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'Negligent rape': Has Sweden's sexual consent law led to change?

By Catherine Edwards

TheLocal.se (12.07.2019) - <https://bit.ly/2JB2XoL> - One year ago, Sweden introduced a law change that meant sex without explicit consent was considered as rape, including when the victim did not actively say 'no'. The Local spoke to experts to find out the impact this has had on court cases and within Swedish society.

The law change meant that participants needed to clearly demonstrate that they wanted to engage in sexual activity in order for it to be considered consensual.

Two new offences of "negligent rape" and "negligent sexual abuse" were created for acts where courts found that consent had not been established, but in which the perpetrator had not intended to commit rape or assault. Previously, a decisive factor for a rape conviction was proof that a perpetrator used force, threats, or taken advantage of someone in a vulnerable situation.

The law faced backlash at the time, and had to be clarified after Sweden's Council on Legislation said it was too unclear. Others criticized it as "signalpolitik", meaning a policy implemented only for appearances and unlikely to make a real difference.

Twelve months on, rights organizations say the law has had a measurable impact on court cases and helped change the national discussion on sexual autonomy – but warned there was still work to be done.

'Negligent rape' sentences

"Earlier this year, we looked at 30 court judgments, and these included cases which definitely would not have been considered to be rape before the change in the law; where no violence or other means of force was used," Katarina Bergehed, an Amnesty International expert in women's rights, told The Local.

Over the past year, the new law has been decisive in at least seven rape cases which went to court, according to an investigation by Swedish radio programme I lagens namn (In the name of the law).

The programme said that of 60 rape cases, the new law was crucial in seven, including six convictions of negligent rape.

A study from the Siren news agency reached the same conclusion, finding that in 84 cases where prosecutors mentioned "negligent rape", 45 resulted in a rape conviction while six were sentenced for negligent rape.

'Sleeping in the same bed and wearing only underwear does not mean consent'

One of these sentences was confirmed by Sweden's Supreme Court on Sunday, marking the first time the country's highest criminal court made a judgment relating to negligent rape.

The 27-year-old male plaintiff was found guilty of the negligent rape of a woman while staying overnight at her home.

The woman said had agreed he could stay overnight, but made it clear she did not want to have sex. Despite that, the man initiated sexual intercourse.

Both the perpetrator and the plaintiff said that she was passive throughout the intercourse, and that they did not speak. The plaintiff said she "froze and did not know how to act", while the perpetrator said he was not sure whether she was awake when he first initiated sexual contact, "but [he] had the impression that she wanted to have sex" and continued because she did not tell him not to. He also said that he stopped the intercourse when he thought she didn't want to continue.

In a statement accompanying its decision, the Supreme Court wrote: "A person who is subjected to sexual acts against their will does not have any responsibility to say no or express their reluctance in any other way. Furthermore, the court notes that the fact that the plaintiff and the perpetrator agreed to sleep in the same bed and that they were dressed in only underwear does not mean that the plaintiff voluntarily participated in the sexual acts."

The man now faces two years and three months in jail, although this includes sentences for other crimes he was found guilty of. The penalty for the count of negligent rape was eight months' jail, according to the Supreme Court.

Without the 2018 law, it is likely that the man would have been acquitted, since intent was previously required for a conviction of rape or sexual assault, and the Supreme Court found no evidence of intent.

'Greater awareness about consent'

The fact that Sweden's law now sets a clear boundary between consensual sex and rape or assault has also helped open up to discussions about sex and consent, the Swedish Association for Sexuality Education (RFSU) told The Local.

"There is increased awareness and a greater openness towards talking about [sexual consent] today," said RFSU's Maria Bergström, when asked what changes she had observed since the consent law was passed.

"For example, we can see that this has made it easier for people who have previously experienced this to put words on what happened to them, and to then perhaps go further with reporting it or seeking support. The law has finally made it clear that one always has a responsibility to ensure that there is consent."

"There is a much greater awareness and more conversations today on these questions among young men but also in the adult population -- we also see that the question is raised by the media in a different way than before," she said.

Bergström also mentioned the impact of the #MeToo movement in putting the question of consent and boundaries on the political agenda, as women from a wide range of industries came forward with their experiences of assault and harassment, all calling for tangible change.

Sweden partners with UN Women and ILO to Promote Productive Employment and Decent Work for Women in Egypt, Jordan and Palestine

UN Women Jordan (14.02.2019) - <https://bit.ly/2Xac6cv> - The Swedish International Development Cooperation Agency (Sida), a long-standing partner of UN Women, announced a significant contribution of 70 million Swedish Krona (USD \$7.64 million) to a regional programme on "Promoting Productive Employment and Decent Work for Women in Egypt, Jordan and Palestine". The programme seeks to support women to benefit from opportunities for better jobs, security at workplaces, equal access to professional development, social protection for families and better prospects for personal development and integration in society.

The joint four-year programme of UN Women and ILO adopts an integrated approach to addressing the structural causes of inequalities that women face in accessing decent work in the targeted countries. Together with national institutions, the programme will address discriminatory laws and foster gender-responsive policy environments. It will engage with private sector to promote equal and decent employment opportunities and will work closely with the civil society to challenge gender stereotypes at home and in the world of work.

The joint programme contributes to Sweden's new Strategy for development cooperation for global gender equality and women's and girls' rights 2018-2022; is fully aligned with the 2030 Agenda for Sustainable Development and the realization of the Sustainable Development Goals 5 and 8 on gender equality and decent work and economic growth. It contributes to the implementation of the Convention on the Elimination of all Forms of Discriminations Against Women, international labour standards, as well as national development strategies and plans, including the Sustainable Development Strategy: Egypt Vision 2030, Jordan 2025 – A National Vision and Strategy as well as the Palestinian National Policy Agenda 2017-2022.

UN Women Regional Director for Arab States, Mr. Mohammad Naciri, stated: "Women contribute substantially to economic and social development but are discriminated against in the world of work. Promoting a culture of equality and shared responsibility between men and women in paid and unpaid care work is a priority globally and for the region. UN Women and its partners are committed to gender equality and women's economic empowerment because it is right and because it contributes to sustainable and equitable growth."

"Gender equality and women's empowerment are prerequisites for implementing the whole 2030 Agenda and fulfilling the Global Sustainable Goals. The Swedish development cooperation has a longstanding commitment to promoting gender equality globally and the full enjoyment of human rights by all women and girls. With the recent adoption of its Strategy for global gender equality and women's and girls' rights 2018-2022, this has been further manifested. We are confident the investment in this programme will promote and adopt safe and decent working conditions for women, further contributing to the advancement of Women's Economic Empowerment in the Arab Region," said Ms Eva Gibson Smedberg, Head of the Middle East and North Africa Unit at Sida.

"This programme combines the strengths of both UN agencies in promoting gender equality. For the ILO, promoting gender equality in the world of work has been at the cornerstone of our work in the region. As we prepare to mark our Centenary next year and look toward to the future, we will continue to strive to effectively meet the needs of women, while benefiting employers, workers and the economy at large," said Ms Ruba Jaradat, ILO Regional Director for the Arab States.

Sweden struggles over child marriage

By Nathalie Rothschild

Politico.eu (23.07.2018) - <https://politi.co/2021Nlt> - A row over how to deal with child marriage among immigrants has inflamed political debate ahead of a general election in Sweden, where migration continues to divide public opinion and the far right is riding high in the polls.

A tug-of-war between the ruling Social Democrat-Green Party coalition and the opposition over the government's role in managing or eradicating the practice — which predominantly affects young girls, and in some cases boys, from immigrant backgrounds — is emblematic of a broader struggle to find a balance between efforts to integrate a large number of new immigrants and preserve a Swedish way of life.

"Sweden has been bad at providing people who come here with clear information about how our system works, about this society's views on children's rights, gender equality, family policies, and parents' and guardians' responsibilities," said Juno Blom, who is running for parliament on behalf of the opposition Liberal Party.

"While we insist that Sweden protects children's rights and that we promote a child-centered approach to children's welfare, we have allowed children of foreign backgrounds to live as married women with older men," said Blom, who also acts as Sweden's national coordinator to counter honor-based violence and oppression.

Although Sweden is known for its commitment to child welfare, it is failing to extend those same protections to its immigrant population, activists and lawmakers say. Opponents accuse the government of being overly cautious in order to avoid being seen as culturally insensitive.

Official data suggests child marriages are relatively rare among Sweden's newly arrived immigrant population. A 2016 report by the Swedish Migration Agency only identified 132 underage asylum seekers who stated they were married when they arrived in Sweden. Most came from Syria, Afghanistan and Iraq and applied for asylum in Sweden after August 1, 2015, at the height of the refugee crisis that brought 163,000 asylum seekers to Sweden in just a year.

But the real number is probably higher, authorities caution, as many cases likely go unreported.

Pamphlet panned

Although Sweden in 1973 banned marriages in which one or both parties is underage, it was possible under some circumstances to get special dispensation. The previous center-right government tightened the law in 2014, amid growing awareness of the prevalence

of so-called honor-related oppression — including forced marriage — among some immigrant communities.

Still, marriages between underaged partners are recognized — and not annulled — if carried out abroad. The government has come under pressure to close that legal loophole and invalidate all marriages that involve minors. But it declined to vote for a proposal — put forward by parliament's committee on civil affairs this spring — that would do so, saying it was formulating its own plan to tighten existing laws.

The government's proposal — which it finally put forward in May — would mean Sweden does not recognize marriages carried out abroad where one or both parties were under 18. It would also require spouses who are over 18 when they arrive in Sweden (but married when they were underage) to renew their vows in order to be legally recognized as married. However, critics say it is unclear how authorities would enforce the rule in practice.

A government pamphlet issued by its National Board of Health and Welfare and targeted at adults with underage spouses also drew fierce criticism, including from Cabinet ministers, for treating the issue too lightly and not clearly communicating that child marriage is against both Swedish law and cultural norms.

The government says it now has a clear and firm position.

"There is no retroactivity in Swedish legislation but our stance is that we should not recognize marriages where either of the parties is a child or was a child when he or she got married," said the minister for children, Lena Hallengren, a Social Democrat.

"That would run counter to the international commitments Sweden has made to ensure that children are entitled to their childhood."

But for some, such statements are too little, too late.

The far-right Sweden Democrats, who have been climbing steadily in the polls in recent months, have seized on the issue. In a video posted on the party's Facebook page, leader Jimmie Åkesson hit out at the government, saying: "I don't know what there is to think about. It is, frankly, totally sick that one can't just simply say no to something as bizarre as grown men having the right to marry children."

Åkesson held up the much-maligned pamphlet and called on those responsible for producing it to be fired or resign. "There's an election on September 9," Åkesson reminded viewers.

Opposition's opportunity

In June, three weeks after the government finally presented its proposed legal amendment, the Liberal Party presented its own list of proposed measures to tackle honor-based oppression, which party leader Jan Björklund called "the greatest challenge to equality" in Sweden.

The proposals included travel bans for families suspected of planning to bring their daughters abroad to marry them off or to have them undergo female genital mutilation. Under the Liberals' proposal, authorities would also be able to confiscate families' passports and make parents attend meetings with social services. They also proposed tougher punishments for those found guilty of forced marriage, as well as the extradition of foreigners convicted of crimes with honor motives.

“What irks me is that we treat young people and children with foreign backgrounds differently from those with roots in Sweden,” Blom said, recalling a case in which a 19-year-old Afghan girl was allegedly murdered by a much older husband less than a year after she arrived in Sweden from Iran in September 2015.

Her husband was eventually found in Iran in May and extradited to Sweden in June.

The case, Blom said, got “relatively little attention in the media” and did not spark much political reaction. “If a Swedish teenager had been found murdered and buried, my guess is it would have caused outrage.”

The phenomenon of underage marriages predates the major influx of asylum seekers in 2015, but has become harder to ignore as a result of the higher numbers of new arrivals, according to Blom.

“We saw an upswing in calls to our national support hotline, which professionals like social workers can dial to get advice on how to deal with honor-based oppression,” Blom said, referring to the 2015 influx. “The social workers who called us had met girls who were married to men and who were placed in their municipalities. They didn’t know what to do with them.”

Legal loopholes

A number of young women born and raised in Sweden are also at risk of being exploited as a result of the legal loophole that allows underage marriages carried out abroad to be recognized in Sweden.

The national unit against honor crimes, headed by Blom, last year launched a campaign to encourage young people to contact Swedish authorities after it found that girls were being sent to their parents’ home countries over their summer holidays to be married to older men.

“People see young girls as their sons’ tickets to Europe,” said Zubeyde Demirörs, a 45-year-old social worker who runs a shelter for victims of honor-based violence and oppression.

Demirörs has personal experience of the issues she works on. She was 15 years old and had just finished ninth grade — the last year of compulsory schooling in Sweden — when her parents took her to their hometown in Turkey to marry a man 22 years her senior with whom she would have three children.

“We had a large extended family in Stockholm but unlike them my parents, siblings and I did not live in an immigrant-dense area and so my parents were concerned that my sisters and I would become assimilated,” Demirörs said. “The idea was that if we got engaged, we would be somehow tied to our roots and could also avoid suspicious looks from the rest of the community.”

It took her 16 years to leave her husband, she said. “When I left him, I was alone,” she recalled. “Practically the whole family turned against me and there was little support to seek from Swedish society at the time.”

Demirörs’ case is far from unique, she said: “In my work, I hear similar stories every day.”

When it comes to forced marriage, the summer is the worst period of the year, said Demirörs.

"This time of year my phone just doesn't stop ringing. May, June, July — that's when many girls are taken back to their parents' home countries, mostly to rural parts of the Middle East and Africa."

Demirörs fears the government's proposed new law would not make much difference.

"Over the years, I've seen legal amendments, I've seen campaigns ... And still, we keep coming back to square one. Now we have new challenges, with a large number of people coming to Sweden from societies where honor culture is the norm."

Sweden, she said, needs to take proper responsibility for the immigrants it takes in. That involves extending the same protection and rights to all children, regardless of whether they are ethnically Swedish or not.

"But our politicians are cowardly," she said. "They are afraid of taking a principled stance on these issues for fear of being labeled culturally insensitive."

"It's different in our neighboring countries. In Denmark and Norway, they're not afraid of being called racists. And over the years many girls — and boys — in Sweden have suffered for that cowardice."