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- An analyse about victim status -

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Abstract

This paper analyses the way victims of human trafficking are treated in court and if they are treated differently because of the purpose with the trafficking. With the use of discourse analysis and Social Constructionism as a standpoint this paper will also use Christie's theory about the ideal victim and feminist theory to establish if victims are treated differently and why. To create a better understanding for the crime and situations of the victims this paper will also briefly address the laws relevant.

This paper is based upon case studies and will use court documents concerning trafficking in human beings with the purposes prostitution and forced labour and will look at the ways they are treated by the legal system and by the court and if there are any differences. Using case studies will give this paper a result that looks a lot like reality which is coveted since this paper also aims to see if there are any differences between theory and practice in this matter.

The principle of equality has a prominent space in this paper as the question about different treatment in court goes against the Swedish constitution and if different treatment occurs it is vital to address this, not only because of the integrity of the Swedish legal system but also because of the human rights and every person's equal value.

Keywords: Human trafficking, prostitution, forced labour, victim status, victimisation, discourse, social constructionism, postmodern feminism, sociology in law.

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1. Introduction

1.1 Background

Being a victim of human trafficking might mean that you've been taken from your home to be exploited for others' winning. It might mean that you have no control over your life and that you are treated as a slave. Maybe you are now in a country where you can't speak the language and the only people you can rely on are the people exploiting you. If you are in this position it might be hard to escape and if you don't know where to seek help it might seem hopeless.

If you get any help and if your case reaches court there is still no certainty that you will get all the help you need since you might not even be considered a victim. Many of the victims of human trafficking come from poor countries and are in vulnerable positions when they become victims of human trafficking. This leads the Swedish courts to question if they are indeed victims or if they have alternative motives (Carlsson, 2013).

In 2011 a Rumanian woman was proven to be a victim of trafficking in human beings with the purpose of prostitution. Although she was proven to be a victim and thereby forced to commit acts of prostitution she was ordered out of Sweden because she was *pursuing a dishonest career* (TR B 8184-11; JO Dnr 4468-2011). In Sweden there is no law against selling sex and as an EU citizen the woman would under normal circumstances have the right to stay in Sweden. Still the government saw the need to restrict the woman's rights.

This leads to questions about what makes a victim a victim. Does a victim need to live up to certain standards to get a victim status and are there any differences between becoming a victim of a crime and being a victim? These questions are interesting from a sociology-in-law point of view as it shows that not everything is black and white. As it would seem in the former mentioned examples the law is quite clear of who becomes a victim and still it's not as clear in reality. The black and white area becomes a grey area and this grey area is what this paper intends to look deeper into.

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1.2 Problem and Purpose

If you were a victim of a crime and you were proven a victim by court it might seem natural that you would be looked upon as a victim by society. This is not always the case though and there is research that shows that victims will be treated more or less as a victim depending on the matter of their victimisation (Åkerström & Sahlin, 2001).

Not achieving a proper victim status can be problematic for the victim. This because being a victim of a crime is a stressful experience in itself and many people break down. If you're labelled as a criminal at the same time it might just be too much. Not getting proper help can also lead to a second victimisation and bad help or treatment can make the victim feel more like a victim than the crime itself did (Åkerström & Sahlin, 2001).

The Rumanian woman, Nicoleta, who was ordered out of Sweden, is a good example that not every victim of a crime withholds a victim status (Polisen A.047.069/2013, 2013; TR B 8184-11; JO Dnr 4468-2011). Questions about the woman's part in the story can easily arise as the woman came from a poor country and maybe did benefit a bit from the prostitution. The problems this can lead to is that the woman might not get the help she needs to process the things she was exposed to. In this case she was ordered out of Sweden and maybe going back to Rumania will mean that she again will become a victim of human trafficking.

In Sweden one fundamental principle is the equality principle which states that every person is equal for the law and that everyone should be treated the same way, no matter what nationality you have (Treaty on the Functioning of the European Union 18; The Swedish constitution § 1:9). When determining if a crime is committed the court will look at the intents; the objective and the subjective (Zetterström, 2010, p. 31). When it comes to objective intent it is quite easy being fair and treat everyone equal since it concerns something you physically did; took something, hit someone etc. When it comes to the subjective intent it is trickier since this shows what the suspects intentions was on a very

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abstract level; what he or she was thinking, aiming to do etc. which makes it harder to treat everyone equally.

The equality principle is vital also when looking at the victims since the credibility of the victim is vital for determining the sentence and if there actually was a crime. The way the victim is looked upon can therefore make or break the case. Because of this it is interesting to take a closer look on how victims are treated in court and if there are any differences.

This paper will use case studies to analyse if the victims of human trafficking with different purposes are treated differently. It will also look at what makes a victim and why it is that not everyone that is a victim of a crime is considered a victim. To do this the paper will take a sociology-in-law standpoint and work from the Social Constructionism theory and by using discourse analysis and feminist theories as well as Christie's theory about the ideal victim.

There has already been quite some work regarding the victims of human trafficking, mostly there has been law-related work that seeks to strengthen the laws to help the victims and to make it easier to condemn a criminal for trafficking in human beings. There is much work that suggests that it shouldn't matter if the victim consents or not, which would make it easier law wise to give the victim a victim status. There has also been improving work in the field of helping the victims after they've been declared victims of human trafficking and most countries today have made their laws on the subject much more effective in this field. Some work has also been done about the difficulties in helping the victims of human trafficking. The victims themselves might not label themselves as victims, they might not want to help the police for several reasons and they might not even know that they can get any help (Åkerström & Sahlin, 2001). With all this work done and all this knowledge about the subject today it is still questions about how we treat the victims and why. When we look at theory it seems that everything is covered and it is natural that a victim should be treated as a victim but this is not necessarily how it looks in practise. Therefore I find it

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of great value to research and analyse why different victims are treated differently.

This paper seeks to analyse if victims of human trafficking are treated differently because they had different purposes within the crime and if this is the case it would be interesting to find out why. This paper aims to create awareness about the problems that might exist when it comes to the victims and I find that this sort of analyse would benefit mostly organisations helping the victims but it might also be useful for the government to create awareness about the situation today and what improvements must be done.

The purpose of this paper is to confirm or dismiss these hypotheses:

H¹: The public and political discourse affects the courts in establishing if someone is a victim; not just a victim of a crime but also other aspects of being a victim and victimisation.

H²: Victims of trafficking in human beings are treated differently because of the purpose with the trafficking.

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1.3 Method

1.3.1 Qualitative case studies

This paper is going to use qualitative case studies to confirm or dismiss the hypotheses this paper is working around. This paper will address six cases that will be analysed with a standpoint in Social Constructionism and is also going to be examined by theories such as Nils Christie's theory about the ideal victim and feminist theory. I will use discourse analysis which is a method frequently used in Social Constructionism to show the social reality (Wenneberg, 2001; Laclau & Mouffe, 1985). The discourse analysis will in this paper be based upon court documents such as court sentences, police reports etc.

To determine what a victim is this paper will divide the term into two big parts; victim of a crime and the ideal victim. The paper will also address victim status and victimisation. It is important to clarify these terms as this paper aims to analyse why victims are treated differently if this is the case. To clarify these terms I will mainly use Christie's theory about the ideal victim and I will use this theory to test on all the cases to see if this theory influences the courts decisions. I will also use the United Nations declaration of basic principles of justice for victims of crime and abuse of power to establish who is a victim of a crime.

In the analysis this paper will besides discussing Christie's theory use discourse analysis to apply Social Constructionism and feminist theory on the cases. I will compare the different cases with each other as I am measuring the differences and therefore need to look at several cases. This case study is going to help create an understanding for this specific situation; the way victims of crime are treated when it comes to trafficking in human beings.

Since this paper will use case studies the result is going to look a lot like the reality which is vital for this paper since it aims to look at if there are differences between practice and theory (Andersen & Kaspersen, 2007). In Sweden, the principle of equality is fundamental but does it reflect in practice or is it just a good theory?

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1.3.2 Discourse analysis

This paper will use discourse analysis as a method to confirm or dismiss the hypotheses. The discourse analysis can be seen both as a method and a theory although in this paper it will mainly be used as a method.

In the 1990's the social constructionism theory was represented mainly by discourse analysis. The Discourse analysis theory evolved during mid-80's and builds on Foucault's studies in the 1960's that made the term discourse famous in the field of social sciences (Frølund Thomsen, 2007, p. 138). According to Foucault, words and terms are patterns that come from our experiences and assumptions. These patterns are what creates our awareness of reality and determine the way we act (Andersen & Kaspersen, 2007, p. 251). Foucault also states that discourse is a form of power that can be used for creating discipline and regulation. This discourse can be created in human interactions and then be reproduced in for example texts and documents. In this paper the discourse can be seen in documents like court orders and sentences, police reports and laws. These documents are not an objective reflection of society but socially constructed by the discourses in society, formally the political ones, at the time they were created.

The discourse is created by social participants in their attempt to define and construct the social reality. Laclau and Mouffe (1985) states that the term discourse is referring to a linguistic world and that we create our social reality with the way we define terms and use the language. Laclau and Mouffe (1985) argue that language is the only thing that can give a meaning to the social world. With this they mean that we cannot understand the social reality if we don't understand the terms and therefore the meaning of the social world lies in the language. The way we look at a woman victimized by human trafficking depends on the discourse surrounding the subject and the woman can be looked upon as a prostitute, victim or criminal depending on the way of the discourse. When a term is created it is always given a certain meaning that emotive the word (i.e. puts an emotional charge to the word) and this influences our social reality (Frølund Thomsen, 2007, p. 139). Another argument of Laclau and Mouffe is that we can only create knowledge and understand society through language. When we learn we create terms that helps us

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understand and explain phenomena's and our understanding of language is therefore vital for our understanding of the social world and society (Frølund Thomsen, 2007, p. 139).

The term discourse involves three dimensions; term, the social object whose identity is explained by terms and the human acts that at all time creates and changes the relation between term and social object (Frølund Thomsen, 2007, p. 139). Human trafficking is a new term and didn't exist until just a few years ago. This doesn't mean that the crime didn't exist. Prostitution, slavery etc. under human trafficking kinds of conditions has existed for centuries although the phenomena as an object didn't have a term defining it. The work that humans have put in to stop this kinds of crimes has created the need for a new term, hence the change of identity for the object human trafficking. This example shows how the discourse can be used to create our social reality about a phenomena and how our perception of something is influenced by the emotional charge in a term and our understanding of it.

1.3.3 Juridical method

There is a need to look into the legal aspect in this paper since it will be concerning the aftermath of legal decisions and in what way legal decisions are made. Whilst looking at the legal system I will use a juridical method. This means that I will look at relevant laws, government bills and legal practices (Bernitz, Heuman, Leijonhufvud, Seipel, Warnling-Nerep, & Vogel, 2010). Because this paper will focus on Sweden I will primarily look at Swedish law. Most of the Swedish laws are today adapted to EU law and therefore there will be some aspects of EU law in the paper as well.

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1.3.4 Selection

Between 2002 and 2011 there were 33 convictions of trafficking in human beings, which is not much (the Swedish National Council for Crime Prevention). I decided that the best way of getting the data I wanted I needed to look at court documents.

I used the services provided by Karnov and searched their website for court and law documents relating to trafficking in human beings. I there found several convictions having something to do with trafficking and limited the search to only include the documents where the offenders were sentenced for trafficking in human beings. I then started sorting the convictions after purpose and found that two purposes was the most common; prostitution and forced labour. The cases involving prostitution was outnumbering the cases handling forced labour and I chose to use three of the cases in this paper and then use the three about forced labour that I found. Many of the cases were similar to each other and I chose the three prostitution cases that showed different kinds of use of the victims.

1.3.5 Ethical Concerns

When analysing court documents, police reports etc. I have used the secrecy used in the original source. I have chosen to use first name only in the cases and I've used the real names since this is present in the original source and this is a public record. In the cases secrecy was used for the persons in the cases I've made up names if there wasn't already a name since it is easier to follow the stories this way and there is still no way of identifying the real victim.

1.4 Focus areas and limitations

This paper will be focusing on victims of human trafficking and the different ways they're treated although they're all victims of the same crime, only different aspects of the crime. The reason I chose to limit this paper to victims of human trafficking is that there are many purposes for trafficking people and therefore everyone will be used in a different way depending on what they were forced to do. Since it is one crime, it is easier to compare the different victims than if this paper were to use victims of different kinds of crime.

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Since trafficking in human beings is a global problem it would be interesting to look at the problem from a global perspective, although this paper is limited and there is simply no room for such an elaborate analyse. Therefore this paper will be limited to consider the victims of human trafficking in Sweden. The reason Sweden is the country of choice is the accessibility of information and because there are already much work done about victims.

When referencing to a law, this paper will always reference to Swedish law if nothing else is mentioned.

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2. What makes a victim?

Victimology is one area of Criminology that has flourished during the last decennia's both in Sweden and internationally. Although much research in Victimology surrounds the perpetrator there has been some work done about the victim itself and the interest of the victim increases (Åkerström & Sahlin, 2001).

Being a victim is not a thing; it's something objective and is defined by the participants' definition (Christie, 2001). As I'll be talking about later in this paper the discourse in society will establish who's a victim and who isn't. According to Christie (2001) the discourse in today's society has made it clear who will get victim status and I will include his work on this later on.

This paper will address victims of a crime, the ideal victim, victim status and victimisation, which easily can seem like clear terms that everyone knows, but I see the need to clear these terms as they are not so clear and they can mean different things depending on how we view them.

2.1 Victim of a crime

In Sweden there is no legal term that defines who is a victim and not even victim of a crime is mentioned. Therefore it can be complicated to determine who is a victim and who isn't. Since the term victim of crime is recurring in this paper I find that there is a need to define the term to create a better understanding.

This paper will, when referring to *victims of a crime* use the United Nations definition that they adapted 1985 in their "Declaration of basic principles of justice for victims of crime and abuse of power".

This states that a victim is a person who has suffered harm or substantial impairment of their fundamental rights, through acts that are in violation of criminal law operative within Member States, including laws that proscribe criminal abuse of power (UN General Assembly, 1985). A person that qualify in this description should be considered a victim regardless of if the perpetrator is identified, prosecuted or convicted and also regardless to any familial relationship the victim might have to the perpetrator. The term victim will also, when appropriate, include immediate

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family or dependents of the direct victim and persons who has suffered harm in assisting the victim in distress. This definition applies to everyone and race, ethnicity, language or other cultural difference may restrict this.

2.2 The ideal victim

Just because you were a victim of a crime doesn't mean that society will look at you as a victim and give you victim status. Christie (2001) argues that there is an "ideal victim" that after being exposed of a crime easier obtains victim status. Several criteria's dictates if society will regard a person to be a proper victim; she needs to be weak, occupied with a respectable project and be in a place she cannot be blamed for being in. Also the perpetrator should be big, evil and without a personal relation to the victim (Christie, 2001, pp. 47-48). Basically the victim must be weak enough to not be a threat to anyone's interests but still strong enough to be heard and make people notice them so that they can claim the victim status.

Many times the ideal victim is not the real victim. With that Christie (2001, p. 57) means that the people that falls under the category of ideal victims usually isn't the people that actually get affected by crime. Instead people that won't be considered as ideal victims are the people that more often are exposed to crime, such as the young man in a pub becoming a victim of assault (Åkerström & Sahlin, 2001, p. 11). An ideal victim is scared that crime will happen and that they will in fact become victim where as people not included in this category knows crime could happen but isn't anxious about becoming victims themselves (Christie, 2001, p. 57). By emphasizing the ideal victim society might disable the people that would fall under this category from living a normal life as they would get to afraid and to anxious.

2.3 Victim status and Victimisation

Victim status creates sympathy and empathy and the victim is assured that what happened was not his or her fault (Åkerström & Sahlin, 2001, p. 21). Because of this it can be in many peoples interests to achieve victim status either for them self or for people they care about. Women are one group of people that in later years reached what we can say is proper victim status. Women being abused in their homes are

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now considered to be victims something that has taken a long time to change. For the abused women this means that the help system is bigger and it is easier to get out from an abusive relationship or situation. By making a group or category of people as victims they are made in to a social problem and a public debate is created to take care of this problem (Åkerström & Sahlin, 2001, p. 21).

Although many people see the benefits of achieving a victim status some groups and categories of people oppose it. Being a victim does not only suggest that you didn't do anything wrong, it also implies that you are defenceless and that you have some need for protection. This can make people feel weak and although people in general like sympathy we as humans also like to be in charge and feel like we can live our lives competently, something that gets disarmed by the victimisation (Åkerström & Sahlin, 2001, p. 21).

One problem that occurs because more and more groups and categories of people are considered victims is that the term victim gets watered out. When everyone becomes a victim, who is then really a victim? The more people that are considered victims the more blunt the expression is going to be and this may have a negative influence on the help the victims can get. Christie (2001, p. 50) argues that the more independent status women gets the more useful can it be to achieve victim status although this will also add more responsibility to the women since they then should now how they can help themselves and if they don't it might be seen as their own fault. Also by continuously fall under the victim status category of people will force women to accept that they will always have sub ordered position and not be seen as equally strong and capable as men (Christie, 2001, p. 58).

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3. Juridical aspects

In the government bill 2009/10:152 trafficking in human beings is described as a complex crime with many elements. In the government bill human trafficking is portrayed as ruthless and a cynical abuse of people as they are often put in a position that makes them addicted to the people exploiting them.

It's worth noting that trafficking in human beings is a crime that can be committed both nationally and internationally (Government Bill 2009/10:152). Condemning someone for trafficking in human beings is a difficult process since the prosecutor needs to prove that the victim was forced. Because of this difficulty most people are condemned for procuring instead, since the only prerequisite in this case is that the offender made an economical profit and there is no need to prove that any force was used.

3.1 The Swedish penal code

The Swedish penal code consists of the penalties for different crimes and the prerequisites needed for something to be considered a crime. The penal code is divided into several chapters with every chapter consisting of a special form of crimes. For example the 4th chapter is about crimes against freedom and peace and the 6th chapter is about sexual crimes.

3.1.1 4th Chapter 1a § - Trafficking in Human Beings

In the 4th Chapter which is about crimes against freedom and peace we find the law that deals with human trafficking. The law is an expansion on the law against kidnapping and unique for this law is that not every prerequisite needs to be carried out for the deed to be considered a crime according to this paragraph.

This paragraph states that if anyone with illegal force, misleading or in other ways exploit someone's vulnerability and with any of these means recruit, transport, transfer, store or in other ways exploit a person for sexual labour, removal of organs, warfare, forced labour or other activity that will cause distress for the victims are condemned for *trafficking in human beings* to prison at least two years and at most ten years.

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As not every prerequisite needs to be fulfilled to condemn someone according to this paragraph a person who only transported the victims can still be charged with trafficking in human beings although they were only involved in a small part.

3.1.2 6th Chapter – Sexual Crimes

Chapter 6 of the penal code deals with sexual crimes. In Sweden there is no law against selling sex and there are known cases of people carrying out prostitution as a legal business (First Prostitute with notice of tax assessment for self-employed persons, 2005). Although it is legal to sell sex it is illegal to buy sex. This means that even though you are a prostitute you shouldn't be able to support yourself on this since there shouldn't be any clients.

The 6th Chapter 11 § of the penal code states that a person that obtain a sexual liaison against compensation should be condemned for *purchase of sexual services* to a fine or prison at the most one year.

Another crime in the 6th chapter of the penal code that is of great interest to this paper is the law against procuring. This law is found in the 12 § and states that makes an economical profit because of another person's sexual services is condemned for procuring to prison at the most four years.

People who've been letting out a flat or other space knowing that this place is used to gain from sexual services and didn't end the lease is considered making a profit on the crimes and can therefore be prosecuted for procuring as well. In cases of gross procurement the penalty is prison in at least two years and at the most eight years.

3.2 Immigrant law

The Immigrant law treat immigrants' rights in Sweden; their right to reside within the country, work permits, grounds for ordering someone out etc. This law treats who will get a residence permit and who will not.

According to the immigrant law's 8th chapter 2 § 1st passage 2, either the police or the Migration Court can order someone out of Sweden. This means that if the police find someone that they think isn't allowed to stay in Sweden they are allowed to

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order them out, as was the case with Nicoleta whose case I will address later on in this paper.

3.3 2004/38/EG

According to this EU-directive any EU-citizen can move and reside freely within EU territory for three months. After three months you will need a reason to move and reside freely in this territory. This reason might be studies, work, relatives etc. and is also granted to EU-citizens families, no matter of their nationality. This right can be restricted if you are endangering the public health, security or policy and the principle of proportionality shall be taken into regard when making any restrictions.

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4. Sociology in law

Sociology in law aims to describe the social reality with the justice system as part of this reality (Mathiesen, 2005, p. 14). Mathiesen (2005) uses the term *law cultures* to explain the phenomena that although we have only one legal system, the use of law can differ between groups and parts of society. Law cultures are different norms that develop and mint the way we use law (Mathiesen, 2005, p. 207).

Courts are under a lot of pressure from public and political legal debates that might have an influence on the way they look at different legal questions (Mathiesen, 2005, p. 137). To show this Mathiesen uses the example with the Norwegian director Arne Treholt who was accused of espionage on behalf of the former Soviet Union in the 1980's. His guilt was established long before the court hearing started and although there is no proof the court was influenced by this the risk should be considered (Mathiesen, 2005, p. 138). Also we can use the example with the Swedish Migration Court that stated that the public and political discourse targeting prostitution and trafficking in human beings is harsh in Sweden we must look at actual laws, that in the case of Nicoleta made a big difference and she was allowed to stay in Sweden (UM 832-11, 2011). With this latter example it is clear that the judgement the police and court instances made before was coloured by the public discourse and not entirely based upon laws.

Sociology in law questions if some laws are in reality equal or if they cover the inequalities that exists in reality with something that formally looks equal. For example a law forbidding people to sleep under bridges applied to everyone, but not everyone would have the need to sleep under a bridge and we can assume this law would in reality only concern poor people living in the streets (Mathiesen, 2005, pp. 192-193). We can also see that most people that are incarcerated are from what in Sociology in law can be described as lower classes and socially more exposed groups; lower class workers, foreigners and drug abusers etc. (Mathiesen, 2005, pp. 194-195).

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4.1 Social Constructionism

According to social constructionism the human being is a social creature and our consciousness is a product of social interactions. Social constructionists are careful to determine social actions as natural since there are many cultural variations on how we interpret and act out our emotions (Wenneberg, 2001, p. 11). The reality is created in our consciousness and the best way of understanding the human being is to learn about the systems she through her social relations builds up (Helkama, Myllyniemi, & Liebkind, 2000, p. 60). According to Social constructionists the environment already exists and is not a product of discourse (Banakar & Travers, 2005, s. 235).

Our knowledge and the things we see as facts are constructed socially, through language and the understanding we have of it and one part of social constructionism theory that is interesting for this paper is knowledge sociology. This paper is going to focus on knowledge sociology in the way that Berger and Luckmann describes it; they state that unlike traditional knowledge sociology their version includes not only theoretical knowledge but also everyday knowledge (Wenneberg, 2001, p. 71). The three central statements of their theory are; society is a product of humans, society is an objective reality and the human being is a social product. To connect these three statements Berger and Luckmann will use the terms externalisation, objectification and internalization (Wenneberg, 2001, p. 71).

This theory builds on the logic that human beings will create habits that later on will become externalized and spread to other people which create institutions in society. These institutions are socially created but they already exist when a child is born, this child will then learn about the institutions that they cannot ignore; for example they will learn about money and the value that human beings has given it. An objectification happens when the social reality exists no matter of the people who live in it. When the children learn the ways of the social realities norms and institutions the child is internalising and thereby becoming a social product. (Wenneberg, 2001, pp. 71-72)

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4.2 Feminist theory

Feminist theory is interdisciplinary and builds on the women's view. What this means is that feminist theorists have been looking at different theories and applied a woman's perspective on them. Although feminist theories take the woman's perspective the theories aim is to find the answer to how they can make the world a better place for everyone (Ritzer, 2010, p. 370). Essential questions for a feminist theorist are (1) what about the women, (2) why are things the way they are, (3) how can we make the social world a more just place for everyone and one more recently added (4) how should we remain to the differences between women (Ritzer, 2010, pp. 369-370)? Postmodern feminism differs from other feministic theories in the aspect that they do not include the first question. Postmodern feminism has its origin in the academic world whilst feministic society has its roots in social activism (Ritzer, 2010, p. 394). The postmodern feminism use a more complex vocabulary and discourse is an essential part of the theory and the way they look at society.

One important contribution made by feminist theorists is the implementing and change of the term gender. This divides into a biological aspect about what is male and female and the socially learnt behaviours that are associated with male (masculinity) and female (femininity) (Ritzer, 2010, p. 370). When it comes to postmodern feminism the gender discourse is looking a bit differently. The fact that there are two biological sexes is questioned by many feminists and postmodern feminists and even if we accept this as a true fact there are still questions about gender and postmodern feminists don't see the "logical" connection between the female sex and the feminine gender. Because of this postmodern feminist questions the term *woman* and what is put in its meaning. If the term woman is only referring to the biological sex it is not valid to use as a political identity and if the sex dictates the gender then the gender can't be changed through politics (Ritzer, 2010, p. 397). Also the postmodern feminists questions who is a woman and they think that there is no such thing as a male or female "I" that will dictate your acts as something gendered that makes up the core of who you are and what gender.

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Some feminist consider the postmodern feminism to attain introversion although it has opened up feminist theory to a broader field. Whilst feminism usually is accused to think at society from the white, Christian woman in the western world, postmodern feminism opens up for other categories of people (Ritzer, 2010, pp. 370, 397-398). Postmodern feminism includes people no matter of their race, age, religion, sexual preferences, ethnicity, geographical position etc.

Feministic theory has it basis in knowledge-sociology since the knowledge output is a part of the power system that controls all outputs in society and this knowledge the feminists wants to influence and change so that oppressed groups of peoples standpoint establishes (Ritzer, 2010, p. 398). It is interesting from a postmodern feminist view, whose knowledge and definitions we are using. Feminists also try to prioritize the weaker groups and give their standpoints a chance to stand up against more powerful groups and views.

Feministic theory goes in the same direction as Marxism when it comes to the assumption that society is divided into collectives. Marxism divides society into owners and workers and feminists have added the third collective women.

Why should we believe you?

5. Cases

Sentencing someone for trafficking in human beings is a difficult process as there is seldom any proof other than the different parties of the case stories. The stories are often contradictory and it is not easy to decide which story is the most accurate one. As Carlsson (2013) stated in his journal article the Court of Appeal many times dismisses the victims as credible because of their situation. Many times they're very poor and therefore it is questionable if their telling the truth because they would gain by lying. As I've seen, going through many different cases, women working as prostitutes is often questioned and although the evidence many times seems clear a conviction is not always issued.

Being victim of human trafficking is not always easy and many times you will have to go back to a situation where you might end up being a victim for the same crime again and the Swedish Administrative Court of Appeal stated in case UM 9578-10 that being victim of trafficking in human beings is not a reason for gaining a residence permit in Sweden.

When it comes to children being exposed for this sort of crimes there is another way of looking at this and just because of their age a conviction can be made as we can see in the case with the Rumanian boys. Although even here we can see that a woman used as a prostitute gets questioned and in the case of Honeybell the question arises if she is not lying about her true age.

5.1 Nicoleta

5.1.1 Background

Nicoleta is a Rumanian woman who came freely to Sweden to pursue prostitution as a career and evidence shows that she was brought to Sweden by Rumanian men who brought other women to Sweden as well for the purpose of prostitution. Nicoleta and the other women were locked in flats with no way of getting out if the men that ran the operation didn't let them out. The women were allowed to keep some of the money they made from the prostitution, different amounts every time but never more than 50 per cent. The women had housing since the men locked

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them in but everything else they had to pay for themselves and they didn't receive anything for free. With the help of witness testimony and phone-tapping these women were proven to be victims of human trafficking and the men taking advantage of them received imprisonment and were ordered to pay damages to the women. (TR B 8184-11)

Nicoleta was later ordered out of Sweden along with 12 other women because she was in Sweden to pursue a dishonest career and therefore the Swedish police restricted her rights according to the Immigrant law. Nicoleta questioned this and the prostitution group of Gothenburg appealed the matter to the Swedish Parliamentary who later supported the police in the matter and found no reason to why she shouldn't be ordered out. (JO Dnr 4468-2011)

Noteworthy is that in the police rapport about ordering the women out the police gave the reason that Nicoleta was in Sweden to pursue a dishonest career whilst the other women was ordered out because they failed to show valid documentation. In the latter case the ordering out was nullified whilst Nicoleta's wasn't, although they were all in the same position originally. (Polisen A.047.069/2013, 2013)

The case was appealed to the Migration Court though and there they found that the woman's rights couldn't be revoked by the immigrant law because of her EU citizenship. The Migration Court found that if the woman where not an EU citizen there were grounds to order her out but according to 2004/38/EG prostitution is not harsh enough crimes to order someone out. They found according to precedent that crimes that do not reach a penalty of two years imprisonment is not harming the state enough to have someone's rights restricted. Prostitution is not illegal in Sweden although buying sex is, but as this crime would only give six months imprisonment it cannot be seen as harmful enough. (UM 832-11)

5.1.2 Victim Status

In the case with Nicoleta it is clear that she is not seen as a victim and she is getting labelled as a criminal, although she never committed any crime.

Why should we believe you?

If we look at the case from Cristie's perspective there are several reasons to why Nicoleta won't achieve a victim status although she is in fact victim of a crime. First of all Nicoleta is not weak. She came freely to Sweden to earn some extra money although her situation wasn't that vulnerable and she did get by. She also had the strength to contact a prostitution group who would give her support in the matter and who stood by her. Secondly Nicoleta was not pursuing an honest, respectable project. She was pursuing prostitution, which in Sweden is not illegal but it is seen as dishonest and a lot of effort is put into stopping it. Thirdly Nicoleta was not in a place she couldn't be blamed for since she came here freely and also pursued the career freely she put herself in this position. Although she did not expect to be taken advantage of in these ways she did make a choice to join the "enterprise".

When it comes to the roles the offenders played, they are not portrayed as big and evil. Surely they did lock the women up but they also took some care of them. They followed them when they was working and was always in contact with them. They also gave them housing and they did give them some of the money they'd earned. A third criterion when it comes to the offender that dictated if someone is an ideal victim is that the victim shouldn't have any relations to the offender. In this case Nicoleta knew one of the offenders before she came to Sweden and she created some sort of relation to the other offenders during the time she was working for them.

5.2 Rumanian women

5.2.1 Background

Two Rumanian women, Anna and Bianca, came to Sweden after having contact with a man of Rumanian decent. The man, Catalin, had posted adds on Rumanian websites looking for prostitutes who wanted to come to Sweden. Catalin assured that everything was going to happen the legal way and the women would make a profit of 6.000 € a month and housing, food and transport would be free for them as well. The women were told six other women were working for Catalin at the time and contact over time led Anna to create a trust for Catalin. They both had also met

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earlier in Germany when Anna was working as a prostitute there. (TR B 4188-11, 2011)

Catalin bought bus-tickets for the women so that they could come to Helsingborg in Sweden and when they arrived at the bus terminal Catalin and Bogdan met them to take them to their housing. Catalin and Bogdan brought the women to a small town outside Helsingborg where they would stay with Bogdan whilst waiting to get to Stockholm where they would work in a sex club. In the meantime the women were to sell sex locally instead and Catalin and Bogdan took them to several customers. Catalin got the payment and he promised to give the women their cut, but they never got any money because Catalin said they owed him money from the bus-journey etc. Both Catalin and Bogdan had sexual intercourse with Bianca promising her money which she never got. (TR B 4188-11, 2011)

Eventually the women fled the flat where they were staying and jumped on the train with the plan to go to Copenhagen where they might get some help getting in contact with their families. They didn't have any tickets and the train conductor contacted the police after observing the women for a while as she suspected they were victims of a crime. (TR B 4188-11, 2011)

The evidence was built up by testimonials from the women and the men, phone-tapping and other documentation that showed the contact Catalin and Bogdan had with each other and the women. The District Court sentenced Catalin to prison for two years and six months for trafficking in human beings. Bogdan was sentenced to two years in prison for assisting with trafficking in human beings. (TR B 4188-11, 2011)

This was later appealed and the Court of Appeal changed the classification and sentencing of the crime. Bogdan was sentenced to prison in ten months and Catalin was sentenced for gross procuring to prison in two years. The reason the Court of Appeal changed the sentences was in the case of Bogdan that knowledge of misleading the victims could not be verified and therefore he could not be sentenced for trafficking in human beings. In the case of Catalin the Court of

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Appeal concluded that Catalin did not have a position of power over the girls, also one of the girls knew a bit of English and therefore they weren't as vulnerable. (HovR B 111-12, 2012)

5.2.2 Victim Status

Although this case isn't a human trafficking case in the beginning the sentence was trafficking in human beings at first and therefore I still think this case is good for this paper as it shows how the view of the victims can change a verdict since much evaluation of these crimes lays in facts that are very abstract; were they forced, are they lying etc.

Christie would say that these women were not weak. They came to Sweden freely and they had looked things up before coming. Although the information was misleading they knew what they were supposed to do and they had also shown that they had knowledge about the risks involved through the contact they had with Catalin before coming to Sweden. The project was not respectable as they were going to work in a sex club as prostitutes and they did work as prostitutes before coming to Sweden. They came to Sweden freely and they even offered to pay for their own bus-tickets after missing a first bus (TR B 4188-11, 2011) and therefore they can be blamed for being in this place and situation. Also they were not locked in and although they barely could speak any English or other language assumable spoken in Sweden they could probably do something about their situation and they could leave.

The women had created a relation to Catalin beforehand and they'd spoken to him a lot before coming to Sweden. Also Bianca had sexual intercourse with both offenders and the offenders were not portrayed to be big an evil as they never did put them through any physical violence. This is also vital for the victimisation and the women did not achieve victim status in this case because they, according to Christie's (2001), didn't live up to the criteria's for an ideal victim.

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5.3 Honeybell

5.3.1 Background

Honeybell came from Nigeria to Sweden after being contacted by her cousin Faith who wanted her to come. Honeybell later came in contact with Aisha who told her that coming to Sweden would cost her 50 000 euro and Honeybell had to make an oath during a voodoo ceremony that she would give Aisha the 50 000 euro. In the oath Honeybell had to swear that she wouldn't press charges against Aisha, sleep with Aisha's husband or cheat Aisha off money or Honeybell would die. Honeybell didn't know how much money 50 000 euro was and she didn't know what she was supposed to do in Sweden to get the money for Aisha. When Honeybell and her mother was told it was Aisha's brother that was going to bring Honeybell to Sweden they thought she were to marry the brother and she didn't mind and Honeybell thought it would be her future husbands' duty to pay for the trip as soon as they were wed. After the ceremony Faith contacted Honeybell and told her Aisha was a bad person and that Faith would come down and get Honeybell to Europe but at this point it was too late since Honeybell had already sworn the oath. (HovR B 87-11, 2011)

Honeybell was sent to Cameroon to get a passport sorted and later came back to Nigeria. It was in Cameroon Honeybell learned that she was supposed to work as a prostitute when she came to Sweden. Honeybell had never worked as a prostitute and she had never had sex with her boyfriend although she was not a virgin since she was raped as a child. But there was nothing she could do about it at this point since she'd already sworn the voodoo oath. (HovR B 87-11, 2011)

Because of trouble when Honeybell where supposed to travel to Sweden Aisha told Honeybell that she was no longer wanted but that she would still have to pay the 50 000 euro. Honeybell then begged Aisha to still let her come and Aisha said she could but it would cost her 10 000 euros extra and Honeybell had to go through another voodoo ceremony making another oath. This time not only Honeybell would die if the oath was broken but also her family. (HovR B 87-11, 2011)

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When Honeybell came to Sweden Aisha was the one who booked customers for her and arranged so that Honeybell would get back and forth. Aisha also showed Honeybell how to arouse and please the customers. Honeybell got the money from the customers and gave them to Aisha who made sure she wasn't keeping anything in the dark. Besides the 60 000 euro debt Honeybell had extra debt she didn't counted on, such as rent, food and other necessities that Aisha paid for her. Honeybell also had to pay for ads that Aisha put up and she paid about 2 000 euros a month for this. Aisha and Françoise kept a close eye on Honeybell and they had opinions about what she ate and what she wore. Honeybell wasn't the only girl in this position and the other girls had about the same story as Honeybell did. Aisha had started off as a prostitute herself but was nowadays a "Madame", i.e. she had girls under her that she benefited on. (HovR B 87-11, 2011)

When Honeybell wasn't making enough money she was sent to Stockholm where she would get more customers. The money Honeybell made was still sent to Aisha and someone was looking after her at all times. (HovR B 87-11, 2011)

On November 24th 2009, Honeybell was supposed to meet a customer but instead she met a police officer. Honeybell was sent to a doctor where they found out that she was suffering from infections and tuberculosis. Honeybell cannot return to Nigeria because of Aisha's stepmother and family there. When Honeybell's mother went to the police she was abused. (HovR B 87-11, 2011)

Aisha was sentenced to prison for six years for trafficking in human beings.

5.3.2 Victim Status

Honeybell to achieve victim status in this case if we look at Christie's (2001) criteria's; she was weak since she was both young and in a very vulnerable position. When she was found by the police she was also ill and she couldn't go back home to her family. When it comes to her project, it is not really respectable but since she was under the assumption that she and her family would die if she didn't precede with it her reasons for doing this was respectable. Also she had never had sexual intercourse freely and therefore she might be seen as more "pure" and without

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dubious motives. She was in a place that she couldn't be blamed for. This because she was coming to visit her cousin and even though she thought she was going to marry some man to come to Sweden, arranged marriages is not uncommon where Honeybell comes from. Although she did learn before coming to Sweden that she was going to work as a prostitute she couldn't do anything about it since she was sure that she was going to die if she didn't.

When it comes to the offender, Aisha was older and she had complete control over Honeybell. She treated Honeybell as an object more than a person and because of this she can be seen as both big and evil. Honeybell didn't have any relations to the women in the beginning either. It was her cousin Faith that started the contact and then had Aisha contact Honeybell. All this criterion's both the victim's and the offender's makes Honeybell an ideal victim and she achieves victim status.

5.4 Rumanian boys

5.4.1 Background

In 2009, Elvis and Vasilica brought two 16 years old boys from Rumania to Sweden for the purpose of working. Elvis had insured the boys' families that work and housing was already set up and all they had to do was to go to Sweden. The parents of the boys then issued a power of attorney that allowed Elvis and Vasilica to bring the boys out of the country. It later showed that the address Elvis gave to the parents was to a prison in Finland and when the four of them came to Sweden there was no work or housing set up. Elvis and Vasilica stole cars that the four of them lived in before arranging a flat. They supported themselves by stealing and although the two under aged boys were not forced to steal they were according to the Court of Appeal put in a position where they really didn't have another choice. (HovR B 9732-09, 2010)

The four of them stole cellular phones although Elvis was the only one who had money on his and was therefore the only one that could make outgoing calls. The boys were allowed at times to get in touch with their families and they had some

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freedom although they were in some ways controlled by Elvis and Vasilica (HovR B 9732-09, 2010)

The District Court dismissed the charge trafficking in human beings and only sentenced Vasilica to prison for theft and assault. This was appealed and in the Court of Appeal both Elvis and Vasilica was sentenced for trafficking in human beings to prison and later they're both ordered out for five years. Because of the nature of the crimes they committed they are ordered out although they're both EU-citizens. (HovR B 9732-09, 2010)

The two boys, Radu and Catalin, were alongside Elvis and Vasilica ordered out of Sweden by the District Court. This was later appealed and the Court of Appeal decided to dismiss the ordering out of Radu and Catalin with the motivation that they were in fact victims of trafficking. (HovR Ö 2179-12, 2012)

5.4.2 Victim Status

This case is not as clear as the previous cases and it is not as easy to determine if they are in fact victims or not. Although I think that if we look at the case from Christie's point of view the boys do not achieve a status as ideal victims. This because they were not up to a respectable project, they could be blamed for being in this place and position and they were not weak. It might be stated that because of their adolescence they could be considered weak, they wanted to go and they persuaded their parents to let them come to Sweden. They might even have lied to their parents and there are indications that they knew what they were going to do. They weren't displeased with their situation and found it to be okay.

The offenders created a relation to the boys and their families and the boys' families trusted them enough to issue the men power of attorney over their sons. This gives an indication that these men were not big and evil and although there was some physical violence this wasn't frequent. And even though we would accept the offenders as big and evil all the criterion's are not fulfilled and therefore the boys do not achieve the status of an ideal victim.

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5.5 George

5.5.1 Background

George grew up in Rumania, first with his mum and later in an orphanage. George is mentally challenged and spent his days begging to get an income. Adriana and Bujor took him in and let him stay at their house where he helped with easier house labours. Adriana and Bujor are married and together they have four children and they state that they took George in with the thought that he could marry their oldest daughter. Instead they took him through Europe to finally come to Sweden where they used him for begging. George spent his days in Sweden begging in the streets and then he had to give all the money he made to Bujor and Adriana. If George didn't receive enough money from begging they sent him right back out and he had to stay in the streets until he had enough. When George one day disappeared Adriana went to the police where she found out that he was put in a facility. Adriana and Bujor claims that they couldn't find the address to this facility and went back to Rumania without George. (HovR B 6263-10, 2010)

Although George is mentally challenged his story is very credible and the courts estimated that George would not be able to come up with a lie of this calibre and stick to it. George was satisfied with the way he lived and he lacks a common knowledge and understanding of what Adriana and Bujor did to him. The District Court sentenced Adriana and Bujor to two years of imprisonment for trafficking and human beings and are later to be ordered out because of the severity of their crimes. The Court of Appeal later changed the sentence so that the imprisonment would be for three years. (HovR B 6263-10, 2010)

5.5.2 Victim Status

Once again we put on Christie's glasses and what we see is someone that could potentially be an ideal victim. George is mentally challenged and is therefore weak. He cannot always make right from wrong and he depends on the people in his life. Begging is not something that is illegal in Sweden and although it is something that is disliked it can still be seen as a respectable project. In this case because George was mentally challenged and he also only had one arm (HovR B 6263-10, 2010).

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Also he was made to beg and even though that is what he did before Adriana and Bujor took him in he was now doing it for another purpose. George could not be blamed for being in Sweden because he went with Adriana and Bujor that either might have made him come or George begged them. But even if George begged them he could be excused since Adriana and Bujor was taking care of him and if they weren't around George had to take care of himself again and go back to living in the streets.

When it comes to the offenders, Adriana and Bujor, they might be seen as evil because they took advantage of George, but they were also taking care of George. They gave him a home and fed him and they were like a family to George. They did therefore have a relation to each other and as the situation might be seen as Adriana and Bujor taking advantage of George it might also be stated that this is what George was spending his days doing anyway except now he also got food and lodging.

In this case I would say that George is not an ideal victim. George does live up to the criteria's and he is for sure a victim but since the offenders are not ideal there can be no ideal victim and George therefore does not achieve the ideal victim status.

5.6 The berry pickers

5.6.1 Background

Iliya and Romyana recruited people from Bulgaria to come with them to Sweden, to work as berry pickers. Iliya told the workers that they would have to pay for the trip to Sweden and that if they couldn't pay that they would take it from their share of the income. Otherwise the profit would be split fifty-fifty between Iliya and the worker. (TR B 2220-11, 2012)

When the workers came to Sweden, most of them had to live in a toilet, whilst Iliya and Romyana lived in a broken car in a garage. Later on the workers were allowed to move into the car although it wasn't located in a garage anymore. Iliya and Romyana then lived in an old school building that was condemned but they still had heating and restroom available. The workers did have access to cold water but there

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was no access to showers. The food they ate came from containers outside supermarkets and they went out to find food under Iliya's supervision.

Two of the workers tried to leave but Iliya then took up a knife and threaten to kill them if they tried to leave. Threats about the workers lives and that they would be sold off to gypsies was a daily feature for the workers. Also Iliya kept their passports locked up and they couldn't get a hold of them. I was only one of the workers that ever got any money and this worker was an old friend of Iliya. (TR B 2220-11, 2012)

A Bulgarian man that the workers met where they sold the berries helped two of the workers to contact the police and the police came with them to Iliya to get their passports and money and Iliya denied that he was withholding anything from them and that they could just ask for their things and they would get it.

Iliya and Rumyana were both sentenced for trafficking in human beings to prison in ten months and thereafter they were ordered out of Sweden. (TR B 2220-11, 2012)

5.6.2 Victim Status

This case again is not so crystal clear. The victims cannot be seen as weak as they were all grown people making a decision actively and no victim was travelling without known company. Although many of them were poor they did make the decision knowing that they probably wouldn't get any money whilst being in Sweden and they therefore knew that they would be living poorly there. They were pursuing an honest project, picking berries which in no way could be hold against them. If they can be blamed for being in this place I would say yes and no. They did actively chose to come to Sweden and work under circumstances they did not know of but on the other hand, being in a forest picking berries is not someone would be blamed for. Also threats from Iliya and Rumyana made the victims stay because they were afraid for their health.

When it comes to the offenders they can be seen as big and evil. They lured the workers to Sweden under what was assumed to be false pretences; they threatened them and arranged for them to live under disgusting and insanitary conditions. The offenders had relations to some of the workers and did create a relation to the ones

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they didn't know on beforehand and made them come along with them to Sweden. Therefore we cannot say that the victims didn't have any relation to their offenders.

If we take a look at these facts the victims can be seen as both ideal and not ideal and the offenders can be seen almost as ideal. For Christie's (2001) label ideal victim we need the entire criterion's fulfilled and therefore I think that these workers cannot be seen as ideal victims. Not all of the workers would even be considered victims of a crime since one of them did get the deal he was promised at least partly (TR B 2220-11, 2012).

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6. Analysis

Looking at the cases presented it is clear that some form of difference in the treatment occurs. The difference may of course lay in the fact that the female victims in most of the cases are over 18 years of age and the men featured are in all but one case under aged or mentally challenged. Therefore it might seem natural that there'd be some difference in the treatment as this latter one's belong to vulnerable groups and are better protected by laws.

This can also be explained with Mathiesen's (2005) term law cultures that states that different norms mint our way of making legal decisions and can lead us to treat different victims in different ways. As he addresses the problem that courts undergo a lot of pressure from the public and political discourse is shown when it comes to the cases concerning prostitution. Because this subject is a "hot potato" in Swedish politics and lots of resources are put into stopping it the courts might feel compelled to live up to this and use government bills and other law texts outside of the actual law to make these decisions. As stated several times in this paper prostitution is not illegal in Sweden but buying sex is; therefore this action cannot be made without any criminal act, by the use of government bills for this law we can see that although prostitution is not illegal it should be seen as dishonest and thereby there are law oriented texts the courts and police can use to support the public discourse in the matter (Government bill 1997/98:55, p. 104).

Social constructionists would debate that the difference in the treatment lies in our perception of the reality and in the social construction of the different kinds of crimes. We have internalised the fact that prostitution is something bad and it has almost become a habit to treat these cases in a certain way. Repetition of this habit will decrease the alternative ways of handling this situation and when making a decision we are using the knowledge that has been institutionalised in us whilst growing up (Wenneberg, 2001). The article written by Carlsson (2013) shows that the court have an opinion about the people who usually becomes victims of trafficking in human beings and this is seen as a reality in the objective world that we've institutionalised (Wenneberg, 2001).

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To address the principal of equality we can also see that this doesn't fully apply in the case of victims from abroad; when assessing the vulnerability of the victim the Swedish court did not look at the cases from Swedish standards but from the standard of the country each victim came from. This means that Rumanian victims or Nigerian victims will not be treated the same way as Swedish victims since what we in Sweden see as a vulnerable position might not be seen as vulnerable in Rumania or Nigeria (TR B 8184-11; TR B 4188-11, 2011; HovR B 111-12, 2012; HovR B 87-11, 2011).

6.1 The Ideal Victim

As we can see in the cases everyone is a victim of a crime but not everyone achieves status as the ideal victim. What we also can see is that the victim status such as Christie (2001) presents it doesn't always have an impact in court, i.e. even though someone falls under the category ideal victim does not necessarily mean that they are treated as such by court. For example Honeybell is an ideal victim according to Christie's criteria's but she is still questioned by court. Honeybell had valid documentation that confirmed that she was 16 years old when she came to Sweden and her abuse started; still the court questioned this and thought that she must have been older (HovR B 87-11, 2011). This has a great importance when it comes to setting the penalty for the crimes she was exposed to and also this can affect the help she can get. On the other hand we have the Rumanian boys that were also under aged. They wanted to be in Sweden and they did not mind stealing to pay for their stay; they are not ideal victims and still they were not questioned and it was clear to the court from the start that they were indeed victims (HovR B 9732-09, 2010).

One reason to the fact that it is not Christie's criteria's about the ideal victim that dictates the way the victims are treated in court might be that although it's been polished he founded these criterion's in 1985, when the society and discourse was different than it is now. Although we can still see that a lot of the theory is valid today there are a changed dynamic in society and the political discourse has made new groups considered victims. When Åkerström and Sahlin wrote their book in

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2001 a lot had already changed, especially women's place in society and the view upon domestic violence (Åkerström & Sahlin, 2001). Today there's gone by twelve more years and even more has changed. Although Christie's theory is still useable it needs an update and to find out how we should update this we need to look at the discourse.

6.2 The Discourse

Through this paper it has become clear that it is the public and political discourse that establishes the way we look at the victims and how we treat them. For example we can see a clear difference in the way the victims are treated depending on what the purpose was of their trafficking. The women that were used for prostitution had to go through tuff questioning about their own roles in the crime and a lot of what they said was questioned. The offenders got low penalties and the abuse wasn't assessed as extensive, except for the case with Honeybell. When we look at the cases concerning forced labour the victims was not questioned about their own roles and even if it was established that they were there willingly they were considered to be real victims.

The two Rumanian boys were ordered out of Sweden but this was abolished by the Court of Appeal since they were victims of trafficking in human beings. When it comes to Nicoleta she was also ordered out from Sweden and it took several appeals to get this abolished; still Nicoleta never committed any crimes, which the boys did.

The two Rumanian women was not considered to be in a vulnerable position since they could in fact leave the flat and one of them was speaking a little bit of English (HovR B 111-12, 2012). Still they couldn't contact their families, they didn't have any money and they were in a place where there are not much help to get and the commute is not the best. The berry pickers could leave if they wanted to. Although Iliya was threatening them they were surrounded by other people and they did have a contact that could and did help them go to the police. When one of the workers had to go to the hospital he got his identification documents. I think this shows there was a chance of getting their documents back and even if they didn't many of the

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other victims didn't have the correct identification and they were expected to leave if they had the chance. The workers weren't questioned and the court saw them as real victims, credible victims.

If we look at the current discourse in the Swedish society we find the answer to why these victims are treated differently. In the court document UM 832-11 it is stated that Sweden do have a harsh look upon prostitution and although it is not illegal to sell sex much resources are put into stopping it. Therefore the public and political discourse goes in the direction that this is something dishonest and therefore it need to be punished in some ways. Prostitutes are often looked upon as bad people and their work disgusting. Forced labour is also something that the discourse in Sweden sees as something that must be stopped but unlike prostitution this doesn't have a bad effect on the victims of forced labour.

Through discourse analysis we can see how the social reality is constructed and social constructionists would claim that the things we see through discourse analysis are the objective world as we institutionalised it whilst growing up and this is something that has been socially created (Wenneberg, 2001, p. 71).

6.3 The Feministic view

From a feministic point of view these cases and the treatment in court shows that society is divided into collectives where the women often have a subordinate position. Prostitution is a "job" that is associated with women. This reflects in the the law that makes buying sex illegal; prostitution is legal because the woman should be able to be in charge over her body but men are not suppose to be able to take advantage of this (Westerstrand, 2008). This example also confirms womens subordinate position in society. When it comes to forced labour this is a more male oriented field and although there can be women included in this group they would still not go under the collective women but instead the collective workers. This means that although this group might have some subordinate position they are more equal to the court than the women and in the case with the berry pickers the women was under the men and it was the men that made all the decisions and their

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women was included under them, therefore this case might still be seen as crimes against males.

7. Result

Even though it is stated in the United Nations declaration that everyone who lives up to their criteria's should be considered a victim and as we can see through this paper that this is not always the case. If a victim of a crime is seen as a victim depends on the discourse at the time in society and the political spheres and as we can see in the cases presented in this paper the purpose of the trafficking dictates what way the victims will be treated. Because the discourse about prostitution is harsh in Sweden so is the treatment of the victims of this form of trafficking. People question what kind of people that would work with this and what their motives are.

In the primary hypothesis; that the public and political discourse affects the courts in establishing if someone is a victim we can address this from several aspects and the answer could be that this is both true and false. If someone is considered a victim of a crime depends on the requisites for the crime are covered and it might seem that the court cannot be influenced by the discourse in this aspect since the law is the law. When it comes to trafficking in human beings it is hard to prove this crime because of the subjective requisites. In this part the discourse and the social construction has shown, as we can see in the cases, to affect the way the court look at and determines credibility for the victim of a crime. The way the court treat the victims of the crime has also shown to affect the way they were treated after the sentencing; Nicoleta was ordered out whilst the Rumanian boys weren't. Because of this I state that the primary hypothesis is confirmed through this paper.

When it comes to the secondary hypothesis; that victims of human trafficking will be treated differently because of the purpose with the trafficking, I would again state that this is confirmed and it is the public and political discourse that lies to ground for this difference in the treatment.

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8. Summary

Being a victim of a crime does not mean the same as achieving victim status. If you achieve victim status depends on the matter of your victimisation and Christie (2001) shows with his theory about the ideal victim that several criterions must be fulfilled to be seen as an ideal victim by society. Although Christie's criterions are a bit outdated they are still valid and only needs to be updated so that they follow the social construction and discourse in today's society.

With the help of discourse analysis this paper has shown a standpoint in social constructionism and that society builds on a social reality that we, human beings, have internalised and objectified. Through the help of feminist theory we can see how society is divided into groups or "collectives" that are treated differently because of the discourse and the way the social reality is constructed.

We have in this paper seen that victims of human trafficking with the purpose of prostitution will be treated harsher than victims with the purpose of forced labour. The first-mentioned are scrutinised by the court and most of their statements are questioned whilst the latter didn't have to defend themselves and they were seen as credible. This reflects the discourse that is current in Sweden and it also confirms the feminist theory that different collectives will be treated differently.

Through this paper we can confirm that the courts are affected by the public and political discourse when establishing if someone is a victim; not only a victim of a crime but also in other aspects. We can also confirm that victims of trafficking in human beings will be treated differently because of the purpose with the trafficking and we can relate this to the public and political discourse and the social constructionism.

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