet och njutning” (Hackzell 1986:2; Lindberg 2005:182).

⁶ ”I äldre tider, t. ex. dem som bibeln berör och under mera primitiva livsförhållanden, var icke endast en stor mängd barn utan även ett stort antal hustrur en källa till rikedom. Bland primitiva och vilda folkslag är än i dag kvinnans första plikt att föda barn, många barn, föda utan återvändo” (Ottesen-Jensen 1926:5).

Jensen, stand above animals and use their intelligence to avoid unwanted pregnancies. Mankind should take responsibility for their actions by making sure not to put unwanted children into this world. This is clearly an argumentation for contraceptives.

Women's suffering when contraceptives are inaccessible

After laying out the ground with the Christian sexual moral, Ottesen-Jensen gives an example of a woman who in her youth was very beautiful but at the age of 45 was only a shadow of her old self. She had given birth to 18 children, and had 4 abortions. Her body and mind was torn apart, she lived in constant fear of becoming pregnant. This woman thought it was her responsibility, just as other women, to bear child after child.

Connected to the woman's task is the woman's desire to have children. Women are often pictured as motherly figures whose highest priority is to have babies. This picture is drawn up by Ottesen-Jensen as well, even though it is stated that "most" women desire this. There is a description of the joy a wanted child can bring. Then the perspective is turned to how this happiness can be changed into fear of becoming pregnant, stress over how the money should last for food and clothes for the family. Becoming pregnant in this situation is a thought that becomes too hard to bear. Ottesen-Jensen points out that not all children are welcome. Children cannot be seen as blessings if the family are having difficulties to sustain itself. This story is built up with examples from reality. Ottesen-Jensen's argumentation goes that if all children were blessings, the newspapers would not contain articles about unsafe abortions gone wrong and women who killed their infants.

Further the author talks about women who try to control their bodies by making abortions. If these women are caught by the state they can end up in jail. Women are not allowed to control their fertility. Women's situation is described as one in distress. Ottesen-Jensen claims that women in this situation will not be able to raise their children accurately. Further Ottesen-Jensen argues that women suffer, and die, because of the contraceptive law.

Most women had to work during their pregnancies, despite being exposed to poisonous substances at work, despite the need to rest in the last part of the pregnancy. Ottesen-Jensen uses a few studies that are based on the birth weight of children, showing that, on average, women who stopped working two or three months before the delivery had children that weighed 300 grams more than those working during the whole pregnancy. Ottesen-Jensen argues that it is even worse for women who have to work immediately after the delivery. Because of this the state has constituted a law that women are not allowed to work the coming four weeks after giving birth. However, Ottesen-Jensen means that the state

does not give the women any practical ways of dealing with this. The state does not give any support to women, but “takes the bread out of their mouth” as Ottesen-Jensen describes it. The state then has the permission to kill infants, by making the mothers unable to support themselves. Ottesen-Jensen means that the government was not aware of the consequences of the laws they have constituted.

The author claims that women often had no other choice than trying to induce abortion. There could be various reasons for needing an abortion, such as not having money to sustain the child, that the mother is not married to the father and therefore have to avoid social stigma etc. For women, their next pregnancy might be their death, because of malnutrition and lack of proper medical care.

Ottesen-Jensen claims that physicians see the consequences of repeated pregnancies. Arguments used are for example that penalties do not lower the number of abortions. Further it is stated that the number of abortions are known to increase during bad financial times. Pointed out is that it is only the most injured women who comes under the physicians care after an abortion. This implies a huge number of unsafe abortions not shown in the statistics. Ottesen-Jensen argues that if the state wants to get rid of these abortions, they have to give women the possibility to protect themselves against unwanted pregnancies, rather than punishing them when it is already too late and the damage is already done.

Table 4.1, What women suffers from because of the contraceptive law, according to Ottesen-Jensen.

- Physical damage/illness after repeated pregnancies
- Physical damage/illness after unsafe abortions
- Physical illness such as sexually transmitted infection, because of themselves having sex or, because of cheating husband/lover
- Psychological suffering such as shame because of having illegitimate children
- Psychological suffering from being afraid of becoming pregnant
- Psychological and physical suffering from poverty made worse because of having many children, not being able to sustain the family.

To conclude Ottesen-Jensen’s view, the absence of contraceptives makes women suffer from physical damage or illnesses after repeated pregnancies and unsafe abortions. In the absence of condoms they might get sexually transmitted infections. Apart from physical damages and illnesses there are psychological ones, such as stress over how to feed the family, fear of becoming pregnant and shame because of having illegitimate children.

Class is crucial – living conditions of the working class

Ottesen-Jensen reflects her view on the living conditions of the working class in the 1920s. To summarise, this period is characterised by high unemployment rate, which is pressing down salaries and possibilities to negotiate the conditions of work. The access to contraceptives for the working class is discussed in the book, as well as living conditions along with possibilities to take care of the children.

It is clearly stated in the book that the different classes have different access to contraceptives. The upper class and middle class has taken monopoly on contraceptive methods, limiting their families to one or two children. The working class, having worse living conditions, have no other choice than to have child after child unless they live in abstinence. My guess is that knowledge of contraceptives is coming through the wealthy people's physicians. The contraceptive law prohibits public spreading of information or advertisement about birth control methods, which undermines Ottesen-Jensen's work. Most prominent with the law is that the middle and upper class do not follow the law themselves.

The working class is described to have tough living conditions, living in small apartments and struggling to feed their children. The working class also lives with the uncertainty of losing their jobs. Ottesen-Jensen points out that contraceptives are the key to a revolution. If the working class continue to have many children they can only concentrate on feeding and taking care of the family. This will take time and energy from political work to change the laws and improve their situation. The children are raised into the same behaviour and will obey their employers the same way their parents had to and it becomes a bad circle, according to Ottesen-Jensen.

Arguments about what the “government/capitalism” wants

There are a few speculations in the book “Unwanted children” about reasons behind the contraceptive law. One is that the working class are supposed to produce an army of workforce that the government/capitalism can have at its service. Another one, also described later under eugenics, is that a working class that cannot protect themselves against unwanted pregnancies will have children of poor health, as a result of poor living conditions. These children will supposedly grow up to become strike-breakers.

Ottesen-Jensen argues that it is the government who is the real abortion inducer. The government does not allow women to avoid unwanted pregnancies, and the government does not provide any aid for the children which women cannot support for. Instead of giving

citizens means to take care of themselves, the state tries to use penalties to remove actions they do not agree with, such as abortions or contraceptives.

It becomes clear when studying the book “Unwanted children” that Ottesen-Jensen were inspired by Marx. The same kind of rhetoric is used, for example the great divide between working class and bourgeoisie, and the idea of exploitation of the working class is highly prominent. Ottesen-Jensen encourages the working class to unite and fight for their rights in order to form a revolution. Also in Bergegren’s “Love without children” references to Marxism are drawn.

The discursive practice of “Unwanted children”

The entire book is an argumentation against the contraceptive law criminalising information and advertisement about contraceptives. The book is also a little later time-wise than Bergegren’s speech and booklet, 16 years later to be exact. This gives us an idea of how Ottesen-Jensen was reasoning about the consequences of the contraceptive law. The book is written in a way that is easy to follow, supposedly because it was meant for a working class audience. By using this language, Ottesen-Jensen shows a popular side of herself, she sympathises with the working class. Rhetorically, Ottesen-Jensen is using a classic disposition; she pictures the problems of working class women and the Christian sexual moral. Later on she gives the solution; contraceptives. My view, that the text is meant for a working class audience, is backed up by Lena Lennerhed (Lennerhed 2012). Bergegren writes in the preface of “Love without children” that it is especially meant for the working class.

Textual analysis of “Unwanted children”

Concerning the degree to which events and processes are connected with subjects and objects, transitivity, it becomes evident that Ottesen-Jensen connects the Christian sexual moral with old values, savages, primitive cultures and so on. There are also references to the animal kingdom, meaning that humans mate like animals, without using protection and without paying attention to consequences. By doing this, the reader is meant to get the impression that the Christian sexual moral are, or at least should be, in the past. And that it is uncivilised. Further, when Ottesen-Jensen argues about something in the text, she often uses research and statistics to back up her view that the state is behind or old-fashioned. That the state does not adjust to current research. Contemporary research is used to undermine the state’s decision to form and continue to sustain the contraceptive law. In several passages, Ottesen-Jensen

questions whether the government knows anything about the reality. Here Ottesen-Jensen takes a clear role as an expert, claiming that she knows the reality.

In the end of the book Ottesen-Jensen suggest that the labour movement should have their own production of contraceptives. These contraceptives should be carefully tested and sold at cost price. By writing this, Ottesen-Jensen criticises the current system.

Having many children is connected with living in distress and poverty. Having many children is seen as the reason for much of the problems in the working class. In this view, contraceptives were the key for revolution, just as Hinke Bergegren mentions in “Love without children”. The revolution is referring to two different events, the revolution of the working class, and the revolution of the working class woman’s sexuality. Class is further connected to inequalities, since it is said that especially working class women has trouble to access contraceptives. The contraceptive law is connected with many unpleasant consequences for women as said before, various psychological and physical damages. In turn, the state is viewed as the “abortion inducer”. The state has established the contraceptive law that prevents women from preventing unwanted pregnancies. At the same time the state does not provide means for working class women to take care of their children or avoid unwanted pregnancies.

4.2 Analysis - summary of the texts

This second part of the analysis provides a summary of the texts, things that “Love without children” and “Unwanted children” has in common. A discussion of eugenic arguments for the use of contraceptive follows, then a section investigating whether the contraceptive law was well fitted in society. This is examined by using Evan’s seven criteria model, as well as Dahlman’s analysis of the debate in the parliament. Further down comes the interpretation and analysis of the two different discourses, the anti contraceptive discourse and the pro contraceptive discourse. Then a combined social practice analysis of “Love without children” and “Unwanted children” is rounding of the chapter.

Things that “Love without children” and “Unwanted children” has in common

The text “Love without children” and the book “Unwanted children” do share fundamental ideas. For example, Bergegren and Ottesen-Jensen both uses a rhetoric that victimise women. They both describe the Christian sexual moral as a part of the anti contraceptive discourse to

be irresponsible, old fashioned and outdated. They both claim that they know the full truth about women, men, sexuality and contraceptives.

The view of contraceptives as civilised and responsible is emphasised throughout the text and the book. A polarisation between the classes is made clear in both the text and the book, the working class is suppressed by the upper class. This class division is shown by worse economical conditions, poor housing conditions, lower safety levels in the jobs and limited access to contraceptives in the working class. It is claimed that the wealthy class has monopolised contraceptives.

In common are that both Bergegren and Ottesen-Jensen have many arguments for the use of contraceptives. I interpret this as evidence that contraceptives are controversial in the 1920s. Women are pictured as victims who cannot control their fertility, and therefore meets various physical and psychological difficulties. Men are secondary, either as husbands or as “jerks”, men who tries to avoid taking responsibility for their children. The eugenic reasons are also similar, read the analysis below, with the fundamental core that not everyone is appropriate for having children.

Both Ottesen-Jensen and Bergegren questions the view of pregnant women being blessed, they give examples of opposite situations. Both emphasise contraceptives as a key to revolution for the working class.

Eugenic arguments for the use of contraceptives

Many of Bergegren’s arguments for using contraceptives are inspired by eugenics. This is shown by extensive parts in the text about genetic inheritance, both concerning diseases and criminal behaviour. “Poor genes” are responsible for both sickness and criminality and should therefore not be passed on. Not all humans are fit to have children, and then it is better to avoid pregnancies by using contraceptives. Bergegren uses an example of how carefully pet animals are bred, but when it comes to humans the conception often happens on a random cause.

Ottesen-Jensen also uses many arguments related to eugenic theories in her argumentation for legalising information and advertisement about contraceptives. Her main point is that the contraceptive law is preventing certain “inappropriate” humans to not continue spreading their genes. By not giving these people any choice, the state and capitalism ensure that there will be individuals of poor health that can be strike-breakers, according to Ottesen-Jensen. Another of her chapters discusses eugenic arguments more in depth, questioning who can be counted as appropriate to procreate.

It is noted in Ottesen-Jensen's book that the state is funding research at The Eugenics Institute ("Statens institut för rasbiologi"). At the same time, the state allow disabled persons to have children, children that according to Ottesen-Jensen have extensive risks of being disabled. This is compared to women that could give birth to healthy children, but will not because of being poor or working in harmful environments. Ottesen-Jensen tries to show how inconsequent the state is, preventing some to have healthy children and allowing others to have unhealthy ones. The eugenic arguments are closely connected to the society at that time, with the utopia of the conscious improvement of the human race.

The contraceptive law – discussions in the parliament

Elisabeth Elgán, historian with gender study perspective, writes that the contraceptive law is repeatedly questioned by a number of motions in the 1920s and 1930s, to be changed or abolished (Elgán 1994:73-74). Stefan B Dahlman shares the same view. He says that during the 28 years of the contraceptive law was in force, it was debated in the parliament no less than 10 times (Dahlman 2003:32). Supposedly, a law that is appropriate for a specific society would not need this extensive questioning. This indicates that the contraceptive law was inappropriate for Sweden.

Table 4.2, The debate about lex hinke in the parliament, according to Dahlman.

Year	Debate dominated by...
1910	Dominated by the problem that the rate of <i>births is decreasing</i> , and by the debate about <i>morality</i> .
1918	Framed as a <i>public health</i> question.
1920s	Framed as a <i>women's rights</i> question.
1938	The report of the Commission of population ("Befolkningskommissionen") lays as a ground for cancelling the law, claiming that <i>information about contraceptives is valuable</i> and should be spread. Further, the view on the use of contraceptives has changed from being a way for young men to live an immoral life, to being a tool that allows family planning (Dahlman 2003:36).

According to Dahlman⁷ the law was constituted firstly because contraceptives were seen as a threat for the common decency and moral, secondly because the state wanted the birth rate to increase. It was crucial for the decision of constituting lex hinke that the parliament had a majority of conservatives. In 1918 it became a public health question, and in the 1920s it was

⁷ Dahlmans thesis (2003) is a bachelor thesis in history, it is a carefully conducted study and the results seem feasible.

framed as a women's rights question. When the law eventually was abolished the parliament had a majority of left wing parties. By the time of the abolishment of the law, the societies view on what is considered immoral had changed (Dahlman 2003:36). The motions promoting the abolishment of the law came from social democrats, communists or, in one case it was detached from political parties (Dahlman 2003:37).

The contraceptive law seen through Evan's model

The contraceptive law can be evaluated through William M. Evan's seven criteria of what makes implementing a new law successful. Each criterion will here be discussed one by one.

Criterion one: "The law must emanate from an authoritative and prestigious source" (Evan 1965). Lex hinke did emanate from a prestigious and authoritative source, the parliament. The first criteria are therefore met.

Criterion two: "The law must introduce its rationale in terms that are understandable and compatible with existing values" (Evan 1965). On the second criteria, it is questionable whether lex hinke was really compatible with existing values. On one hand there are the values of Christian sexual morality, the only purpose of sex is to produce children, and so on (Johannisson 2010). On the other hand, contraceptive methods seem to become more common and win land at this time. Therefore it can be argued that the law does not fit with current values. To conclude this criterion, 1910 to 1938 was not the right time for this kind of law. Other values had already started to win ground. Many persons were fighting the new law, working for an abolishment. The second criterion is then not met.

Criterion three: "The advocates of the change should make reference to other communities or countries with which the population identifies and where the law is already in effect" (Evan 1965). The parliament was not using comparisons to other Scandinavian countries when it comes to implementing lex hinke. Instead two main arguments was used, first that the contraceptives would lead to immoral behaviour, and second that Sweden's population needs to grow. There are similar laws in other countries by the time, but they do not seem to be emphasised in the implementing of Sweden's contraceptive law. The third criterion is therefore not met.

Criterion four: "The enforcement of the law must be aimed at making the change in a relatively short time" (Evan 1965). It is remarkable how fast this law was established. The aim was not to change but rather conserve the "morality" of the time and to force the working class population to continue having many children. The real change is the

way of making it more complicated for Bergegren and his companions to continue with their information spreading about contraceptives. The fourth criterion is not met.

Criterion five: “Those enforcing the law must themselves be very much committed to the change intended by the law” (Evan 1965). There are many references calling this law a “class law”, because it primarily affected the working class. Rich people somehow found the information they needed, presumably through their physicians. The people who choose to constitute the law do not themselves live as the law instructs. The fifth criterion is not met.

Criterion six: “The instrumentation of the law should include positive as well as negative sanctions” (Evan 1965). There are not really any positive sanctions that I can see, except from living in “virtue”. The negative one is prison, women becoming sick because they cannot space or avoid pregnancies etc. For the working class, obeying the law does not seem to give any advantages. And, when the upper class do not follow the law themselves, what should motivate the working class to obey? The sixth criterion is not met.

Criterion seven: “The enforcement of the law should be reasonable, not only in the sanctions used but also in the protection of the rights of those who stand to lose by violation of the law” (Evan 1965). The enforcement of the contraceptive law must have been seen as reasonable by the parliament. The sanctions do not seem to correspond to the problems the working class has as an effect of the contraceptive law. Concerning the protection of rights, it is in fact women and families that are victims of not having access to information on how to protect themselves from unwanted pregnancies. Their rights are not protected in the law. The seventh criterion is not met.

To conclude, the purpose of lex hinke was to increase the Swedish population and to encourage and conserve the Christian sexual moral. However, the number of births per woman decreased from 4,5 to 1,8 in the period of 1880-1940 (Kling 2010). The sexual moral became more liberal and accepting, picturing sex not only as a way to procreate, but also as a product of passion, love and pleasure.

The contraceptive law did not meet the criteria of Evan in some of the crucial points. If I had to choose one criterion of foremost importance, I would without doubt chose criteria 5 “Those enforcing the law must themselves be very much committed to the change intended by the law” (Evan 1965). It becomes visible that the law is a class law, with unequal opportunities for different classes. The ones constituting the law did not live according the law.

Lex hinke is based on the Christian sexual moral. However lex hinke is constituted in a time when society has already began to change. The law did not fit the society to start with, and the competing new discourse of the pro contraceptive discourse over time eroded the power the law had over its citizens. After 28 years, this lead to the abolishment of lex hinke.

The texts shows two different discourses

My analysis shows that both of the texts contain traces of two different discourses, the anti contraceptive discourse and the pro contraceptive discourse. For clarity I have created table 4.3, showing the features of the discourses. This is a model and does not represent “Christian values” or “Christian sexual moral”, instead I have combined the “Christian sexual moral” with other relevant values to make a coherent and representative division between the two discourses. It becomes evident that the two discourses are competing, the anti contraceptive discourse representing a more religious view, and the pro contraceptive discourse a more secularised one. It also becomes evident that the different discourses represent differing ways of describing the purpose of sex.

Table 4.3, my own analysis of the anti contraceptive discourse vs. the pro contraceptive discourse.

Anti contraceptive discourse	Pro contraceptive discourse
<ul style="list-style-type: none"> • Roots in Augustinus and Luther • Sexuality within marriage • Sexuality to produce children • Sexuality not for pleasure (dangerous & sinful) • Extensive difference in male/female sexuality (e.g. that men can cheat because they have strong sexual drive and cannot help it) • Children as a blessing for women • Women should not show any knowledge about sex 	<ul style="list-style-type: none"> • Roots in secularised view (psychology, sociology, medicine etc) • Sex for pleasure • Sex as an expression of love and passion • Responsibility-based (sex will occur → contraceptives should be used) • Claims that female/male sexuality is the same (anything else would be a “convenience theory” constructed by and for men) • Children as either a blessing for women and men, or, the cause of poverty and distress.

The anti contraceptive discourse has its roots in the view of Augustinus (Johannisson 2010). Sex should be for the purpose of producing children within marriage, otherwise abstinence should be exercised. Men are seen as “naturally” sexual, in opposition to women who does not have their own sexuality.

The pro contraceptive discourse has its roots in a secularised view, searching for explanations and answers in psychology, sociology and medicine. Bergegren is in his famous speech emphasising that people inevitably will have sex. When they do, they should be intelligent and responsible, not allowing the sex to have unintended “consequences” (such as pregnancy or sexually transmitted infections). In opposition to living in virtue, men and women are encouraged to live responsibly. This means taking precautions to avoid situations of distress, such as having more children than they are able to provide for. The pro contraceptive discourse is also more open to the idea that female and male sexuality is the same, there is no reason that men should have higher sex drive than women. This is viewed as a production of men for the purpose of explaining infidelities as lying within men’s nature. The discourses are described in opposition to each other, the anti contraceptive discourse claiming the pro contraceptive discourse to be immoral, and the pro contraceptive discourse claiming the anti contraceptive discourse to be primitive, old fashioned and outdated.

The description of the anti contraceptive discourse and the pro contraceptive discourse is an ideal type that I have created. In order to do this, I have used the text “Love without children” (Bergegren 1913), the book “Unwanted children” (Ottesen-Jensen 1926) and also the description of the Christian moral provided by Johannisson (Johannisson 2010).

Combined social practice analysis of “Love without children” and “Unwanted children”

The social practice of the two texts have been analysed together, since the texts are very similar. The two texts both have representations of two parallel discourses. One that wants to preserve the Christian sexual moral and to avoid that birth control methods are spread. The second one that encourages the use of birth control methods and a new way of viewing sexuality, namely the anti contraceptive discourse and the pro contraceptive discourse.

Both of the discourses do reproduce their own way of viewing sexuality. This can be shown because the two texts, “Love without children” written in 1910, and “Unwanted children” written in 1926, both contains representations of the two discourses despite the fact that there is 16 years between them. This would imply that social change does not happen over night, the two separate discourses continue to live side by side for a long time. The presence of two very different discourses implies that a change is coming, a break between the more traditional discourse, the anti contraceptive discourse, to the more modern one, the pro contraceptive discourse.

The anti contraceptive discourse reinforces and hides unequal distribution of power. The view that sex is meant to produce children gives the side effect that contraceptives are not tolerated and viewed as immoral. For women, this means that if they are working class and married, they should repeatedly give birth or live in abstinence. Repeatedly giving birth controls their time. All of the women's time goes to taking care of the family. In the anti contraceptive discourse, women are not allowed to decide over their bodies. The reason for this is the view that they are meant to bear and raise children.

The pro contraceptive discourse criticises the anti contraceptive discourse and describes how the anti contraceptive discourse reinforces and reproduces inequalities, both between women and men, as well as between the working class and the upper class. The pro contraceptive discourse claim that the anti contraceptive discourse is representing outdated and uncivilised views on human sexuality. The pro contraceptive discourse challenges the anti contraceptive discourse, unravelling its inequalities, as well as the consequences for both individuals and society. It questions whether the purpose of women is to give birth to as many children as possible. It questions whether it is civilised for humans to “mate as animals” without considering what consequences it might give. It questions whether sexuality is meant for producing children or as an expression and an act of passion, love and pleasure between equal partners. It also claims that much of the poverty can be avoided if women get access to contraceptives and that an approach to sex based on responsibility is far more civilised than a “moral” one.

Indirectly, the anti contraceptive discourse was accused of being immoral in many ways. Politically the law became a sort of façade that tried to conserve decency. For working class people, it made poverty worse. The ideology of the anti contraceptive discourse weakens and gives space for the pro contraceptive discourse in combination with health questions, just as Dahlman (Dahlman 2003) shows in his analysis of the debate on the contraceptive law.

Bergegren and Ottesen-Jensen as moral entrepreneurs

Moral entrepreneurs are individuals or organisations that tries to change or sustain a certain rule or norm. In that sense, are not all individuals moral entrepreneurs? Persons either find comfort in rules and laws and therefore wants to sustain them, or they are unhappy and try to induce change. When discussing norms, the emphasis is often put on the negative sides of norms, e.g. what happens when people do not live up to the norms and therefore feel deviant. What distinguishes Bergegren and Ottesen-Jensen as moral entrepreneurs from “normal”

people being unhappy with their everyday life? First, Bergegren and Ottesen-Jensen has positions in society, which helps them to get permission to speak. The former is a medical doctor and the latter a journalist. Second, Bergegren and Ottesen-Jensen actively try to induce change, by pursuing political work, writing articles, books, holding speeches and so on. A combination of their positions with certain possibilities, as well as performing certain actions distinguishes these moral entrepreneurs from the “common opinion holder”.

Bergegren and Ottesen-Jensen have in common that they are rule creators, as they oppose the system of anti contraceptive discourse and aim to create change. A more liberal sexual moral with a “normalised” use of contraceptives accessible for everyone is argued and fought for. Ottesen-Jensen and Bergegren can in this sense be seen as moral entrepreneurs, what they did was contributing to create change in law and norms.

5. Conclusion

This thesis describes a multiplicity of factors when it comes to changing a contraceptive hostile society into a contraceptive friendly one. It is not enough to make contraceptives accessible, they also has to be culturally adopted. The correct use of contraceptives is dependent on that women are appreciated and have a decent status within the society. It is important that not only men but also women are allowed to talk about sex, and that they are allowed to seek knowledge and get proper sexual education.

What is observed in this thesis is a breaking point between religious and secularised norms concerning sexuality. The society becomes more oriented towards the individuals’ health rather than a moral based on religion. The two texts analysed in this thesis are representing a larger movement, the break between opposing sexual discourses. The practice of using birth control methods became a part of the social and sexual practice. Which indicates a cultural transition.

In this chapter, the three research questions will be answered with the conclusions drawn in the analysis. It includes firstly, what Hinke Bergegrens text “Love without children” tells about norms and moral on female sexuality. Secondly, the main arguments Elise Ottesen-Jensen used in her book “Unwanted children” to promote the abolishment of the contraceptive law. Thirdly, whether the contraceptive law fulfilled its purposes. The major findings will also be presented, as well as suggestions for further research.

Research question 1

What does Hinke Bergegren's speech "Love without children" in Stockholm 1910 say about the contemporary norms and moral on female sexuality?

Hinke Bergegren's speech "Love without children" in 1910 depicts the sexual norms and moral at that time. Men are seen as sexual beings, while women are allowed to be sexual only in relation to a man. Men's cheating is explained and excused by this passionate sexual drive, while women who cheat would be highly stigmatised.

Women's sexuality is connected to fear of pregnancy while men's sexuality is seen in a more "easy going" and pleasurable way. This has to do with that it is foremost women who takes the consequences of not being able to control their fertility, such as unwanted pregnancies, unsafe abortions and emotional despair of how to feed the whole family etc. The anti contraceptive discourse hides a highly unequal society where women and men do not have the same sexual rights. Men have more freedom in expressing themselves as sexual beings, while women's sexuality is permeated with restraints.

But there were key figures that claimed a different view on women's sexuality. Bergegren opposed the traditional view and presented a view of women as sexual, passionate and pleasure seeking beings. Along with this view, he gives the solution that can ease women's uneasy relationship to sex: the correct use of contraceptives.

Research question 2

What arguments for dismissing lex hinke did the journalist and opinion leader Elise Ottesen-Jensen use in her book "Unwanted children" (1926)?

Elise Ottesen-Jensen gives a number of arguments against the contraceptive law. They can be divided into four different categories: Responsible moral instead of a Christian one, class related, eugenic and women's suffering arguments. An extensive part of Ottesen-Jensens rhetoric is to make the Christian sexual moral seem old fashioned and barbarian, in opposition to the responsibility-based moral of using contraceptives and controlling fertility in a humane and 'intelligent' way. Class-related arguments are built of examples on how the working class is controlled by the state through the contraceptive law. If the working class have families that are too big to support and consumes all their time and energy, they cannot participate in political work to change their situation to the better.

The body of the eugenic reasons are the view that not everyone is appropriate to continue their lineage. This may have to do with disease or inheritable "personality"-traits

such as psychological problems or criminality. Ottesen-Jensen (and Bergegren) claim that it is humans responsibility to not randomly set children into the world, but to make sure that the children have the best prospects for a healthy and happy life.

The arguments concerning women's suffrage describes the authors view on the consequences of the contraceptive law. These consequences include physical damage/illness after repeated pregnancies, physical damage/illnesses after unsafe abortions, physical illness such as sexually transmitted infection, because of themselves having sex or because of cheating husband/lover, psychological suffering when exposed to shame because of having illegitimate children, psychological suffering from being scared of becoming pregnant, and psychological and physical suffering from poverty made worse because of having many children and not being able to sustain the family.

Research question 3

Did the contraceptive law *lex hinke* fulfil the purposes behind the law, namely to increase the Swedish population and conserve the Christian sexual moral?

The contraceptive law fulfilled neither of its original purposes. The Swedish population did decrease in this period with fewer births, and this rather extensively from 4.5 children per woman to 1.8 children. Despite the criminalisation of information and advertisement about contraceptives, the pattern of the Swedish people concerning usage of contraceptives radically changed during this period. This is a receipt that there were forces stronger than the criminalisation of contraceptives. Possibly the advantages of contraceptives were worth the risk of getting caught for. Possibly because of contraceptives becoming accepted as a part of people's social and sexual practice.

The labour movement and key figures like Elise Ottesen-Jensen undertook the task of sexual education especially concerning birth control methods. This work must have had a significant role, being connected to a large movement and winning the publics attention. Ottesen-Jensen worked very strategically, she knew how to use her contacts and how to form an opinion. She started RFSU as an organ to offer help for people in need, and to actively affect the government on questions concerning sexual health.

The anti contraceptive discourse has not been conserved in its pure form, even if there still is some rests from it in the sexual moral and norms in contemporary Swedish society. The anti contraceptive discourse was more and more eroded, and the focus came to be more on public health issues rather than on religious ones.

Class and contraceptives are connected

Access to contraceptives was clearly class bound in Sweden between 1910 to 1938. The law lex hinke was criticised as a “class law” by Ottesen-Jensen and many others, making it hard for the working class to get hold of information about contraceptives. Even before the law, there was an unequal distribution of contraceptives. The wealthy people had fewer children than the poor. My conclusion is that the middle and upper class must have gotten this counselling from their physicians or through contacts. When education about contraceptives is insufficient, a larger quantity of abortions will follow. Abortions that during the time of lex hinke mostly was unsafe, at least for working class women. The fight for making contraceptives accessible for everyone is closely connected to the labour movement in Ottesen-Jensen and Bergegren’s case.

Contraceptives must be socially permitted

Both the texts are dealing extensively with various arguments against contraceptives. It is not enough for Hinke Bergegren or Elise Ottesen-Jensen to provide knowledge about contraceptives and where to find them. They also need to help the audience to accept contraceptives. I find this to be the most interesting finding. In sexual health work, current moral and norms needs to be taken into account. This is pictured in some of Ottesen-Jensen’s books and articles. For example in “People in distress” (“Människor i nöd”) (Ottesen-Jensen 2009), she describes women who are in need of contraceptives and have access to it, but cannot bring themselves to accept them for moral reasons. In that society a permeated view of contraceptives as immoral and sinful are present. It is not enough for contraceptives to be legal. They also need to be socially accepted in order to be broadly used.

A shift from a religious sexual moral to a secularised sexual moral

The analysis is pointing toward a shift from a religious sexual moral to a more secularised one. The analysis of the arguments in the parliament between 1910 to 1938 made by Dahlman shares this view, along with Lena Lennerhed (Dahlman 2003; Lennerhed 2012).

The secularised, or pro contraceptive discourse, supposedly started growing around the beginning of the 1900ds, and it continued into our days. It can be seen as a larger process, where the church loses power to various branches of science, such as sociology, psychology and medicine. I believe that sexuality in general becomes more medicalised as a consequence of the secularised view. This means that sexuality is explained and understood in

medical terms. Ottesen-Jensen and Bergegren strongly emphasises responsibility as an argument for contraceptive use, in opposition to “old-fashioned” moral. People should themselves have the choice whether they want to have children or not.

Suggestions for further research

In this thesis it has become evident that despite the contraceptive law which criminalised information and advertising about contraceptives, there was still an extensive decline in children per woman. It would be interesting to further investigate the factors that are included, such as if the fertility transition can be explained by Cleland & Wilson’s non-economical explanations. Is it the processes of cultural change that allow contraceptives to spread despite the law? My thesis points toward this, but we need closer examination in order to draw any conclusions. Further, it would be interesting to investigate what I have called the anti contraceptive discourse, by analysing texts from persons who support the anti contraceptive discourse.

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