



UMEÅ UNIVERSITET

DOMESTIC VIOLENCE

THE SWEDISH MODEL- A CRITICAL ANALYSIS

- *In order to change something, one must admit that a change is needed in the first place.*

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Abstract

Violence against women constitutes a serious public health problem and a violation of women's human rights. Conflicts and displacements situations can aggravate existing violence, such as that inflicted on women by their partners and sexual violence outside the relationship, and lead to new forms of violence against women.¹ Domestic violence is one of the crimes against women which is connected to when there is an advantageous position in society. The crime refers to violence against women, especially in matrimonial homes, and therefore domestic violence is recognized as the significant barriers of the empowerment of women.² The aim of this study is to examine the nature of the measures taken against domestic violence in Sweden and its promises and obligations, clarifying what challenges that can be identified in the current legislation in terms of preventing domestic violence against women. And how the promises made to the international community have captured the essence of the Swedish gender equality policy. This analysis will be done in the light of Sweden as a Feminist Government and how it is connected to the construction of the Swedish self-image. In the debate, the consensus on the perception that gender equality has been achieved in Sweden is widespread. And it's often that the remarks regarding the shortcomings in the ideal image cause strong reactions.³ In comparison to many other countries in the world, Swedish policy and law regarding domestic violence against women are what many would define as perfection. The Swedish model is internationally known and something that not only we Swedes proudly show off, but who has become a model of gender equality for many other countries around the world. But the question is, what constitutes the Swedish model? And how great are 'we' really?

Key Words: *Domestic violence, The Swedish Model, Gender, Policy, Swedish Legislation, Swedish Self-Image,*

¹ <http://www.who.int/mediacentre/factsheets/fs239/es/>

² Mahajan, Pallavi, *Critical Analysis of Domestic Violence Act, 2005*, 2011

³ Eliasson, Mona, *Våldutsatta Kvinnor - samhällets ansvar*, 2003:15

Abbreviations

- **The Swedish Model:** National strategy for inclusive growth. The objective is to increase prosperity to the benefit of all while safeguarding the autonomy and independence of citizens.
- **TEU:** Treaty on European Union
- **NGO:** Non-Governmental Organization
- **EU:** European Union
- **EIGE:** European Institute for Gender Equality
- **NAP:** National Action Plan
- **UNSC:** United Nations Security Council
- **UNSCR:** United Nations Security Council Resolution
- **IVO:** Inspection for health and care (Inspektion för Vård och Omsorg)
- **CEDAW:** The Convention on the Elimination of All Forms of Discrimination against Women
- **SRVAW:** Special Rapporteur on Violence against Women

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1. Introduction

1.1 Background

Sweden is often called one of the world most equal countries. Sweden is often presented as a pioneer country and with an ideal society. And many countries challenges are reflected in the positive image of Sweden. ⁴ Domestic violence is a major problem that is found in all countries, regardless of religion, culture, ethnicity, age and social class and it has recently received greater attention as an extensive social problem in Sweden. ⁵ During a long time, domestic violence in Sweden was considered a private matter, but as a result of a law change in 1982, it was stated that violence that takes place privately would go under public prosecution. Since then, a number of legislative changes have been introduced with the aim of ensuring that women's human right is not violated. ⁶ In this thesis domestic violence should be understood as men's violence against women in intimate relationships. I choose to use the term domestic violence against women to emphasize who are subjected to violence.

Gender equality is a strong discourse within Swedish politics and on the Government's website state that Sweden has the world's first feminist government where gender equality is the focus, both in national and international work. The Government's policy is based on the overall goal that women and men should have the same power to shape society and their own lives. What is clear is that seems to be well rooted in the Swedish self-image that Sweden is a role model in terms of gender equality and the Swedish government measures the nation as 'women-friendly state'. ⁷ However, this had an important turn in connection with the #metoo campaign. Suddenly the "most equal country" in the world didn't seem as great, especially not in the eyes of its own population. And many come to question the Swedish government's real intention on what actions they were planning on taking in order to address the issue. I will perhaps not call it a historical milestone, but I do argue that the #metoo campaign changed something in the construction of the Swedish

⁴ Svenska Institutet, 2012

⁵ Brottsförebyggande rådet, 2009. Rapport 2009:12 - Våld mot kvinnor och män i nära relationer. Stockholm: Brottsförebyggande rådet. P, 10

⁶ Brå, 2009.p.19

⁷ <https://www.regeringen.se/regeringens-politik/jamstalldhet>

self-image and where I believe important questions were raised and shared light on the issue on various structural levels in the Swedish society. Historically, similar movements have occurred sporadically, but the underlying problem of violence is constant. Looking at the Swedish context, #metoo gave leverage to various important processes of legislative and structural change. Although differences between men and women are less notable in more “equitable societies, all societies tend to confer a higher social value on men than women, and a range of norms and power derive from this. The role as one of the most equal countries in the world is something that Sweden proudly waves around within the international community. But the question is, how great are ‘we’ really?

1.2 Aim of the study

The aim of this study is to examine the nature of the measures taken against domestic violence in Sweden and its promises and obligations, clarifying what challenges that can be identified in the current legislation in terms of preventing domestic violence against women. And how the promises made to the international community have captured the essence of the Swedish gender equality policy. This analysis will be done in the light of Sweden as a Feminist Government and how it is connected to the construction of the Swedish self-image. In this study, I argue that in fact, the Swedish Government has not managed to fully challenge the issue of domestic violence against women. I argue that the Swedish Government has not yet fully acknowledged the power structures regarding domestic violence against women, and therefore can have not reached its political goal as a “Feminist Government” nor kept its promises made to the international community. I argue that there is a strong political will to combat violence against women, and where the Swedish Government has used the legislation as an effective tool in their gender equality policy. However, simply because a decision is made does not automatically mean that it is implemented. The image of Sweden as an equal country is not just something that is important for the Swedes, it also seems important for the international community. Perhaps it's simply a question of having someone or something to place at the top of the pedestal. It is important to keep in mind what is political and what is legal in this discussion. That policy is discussed and presented at a political level, however, does not automatically mean that it ends with the new legislation. Furthermore, a change in legislation does not necessarily mean a structural change at all levels in society. Therefore, I believe

it not only to be interesting from a personal point of view but necessary to connect the Swedish Government's gender equality policy and legislation on domestic violence to the construction of the Swedish self-image, in order to not simply put in into a context but to see the bigger picture. In order to understand how we got here, and where to go from here? There are those who find it unnecessary and argue that to criticize a country like Sweden is simply a question of searching for flaws. A country that values democracy, human rights and the rule law, how can that be a country where domestic violence is still a widespread problem in the 21st century? But that's the great thing with academic writing, or any writing really, the ability to ask those questions and to be able to look for the flaws in what can appear as a perfect cover. Regardless of the amount of policy or legislation presented, we still must look at the story behind and ask ourselves does the law always ensure justice? Being the best of the class comes with high expectations, on many structural levels in society but it also comes along with questions of how well one is achieving. The consensus on the perception that gender equality has been achieved in Sweden is widespread. And the remarks regarding the shortcomings in the ideal image often cause strong reactions.⁸

1.3 Research Questions

To achieve the purpose of the thesis, the following main questions should be answered:

In the analysis, sub-questions will also be added in order for me to examine the aim of my study and answering my research questions regarding the Swedish self-image in relation to Swedish legislation and policy on domestic violence.

- *What is the nature of the measures taken by the Swedish Government to prevent domestic violence?*
- *How do the promises made to the international community capture the essence of the Swedish Gender Equality policy?*
- *And how does this relate to the construction of the Swedish self-image?*

⁸ Eliasson, Mona, Våldutsatta Kvinnor - samhällets ansvar, 2003:15

1.4 Method and Theory

In this section, I will describe the methodological and theoretical framework of the thesis. Here I will describe the approach and method used in the study, as well as in the selection of material and analysis. I've decided to keep this section as narrow as possible and let the methodological and theoretical framework make its appearance in the analysis when answering my research questions. This in order to avoid taking the focus from the analysis which is the central part of the study.

The point of departure for this thesis is a critical analysis of what measures Sweden has taken to combat and prevent domestic violence against women and what promises Sweden has made nationally and to the international community. The thesis will be carried out in the light of Sweden as an “A Feminist Government”⁹ and how it is connected to the construction of the Swedish self-image. My main goal with this paper is not to find a straight answer to how to solve the problem of domestic violence, I have neither the time nor the resources to do so in this study. However, I do hope that by answering and analysing my research questions share light on the issue. When it comes to analysis or interpretation of the law, it is important to have in mind the purpose of why the laws are written, interpreted and implemented. That is, what elementary tools are needed and which ones are used to interpret the text of the law. Since I'm not a law student, the interpretation of the law is not my area of speciality and I have no direct previous experience from it either. However, during the course of this master's programme, we have learned to read and to analyse the law using other tools in order to extract the important arguments to provide a context to the issue. The study has a socio-legal approach and an overall feminist perspective. This paper is based on the theory that gender inequality is primarily explained at a structural level. This means that one examines inequality on an over-individual level where the focus is on the distribution of power. Here the relation between men and women is seen as a matter of unequally distributed power that results in a structural pattern that is influenced by beliefs about gender. The law has an important role to play in this development since legislation results in male power being institutionalized and normalized because the man is the norm.¹⁰

⁹ <https://www.government.se/government-policy/a-feminist-government/>

¹⁰ Gunnarsson & Svensson, p. 145

1.4.1 Gender and Law

Various feminist critiques have maintained that to the extent that law assumes and has been built around an apparently non-gendered, undifferentiated legal subject, that not only fails to correspond to gendered social reality but the assertedly neutral, universal legal subject turns out in practice to be masculine law's objectivity is male subjectivity. Accordingly, there is a strong need for women's subjectivity to be included in the law. That subjectivity includes women's experience regarding domestic violence, rape, sex discrimination, political and professional exclusion.¹¹ Although gender norms often are mostly rooted in social norms, they can also be found and reflected in legal norms such as policies or conventions on the rights of women.¹² According to Bourdieu, the division between the sexes appears to be "in order of things", as what most people refers to what is normal, natural or to the point of being something inevitable. Therefore Bourdieu argues that the commonsense perception is that such an order is not only constitutive of the gaps between how violence is understood, but it also limits the strategies for recognising and resisting common forms of violence.¹³

Gender research in law is based on natural sciences near sociology of law, but also has points of contact with philosophy, and thus reformulates the boundaries of the actual law. Instead of starting from the legal entity as a gender-neutral free individual, one sees her in relation to other people. The legal entity always has a gender, ethnic and social affiliation, a certain age, etc. The legal entity is never free to claim solely its own interests. Each individual's freedoms and rights are limited by the consideration of others and are thus attitudes as trade-off standards and not as individual freedoms and rights.¹⁴ I do not claim to write using any specific feminist theory, however, this thesis is based on the understanding that women around the world are financially, socially, politically, culturally and legally disadvantaged compared with similarly situated men. In my thesis, I have adopted a basic feminist perspective as a starting point, the fact that there is a difference of power between men and women in society and where we still have a power structure where men

¹¹ Hunter, Rosemary, *The Gendered Socio of Socio-Legal Studies*, p.207

¹² Seguino, 2007

¹³ Bourdieu, 2001: 8; *Gendered Hierarchies of Violence*, Mo Hume, p.110-111

¹⁴ Svensson, Eva-Maria, *Genusforskning inom Jurdiken*, 2001

are dominant and women are subordinate to men. In this thesis domestic violence is understood as men's violence against women in intimate relationships. This also means that I have chosen a feminist analysis of domestic violence as a starting point, in other words looking at the social structure where men's violence against women is considered as a problem of gender inequality, which sets the tone for the analysis.¹⁵

1.4.2 Critical Analysis

The analytical method for this study is a critical analysis. The critical analysis aim is to identify and critically examine themes in the literature presented. When it comes to critical reasoning it can be seen as a type of reconciliatory approach, which recognizes the existence of a natural order within various social events and discourses, but claims that this order cannot be detected by simply observing a pattern of events. Therefore, the underlying must be discovered through the process of interpretation.¹⁶ Some critical assessment tools are more general, meanwhile, others focus specifically on appraising particular types of research, for example, quantitative research, systematic reviews or qualitative research.¹⁷ Critical analysis is a contextual and also interdisciplinary model when analysing policy and legal documents since it takes a broader contextual approach to legal studies and moves beyond entrenched distinctions by pursuing critique and analysis. Since critique without analysis is groundless, but analysis without critique is pointless.¹⁸

1.4.3 Socio-Legal Approach

In this study, I will be conducting a critical analysis of the issue of domestic violence from a socio-legal approach, where I want to highlight the context within which law exists. The reason why I find the socio-legal approach both useful and interesting in this case is in its ability to offer an added value to both law and sociology by highlighting issues that neither law or sociology can study alone. This is something that I believe can be to my advantage when studying the context

¹⁵ Burman M., *Straffrätt och mäns våld mot kvinnor, Om straffrättens förmåga att reproducera jämställdhet*, p. 41 and section 2.1.

¹⁶ Nicholas Walliman, *Research Methods: The Basics*, 2011:25, by Routledge 2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN

¹⁷ Walliman, *Research Methods: The Basics*, 2011:62

¹⁸ *Dubber, Markus. D, Critical Analysis of Law: Interdisciplinarity, Contextuality, and the Future of Legal Studies*, 2014:2-3

behind the issue of domestic violence in relation to the construction of the image of Sweden as a gender equal country.¹⁹ The social legal approach opens up for greater awareness of how power and justice can be understood, which also is one of the aims of my study. Many argue that knowledge and social action are intertwined, which is something that goes the same for legal knowledge who's created in the interaction between individuals.²⁰ In order to end violence against women, it requires the mobilisation of various actors in multiple policy fields, including the criminal justice system and health services, as well as specialised services for victims.²¹

The relationship of the law, in its many aspects, to a social situation should be considered a necessary part of the understanding of that situation. Therefore, the development of forms of analysis which allow for such interrelated understanding is necessary. According to socio-legal approach, an analysis of the law is directly linked to the analysis of the social situation into which the law applies, and should be put into perspective of that situation by seeing the part the law plays in the creation, maintenance and, or change of the situation.²²

1.5 Material

The choice of material has been characterized by the choice methods and theory used in the study. In this study, various reports and strategies have been used primarily. With regard to the analysis of the legislation, the traditional sources of law have been at the centre. Swedish legal text has been supplemented with various literary sources. With regard to Swedish legislation, a selection of relevant ones criminal provisions have been made that have been relevant to the purpose and issue of the study. Scientific legal articles, and to some extent debate articles, have been used in the analysis to highlight problems and present different perspectives. The fact that these in some cases represent subjective values have been recognized, but they have nevertheless been included because they were considered to add interesting contributions to the discussion. The choice of the legal documents as the material is based on the fact that it is public policy documents, which I consider to be a well-founded and safe source. One thing to take into consideration is that material

¹⁹ Banakar, Reza, *Law Through Sociology's Looking Glass: Conflict and Competition in Sociological Studies of Law*,

²⁰ Mertz, 1994: 1246

²¹ Walby.et. al.2017:160-161

²² N. Schiff, 1976:287

from policymakers is based on their political agenda, but this is exactly what I try to make visible through my analysis tool.

1.6 Literature Review

An essay is not something that is created in a vacuum. All the previous courses, seminars and literature one have participated in, helps to shape what ultimately becomes the finished study.

As I mentioned above, this study has a gender legal approach and an overall feminist perspective. And the paper is based on the theory that gender inequality is primarily explained at a structural level. In my research process and later in the selection of the literature used in this study, I have made a deliberate choice of literature where this perspective is overall dominated. I'm aware that it is a well-debated doctrine and that has a clear posting politically and socially. I stand behind this perspective and share the ideas of the authors and theories behind. It's my opinion that in order to properly understand the context behind the issue of domestic violence, the first thing must always be to look at the bigger picture. Meaning, where the structural factors play a vital role in the finding of a solution. However, I also argue for the importance to be clear and opened with the choice of literature, theory and/or perspective when writing this kind of study, in order to maintain a critical point of view and to avoid being blindfolded or bias when addressing an issue.

1.7 Delimitations

When talking about violence against women, it is very often, explicitly or implicitly, it is most common that one refers to domestic violence. More inclusive concepts are also used such as family violence and sexualised violence. One clear demarcation that deserves to be repeated is that this study has been limited to mainly dealing with what is referred to as domestic violence. Although there is no complete consensus on the concept of domestic violence, one can still say in a starting position that it has largely been reserved for men's physical and mental violence against a relaxed woman who the offender has or has had a relationship with. I chose to focus on Sweden mainly because it's the country and legislation I have studied the most and therefore felt like the natural choice, but also due to the time framework and size of this study it felt like the best choice in order to answer my questions and hopefully present a well-performed analysis. I believe Sweden to be

an interesting choice within this field of study, Sweden being a country famous for its gender equality I thought it interesting to analyze and examine how well Sweden have performed in order to protect women from domestic violence. In the future, it would be interesting to continue working with the questions raised in this study, and perhaps take it a step further and dig deeper into the construction of the Swedish self-image and the politics and legislation surrounding the issue of domestic violence.

1.8 Disposition

This study explores what measures Sweden has taken to combat and prevent domestic violence against women and what promises Sweden has made nationally and to the international community. The analysis is conducted in the light of Sweden as a Feminist Government and how it is connected to the construction of the Swedish self-image. This study is organised in five main sections, ending with a concluding summarize of the results of the analysis. First, I present the aim of the study together with my choice of method and theoretical approach, material and a literature review. After the introductory chapter, there is a historical look back and a concept explanation. Together with a descriptive text of the nature of violence and the consequences of the violence. In the following chapter, the focus lies on the legal aspects and on policy documents regarding domestic violence against women. Here, the purpose is to give a background to how the Swedish legislation has developed since the 1990s, and how Swedish gender equality policy has been developed and formed, not only at a national level but also played a role in building the Swedish model within the international community. In chapter four I present my analysis, which begins with a short introduction to summarize previous chapters, followed by a critical analysis where I discuss my research questions. Finally, the thesis ends with a conclusion in chapter six, where the findings in the analysis are presented and where I provide concluding remarks.

2. Domestic Violence

A brief introduction behind the causes and consequences of domestic violence

2.1 Definition of Domestic violence

There are many different definitions of domestic violence, some more comprehensive than others. I find that the UN Declaration captures a very broad spectrum of the violence, which has been criticized but for the aim of this thesis, I believe it captures the legal complexity behind the issue of domestic violence. As I mentioned in the introduction of this thesis domestic violence should be understood as men's violence against women in intimate relationships. I choose to use the term domestic violence against women to emphasize who are subjected to violence.

Men's violence against women is a gender equality issue that requires structural solutions. The UN Declaration on Human Rights 1948 states that all people should have the same value and the same rights. The declaration, however, needed to be supplemented by a Women's Convention in 1979, to mark that women also have human rights. And it wasn't until in 1993, that the UN General Assembly adopted the Declaration on the Elimination of Violence Against Women. Violence against women is defined as *"any gender-related act of violence that results in or are likely to result in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary detention, whether public or private."*²³ This definition captures a very broad spectrum of violence. When it comes to the definition of violence, the term 'violence' may include one or more types of violence, both direct violence and more latent types of violence may vary in severity and may also relate to isolated incidents of violence or repeated violence over long periods.²⁴ Regarding the legal definition, it largely depends on the underlying explanations for the occurrence of domestic violence.²⁵ Many domestic violence scholars question the traditional methods of defining and measuring domestic violence. According to the UN, domestic violence is a form of violence against women and to the contrary to popular belief, violence against women is

²³ Larsson, Eva, *Närhet som gör ont - om våld mot närstående*, Brottsofferjourernas Riksförbund, 2003:7

²⁴ FORTE; *Men's violence against women in intimate relationships*, No 7/2016

²⁵ AMNESTY INTERNATIONAL, *MEN'S VIOLENCE AGAINST WOMEN IN INTIMATE RELATIONSHIPS AN ACCOUNT OF THE SITUATION IN SWEDEN*, 2016

not confined to a specific culture, region, or country.²⁶ Domestic violence can be described as when one adult misuses power to control another, and it is the establishment of control and fear in an intimate relationship through violence or other forms of abuse.

Domestic violence is one of the crimes against women which is connected to there is an advantageous position in society. It refers to violence against women, especially in matrimonial homes, and therefore domestic violence is recognized as the significant barriers of the empowerment of women, with consequences of women's health and their adoption of the small family norm.²⁷ Domestic violence against women is a form of gender-based violence, domestic violence is multi-faceted, complex and devastating to women and it, therefore, demands even regarded as normal as an issue of the private domain, until fairly recently.²⁸ However, women and children have never been protected from violence within the framework of the family until modern times and only when the individual rights had been recognised.²⁹

2.2 Causes of Domestic violence against women

The UN report on violence against women argues that intimate partner violence “*is significantly correlated with rigid gender roles that associate masculinity with dominance, toughness, male authority in the home and threats to male authority*”.³⁰ Knowledge about the causes of violence is essential in order to develop successful interventions to combat domestic violence. During the 40 years period that domestic violence against women has been the subject of political discussion and research in Sweden, the question of the causes behind has been widely discussed through a variety of frameworks and political ideologies. However, research and policy both have progressed slowly in addressing the issue of men's violence against women, that collides with the Swedish self-image of the successful gender equality policy.³¹

²⁶ <http://www.unwomen.org/en/what-we-do/ending-violence-against-women/take-action/unite> (Downloaded 2019-03-13)

²⁷ Mahajan, Pallavi, *Critical Analysis of Domestic Violence Act, 2005*, 2011

²⁸ Cecilia Sardenberg, What Makes Domestic Violence Legislation More Effective?, Pathways Policy Paper, October 2011, Brighton: Pathways of Women's Empowerment RPC,

²⁹ Eliasson, Mona, Våldutsatta Kvinnor - samhällets ansvar, 2003:18-19

³⁰ United Nations (2006), p 29

³¹ Eliasson, Mona, Våldutsatta Kvinnor - samhällets ansvar, 2003:15

It's far from a majority today who claim that violence has a single cause and instead more complex understandings of the issue have been developed in the last years. One interesting example is the socio-ecological model that is originally based on the British epidemiologist Lori Heise's work and was brought forward by the World Health Organization. The model describes domestic violence as a multifaceted phenomenon, that is grounded in an interplay among personal, relationship, environmental and sociocultural factors.³² The sociocultural level includes factors such as norms on gender roles and the degree of gender equality, the environmental factor refers to the closest community or the surrounding and social work. The relationship level includes factors such as conflict resolution patterns and power relations within the family. And finally, at the individual level factors such as stable or unstable personality, alcohol and drug use are included.³³ Therefore, arguably it is not possible to locate a single cause of domestic violence, as there may be a multitude of factors involved in a specific case.

In general, gender equality and the arrangements between women and men are often regarded as an entirely personal matter. In each family, one considers that they have made their choices on private and practical grounds, and by then pointing out any flaws regarding gender equality can be perceived as an intrusion.³⁴ Another issue is that women in some circumstances are held responsible for the domestic violence perpetrated against them, creating stigma which may deter women and girls from seeking medical services or legal redress.³⁵

2.3 Consequences of Domestic violence against women

That the violence has serious consequences for women's health and quality of life is something well established and acknowledged in research and policy. Current research shows that it is common for women to switch between adapting and hoping that the violence will cease and that attempting to break up, which can be many and take different expressions. Abuse in intimate relationships differs significantly from other violent crimes. Domestic violence is often repeated in

³² Krug et.al. World report on violence and health, 2002

³³ <https://forte.se/app/uploads/sites/2/2016/12/rb7-mens-violence-against-women-web.pdf>

³⁴ Eliasson, Mona, Våldutsatta Kvinnor - samhällets ansvar, 2003:15

³⁵ Action Plan for Sida's Work Against Gender-Based Violence 2008–2010; p.10

comparison with other crimes, and violence is often carried out in close relationships at home.³⁶ The violence is often described based on the normalization process, which means that violence is gradually escalated and thus normalized. Exactly how the normalization process looks differs from case to case but it is about the man gradually taking control and power over the woman's life.³⁷

Gender-based power imbalances are perhaps the most compelling underlying explanation for domestic violence against women. Domestic violence often results in various legal effects on the victim and a single instance of domestic abuse can have dramatic effects on the lives of those involved in the incident. Apart from the issue regarding the legal consequences, that I will discuss in the next chapter, domestic violence often result in severe emotional trauma for the victim. It can, therefore, be difficult for the environment, both for relatives and friends and for professionals, to become aware that a woman is exposed to violence.³⁸ Therefore, knowledge and awareness among professionals about violence against women and the situation of the women are vital, in order to be able to detect violence at an early stage and be able to provide support and help. Collaboration between different authorities and between authorities and other organizations is important and central to being able to both detect and help women who have been subjected to violence.³⁹

³⁶ SOU 2004:121 Slag i luften

³⁷ Eliasson, Mona, Våldutsatta Kvinnor - samhällets ansvar, 2003

³⁸ <http://www.socialstyrelsen.se/valds-ochbrottsrelateradefragor/valdinararelationer/valdsutsatta>

³⁹ Amnesty, 2004: Mäns våld mot kvinnor i nära relationer. En sammanställning om situationen i Sverige,

3. Swedish policy and legislation on domestic violence

A brief background to the Swedish Model of policy and legislation on domestic violence.

This chapter will present the background to what promises and measures Sweden has taken in their work against domestic violence, on both a national and international level. This chapter will also give a brief background to what later resulted in the introduction of a new crime. This new crime was not only a big step in a Swedish legal context, and for the criminal law reform but for the Swedish Government gender equality discourse, on not only a national level. Instead, I argue plays an important role in in the construction of the Swedish self-image.

3.1 The Swedish Model

The Nordic countries are often described, in both national and international contexts, as ‘world leaders’ in gender equality, something that has been presented as an export product. Sweden, like the other Nordic countries, has traditionally been described as a strong social-democratic welfare state with universalistic policies and extensive state intervention.⁴⁰ Sweden has also been depicted as strongly equality orientated and characterised by ‘state-feminism’, which could be defined as the institutionalisation of gender equality from within the state.⁴¹

In 2014 Sweden became the first country in the world to use the word “feminist” to describe a policy approach. The Feminist Governments primary goal is to focus on efforts on long-term and strategic measures, by targeting structural gender inequality for all women and men.⁴² In February the same year, the Government decided to appoint a special investigation with the task of proposing an overall national strategy to reach the gender equality policy sub-goal of ending men's violence against women (Dir. 2014: 25).⁴³ The reasons for the Government's assessment was that the government's control of efforts to counter men's violence against women needed to be more

⁴⁰ Esping Andersen, 2010: Esping-Andersen 1999, p.45

⁴¹ Brunila, Kristina and Edström, Charlotta, *The famous Nordic Gender Equality and what's Nordic about it, Nordic Studies in Education, Vol. 33, pp. 300–313*

⁴² <https://www.nytimes.com/2019/03/08/world/europe/international-womens-day-feminism.html>

⁴³ SOU 2015:55 - Nationell strategi mot mäns våld mot kvinnor och hedersrelaterat våld och förtryck

coordinated. In order to facilitate governance, the conclusion was made that a comprehensive strategy was needed in form of a framework with a limited number of policies objectives, together with a follow-up system that could increase the state's ability to measure the effects of policy implementation.⁴⁴ The Swedish model of comprehensive gender equality policy is reflected in extensive regulations, which are covering many aspects of social life. However, not all these regulations are the results of national policies. There are several layers of gender equality principles, which are codified in human rights instruments, in the Treaty on European Union (TEU) and in the Swedish constitution. Various gender equality regulations have reflected this multitude of influences from different legal cultures and legislative powers, some which are constructed as legal rules within liberal state-orientated anti-discrimination legislation. Meanwhile, others are rooted in the welfare state ideology with the aim of changing the structural patterns of both sex and gender discrimination. The law provides regulations regarding positive discrimination and 'active measures', which are regulations with the explicit purpose of promoting gender equality.⁴⁵

3.2 Criminal law reform

All people have rights, for us living in a Western democracy like Sweden, it's perhaps something that is obvious. It's when individuals or groups get their rights violated it becomes clear that they can never be taken for granted.⁴⁶ Historically, men's violence against women has been regarded primarily as a phenomenon of a private character. In most societies around the world, violent crimes against women are punished less than similar crimes against men. In the 1990s, the Swedish Government made the decision that it was time to tackle this problem. It commissioned a review of the legislation concerning violence against women. The Commission on Violence Against Women made several proposals, the most famous of which was the enactment of a new category of crime '*breach of a woman's peace.*' The new crime became a part of a wider process in the Swedish discourse on gender equality, that at the time had only just begun.⁴⁷ Sweden during

⁴⁴ Skr. 2016/17:10

⁴⁵ Svensson 2005; Gunnarsson and Svensson 2009, 63, 76, Gunnarsson and Svensson 2009, 2012:7

⁴⁶ Lundberg, 2010, Mänskliga rättigheter, p.9

⁴⁷ Nordborg, Gudrun, & Niemi-Kiesiläinen, Johanna, Responsible Selves. Women in the Nordic legal culture. Ashgate 2001 s. 353-373, *A Criminal Law Reform In Sweden*, p. 354

this time started to make a name for itself in the international political context as a gender equal country, which could be seen as a starting point to today's *Feminist Government*.⁴⁸ During 1995 the Commission on Violence Against Women presented various important proposals, together with the Government Bill Women's Peace Reform in 1997, which was a comprehensive reform comprising several legislative and policy measures.⁴⁹ During this time criminal law became an important tool for promoting gender equality, while gender equality was simultaneously formulated as a relevant aspect of criminal policy.⁵⁰ The 1990s come to represent an important shift in Swedish politics and law, and for almost the first time in modern political history violence against women was seen as being closely connected to power relations between men and women in society.⁵¹ In 1998, Sweden passed a law that created two new offences *gross violation of integrity and gross violation of a woman's integrity*.⁵² The main reason behind the introduction of the new law was to develop a new and more appropriate approach to the continuum of violence, so often encountered within domestic violence against women. The reason why the introduction of the new law has been defined as a turning point and somehow a milestone in the criminal justice system was mainly because of the visible shift in the debate on men's violence against women as a part of a gendered structured society and its role in undermining gender equality.⁵³ However, the introduction of the new crime also faced some criticism from different directions, pointing out several legal problems connected to the proposition. One of the strongest arguments against the new law was the construction of the new crime as a process or a continuous crime, in which acts that were not previously defined as a crime would be included was not accepted.⁵⁴ Despite the criticism directed towards the law, the fact remains that the introduction was considered something radical within the Swedish legal system, because of its attempt to obtain more focus on the process created by multiple effects on different acts than on the specific acts included.⁵⁵

⁴⁸ SOU 1995:60

⁴⁹ SOU 1995:60; Prop. 1997/98:55

⁵⁰ Monica Burman, *The Ability of Criminal Law to Produce Gender Equality: Judicial Discourse in the Swedish Criminal Legal System: 174-175*

⁵¹ Prop. 1993/94:147, Monica Burman, *The Ability of Criminal Law to Produce Gender Equality: Judicial Discourse in the Swedish Criminal Legal System: 174-175*

⁵² <http://www.includegender.org/about-gender-equality/laws/the-swedish-penal-code/>

⁵³ Burman, 2012:3-6

⁵⁴ Nordborg & Niemi-Kiesiläinen, 2001:362

⁵⁵ Nordborg & Niemi-Kiesiläinen, 2001:354

4. Analysis

The main purpose of this thesis was to examine domestic violence in Sweden, looking at the nature of the measures taken by the Swedish Government in their work preventing domestic violence. Clarifying what challenges can be identified in the current legislation in terms of preventing domestic violence against women. How the promises made to the international community have captured the essence of the Swedish gender equality policy. And finally how it is connected to the construction of the Swedish self-image. This analysis begins with a short introduction to summarize previous chapters, followed by a critical analysis where I discuss my research questions.

When you type in Sweden on search engines such as Google, it reveals a large number of articles, commentaries and website discussing Sweden and gender equality. It gives the impression that one does not exist without the other. This indicates the persisting view of Sweden with gender equality has in certain public contexts. And it's almost impossible to find the words 'Sweden' and 'gender inequality' together in the same.

In the 1990s, Sweden came to define itself as the gender equality role model internationally, of having come the 'furthest' in empowering women politically and economically. The Nordic model of gender equality has been constructed as very successful, in both national and international contexts.⁵⁶ Sweden, being one of these Nordic countries, has both a strong and well-documented self-image as one of the most modern and gender-equal countries in the world, an image that has been described by many as "Swedish exceptionalism". One of the foundations of the Swedish exceptionalism is its strong welfare, together with a strong egalitarian cultural belief as well as social structures and solidarity.⁵⁷ Gender equality is something that has been widely acknowledged as a political goal over the last decades, and various countries and transnational institutions have committed themselves to this objective. A legislative policy will have consequences and will also generate impacts on another policy sector, which therefore will make it necessary to impose boundaries and to define the limits of its action and the resources that are committed and shared.⁵⁸

⁵⁶ Esping-Andersen, 1990; Melby et al, 2009

⁵⁷ Pratt, 2008a: 119-120; Lappi-Seppälä, 2012: 107

⁵⁸ Nieto Martín, Adan & Muñoz de Morales Romero, Marta, *Toward a Rational Evaluation in Criminal Law*, Springer International Publishing, 2016

In order to get violence against women to be regarded as a social problem, many resources at different levels have been required during the period. What appears to be a social problem and how it is presented is not objectively given but dependent on various processes in the areas where descriptions of the problem and its consequences and solutions are presented.⁵⁹ The processes themselves can result in changes taking place in the notion of, in this case, violence against women, both at a political and ideological level, but also in terms of legislation, case law and public opinion.

4.1 What is the nature of the measures taken by the Swedish Government to prevent domestic violence?

Gender equality should be understood as the political and social goal of equal rights between men and women, with power, resources and opportunities equally distributed. The struggle for gender equality has a long history, and where the participants, places, ideas and strategies have shifted over time. Within public administration, the policy field of gender equality has included both legislative and policies aiming for a change in other ways. One contemporary strategy for how to achieve gender equality is gender mainstreaming.⁶⁰

The Swedish government emphasizes that, over the past few decades, the public sector's responsibility for protection and support for crime victims has been gradually tightened. Although Sweden has invested heavily in countering men's violence against women, the results show that it has not necessarily resulted in a change in practice. In many cases, the implementation fails. However, there seems to be a clear discrepancy between what is sought and what is implemented in practice. The policy expressed in the Women's Peace Reform (1997/98: 55)⁶¹ that violence against women should be regarded as a social problem, founded in a patriarchal social order, in which insights on the male culture's connections to violence must be recognized. Here, the importance of attitude changes is pointed out, but also by developing resources to help and support

⁵⁹ WHO; Violence - a global public health problem, Chapter 1. 2002

⁶⁰ Schmidt, Verena. 2005. *Gender mainstreaming - an innovation in Europe?: the institutionalisation of gender mainstreaming in the European Commission*.

⁶¹ Women's Peace Reform (1997/98: 55)

the victims and punish the men. One can ask how this policy affected practice. On the other hand, with regard to the Women's Peace Reform which both points to the importance of foreclosure punishment, as well as to developing methods for the rehabilitation of the men behind the violence, it can be said that the measures that have emerged largely as a result of the government assignment, rather are focused on rehabilitation than penalty.⁶² In comparison to many other countries in the world, Swedish policy and law for dealing with domestic violence against women are what many would define as almost perfect. However, the low prosecution and convictions rates make it clear that a perfect policy strategy is not sufficient when it is not carried through by the different governmental bodies and representatives.⁶³

It's very clear, that in order to prevent and combat domestic violence, extensive and comprehensive legislation is needed, that is adapted especially to dealing with women's experiences of violence and oppression. Sweden, that has such a legal system generally in place, it should not be considered too much to also require several structural reforms to take that next step, to go from concrete legislation, which arguably is much easier to measure, understand and analyze, to working with soft values which are the underlying causes of gender-based violence in most scenarios.⁶⁴ Social policy reforms are based on universal principles in which all population groups are classified under the same public supply system, regardless of class affiliation or profession. Welfare regimes like the Swedish are also characterized by well-developed public services such as child and elderly care.⁶⁵ The social services' responsibility for support for women exposed to violence has been strengthened in the legislation and constituted an important area in the social policy debate during later years.⁶⁶ However, Sweden is not a country where the relationship between the state and the individual is the only one. The nonprofit sector is and has long been strong. In the welfare sector, however, Sweden has had a relatively small voluntary sector, but it is extremely important for certain vulnerable groups such as women exposed to violence.⁶⁷

⁶² 1997/98: 55; Steen, 2003:100-103

⁶³ UN Universal Periodic Review (UPR): Sveriges nationella halvtidsrapport, A2012/2841/DISK, 2012, p. 27-28

⁶⁴ Spindel, C, Levy, E and Connor, M, With an End in Sight: Strategies from the UNIFEM Trust Fund to Eliminate Violence Against Women, The United Nations Development Fund for Women, New York, 2000, p. 16

⁶⁵ Esping-Andersen, 1990

⁶⁶ Socialtjänstlagen (2001:453)

⁶⁷ Lundström & Svedberg, 2003

The social services law that today governs the work of the social services has certainly undergone some changes but has nevertheless largely been the same since it was introduced in 1982. An explicit responsibility for women exposed to violence was introduced in the Social Services Act in 1998. The municipalities, according to the Social Services Act, have the ultimate responsibility for ensuring that those who live in the municipality receive the support and the help they need. The changes legislation has not led to any new rights for women exposed to violence. This means that the municipalities 'and the individual social workers' way of interpreting and renegotiating both legislation and other policy documents, therefore, becomes extra important.⁶⁸ Women exposed to violence have different needs. Some women do not need the kind of support that social services can offer at all and others to need limited support over a shorter period of time and others need extensive support. The various measurement of violence and its gender dimension are increasingly important aspects of the developments needed in order to achieve its goal.⁶⁹

4.1.1. The National Strategy

The national strategy for men's violence against women is the first strategy of its kind, which makes it to some extent a completely new tool in Swedish politics. In this council, there should be representatives from both authorities and organizations with responsibility in the field of men's violence against women. The national strategy shows that the objectives are similar to the recommendations that CEDAW has submitted to Sweden, which shows that Sweden wants to fulfil the requirements set by the Convention. The national strategy states that it is the preventive work against the violence that is the most important and that this is done by combating the causes of violence. Furthermore, in the text, they explain that there have been changes regarding the legislation of the *Social Service Act* and that it now contains obligations for those performing the services to report and take action when for example a child is at risk.⁷⁰

What appears from the directions presented in the national strategy is that they consider it important that the non-profit women's shelters have access to improved conditions, in order for them to be able to work long-term. However, it is also clear that their work should not go beyond the work of

⁶⁸ Socialtjänstlagen (2001:453)

⁶⁹ Walby et. al. 2017:29

⁷⁰ Skr. 2016/17:10:136

the public and the responsibility of the public. Thus, according to the government, it means that the public should have a greater responsibility than the civilian or non-profit. When non-profit women's shelters around the country work on behalf of the social welfare committee, the social services regulations apply, as applicable, parts of the duty that are thus covered by the supervision responsibility of IVO.⁷¹ Such a moral responsibility should be linked directly to the government, which is the ultimate power. However, one could argue that they should have taken this responsibility considerably earlier, as we can see that men's violence against women has been a situation that had to be corrected and addressed much earlier.

“ All the government sectors that come into contact with the violence and its consequences must, according to the government, be better at discovering it. The knowledge of working methods, the effect of interventions and the spread of violence and costs over time need to increase. The work against violence should be well coordinated between the relevant actors at all levels.”⁷²

The strategy attaches great importance to not placing all responsibility on the male sex but sees that there are norms and societal structures that create the problem. The strategy also emphasizes that in order to prevent violence, men must also be involved in the work of changing these standards. The strategy has been developed as a result of many inquiries from authorities that have worked against gender-based violence. Despite many advances in various sectors, these authorities say that it was difficult to investigate the government's work and its initiatives for vulnerable women, due to insufficient data and poor follow-up routines. The authorities' investigations also showed a need for strengthened governance and improved coordination of the work carried out. This at all levels, national as well as regional and local level. When it comes to strengthening women in society and providing support for the vulnerable, Sweden has been at the forefront as there have long been women's homes in the country. The Government has granted financial support for the years 2015–2019 to organizations that run women's homes, youth centres and rape crisis centres.⁷³

⁷¹ Skr. 2016/17:10:135-136

⁷² Skr. 2016/17:10: 109 (Citation from the text, personal translation swedish to english)

⁷³ Skr. 2016/17:10;

https://www.government.se/4ac3ba/contentassets/4bbb1643e427432682464d4559c41027/fact-sheet_national-strategy-to-prevent-and-combat.pdf Fact Sheet- National Strategy

In order to combat the violence that women are exposed to, society must become aware of the problem and the different ways of preventing it. In order to change society and the gender roles that prevail, more people must become aware of the situation and all parts of society cooperate to make this change happen. Through cooperation campaigns and programs organized by non-governmental organizations, governmental organizations, regions and municipalities, information on violence and the preventive work done to society's all share is disseminated.⁷⁴

4.1.2. Feminist Foreign Policy

The feminist foreign policy is a part of achieving Sweden's overall foreign policy goals on peace security and sustainable development. Sweden's foreign policy action plan clarifies that working for feminism globally is not a normative issue, but that it is based on the knowledge that can contribute to peace and security not only on a national level but internationally.⁷⁵ As part of the implementation of the feminist foreign policy, an action plan for feminist foreign policy for 2015–2018 was launched in November 2015 with focus areas for 2016. The action plan aims to guide the work of the foreign administration and shall systematically establish a gender and rights perspective. It is clear that the biggest of the policy is to inform and promote gender equality, and one could argue that it places Sweden in a superior position of knowledge. In the Feminist Foreign Policy, Sweden is portrayed as taking an active role in the lead for a change. The policy seeks, to influence European foreign policy by pursuing a policy towards it, and partly to create a common foreign policy with the EU.⁷⁶ As I mentioned in Chapter 3, in 2014 Sweden became the first country using the word feminist when describing the policy. The Feminist Foreign Policy was at the time and still is seen as an important step forward in promoting gender equality on a political and diplomatic level. For Sweden, it opened up for great opportunities to become the face internationally of gender equality, all the way into the UN Security Council. Margot Wallström state in the Government's declaration, that Sweden's foreign policy is focused on broad international collaboration and cooperation, within the European Union and as a more active member of the UN.⁷⁷

⁷⁴ Fact Sheet- National Strategy, Government

⁷⁵ <https://www.regeringen.se/regeringens-politik/en-feministisk-utrikespolitik/>

⁷⁶ Swedish Foreign Service action plan for feminist foreign policy 2015–2018,

⁷⁷ Swedish Foreign Service action plan for feminist foreign policy 2015–2018, Government's Declaration, Margot Wallström, 2015

The Swedish Government's feminist foreign policy exists in a practice and must relate to several other factors. Furthermore, it is clear that one of the aims of the Feminist Foreign Policy is to convey and reproduce its own ideas. The policy speaks of both gender equality as a goal in itself, but also as a means of achieving other goals. There is no doubt that it exists a desire to create a feminist framework for foreign policy action, it's also important to take into account that this is a relatively new project, that is still being developed by the government. I believe that the question that arises in this discussion, is whether Swedish feminist foreign policy can still be considered feminist if it is forced to compromise. But on the other hand, I don't see any other type of political scenario where a compromise is not an option. And I do think that the policy meets enough requirements for the naming itself "feminist".⁷⁸

4.2 What challenges can be identified in the current legislation in terms of preventing domestic violence against women?

Laws don't exist without a context, they are written and formulated by someone with a specific aim. Laws are often the result of a political process, with the purpose to intervene in and regulate areas of social life and activity. Therefore, they are, like any other public policy, programme or action open to evaluation. The analysis of legislative policies is closely connected with the need to ascertain whether laws are useful, rational, coherent and effective, in other words, whether they serve the purpose for which they were passed.⁷⁹ Welfare is regarded as what most would define as a function of commodities, that has a value for people of economic efficiency.⁸⁰ Within social science, welfare is strongly connected to social policy and it's considered as methods by means of which the society can prevent och solve social problems. However, from a legal point of view, there are no specific definitions of the term welfare. Nevertheless, welfare policies are found in both economic, legal and social discussions. In the judicial system, the government has formulated specific gender equality policy goals, including that its ability to intervene against threats and violations on the net should be strengthened, that the clarification of rape should increase and that

⁷⁸ <https://www.regeringen.se/regeringens-politik/en-feministisk-utrikespolitik/>

⁷⁹ Nieto Martín, Adan & Muñoz de Morales Romero, Marta, *Toward a Rational Evaluation in Criminal Law*, Springer International Publishing, 2016

⁸⁰ Hausman and McPherson, 2001 in Gunnarsson, Svensson, & Davis, *Exploiting the Limits of Law Swedish Feminism and the Challenge to Pessimism*, 2016: 141-142

persons who have been subjected to sexual offences should receive adequate professional support from the targeting counsel early in the process.⁸¹ In summary, one can say that the changes from individual to public prosecution in 1982 have had great significance in terms of official and principled approaches to men's violence against women as a social problem, even though it is only in the 1990s that Sweden received laws that are more clearly defined, reflects the differences presented by the reported crime. New crime categories developed during the 1990s, on the other hand, have had the crime and notions of the specificity of men's violence against women as the starting point for changes in legislation, *Gross violation of women's rights*. Surveys made show that there is also a complex interaction between increased attention to the problem, changed routines at, for example, prosecution and health and medical care and increased registration inclination.⁸²

One of the biggest challenges when it comes to the discussion of changing the legislation is that it would only have a limited effect, since the structural inequalities would persist. Because the legislation would get, despite its neutral form, discriminatory effects if it's applied in an unequal power structure. The problem of domestic violence, tends to be formulated as an issue of power, but not of gender, but instead as a powerful aspect.⁸³ This is something that, according to Wendt, leads to a paradox in the democratic system. Meaning that as long as violence against women is formulated as another type of violence, or where is not understood in terms of power and gender, then the fact is that the citizenship is not gender neutral, but instead it is defined as masculine. This, in turn, leads to the fact that when women's experience is described as non-standard, the demands made for change not become politically legitimate. Which also disallows the legitimacy that there is gender-specific oppression which in its extreme cases consists of men's violence against women.⁸⁴

⁸¹ Prop. 2015/16:1

⁸² Burman, 2010

⁸³ Wendt 2002, p. 194

⁸⁴ Wendt 2002, p.208

4.2.1 What roles does the current Swedish legislation and commitment play in addressing domestic violence against women?

When analyzing the text of the law using a socio-legal approach, it is important to first and foremost see in what context and in which light these laws were written and how the courts have interpreted it. The change in law from individual to general prosecution that took place in 1982 is often described as crucial for the view of violence against women. With this change, violence against women is no longer regarded as a private but as a social problem. This will, of course, have significance both in terms of responsibility for the problem's solution, but it also has implications for the right to define the problem. However, the confidence that the change from individual to general prosecution would lead to any major change was small during this time. On the other hand, it was assumed that the change would contribute to a change of attitude in relation to women's abuse and that the authorities' opportunities to help vulnerable women would be improved. The main reason for the change was stated to be that, in the general legal consciousness, equality of abused women would be equated with other assault and emphasize that even abuse in the home is a criminal act. The legal changes have primarily been about making the law neutral and general. And where violence against women is considered to reflect the violent society.⁸⁵ When it comes to analysing the location and the nature of domestic violence it illuminates an apparent distinction of the private and the public in policies. Although in the current legislation it has been acknowledged that domestic violence sometimes takes place outside the home, home meaning in an indoor environment, it is nevertheless violence that comes to dominate relationships in and around the home. Personally, I believe it's interesting how the notion regarding how the public and the private are both material social areas and ideological constructions that have different forms, meanings and significance for different social categories and essentially for women and men.⁸⁶

⁸⁵ SOU 1982:61

⁸⁶ Hearn & McKie, 2010:140; Bose, 1987; Hearn, 1992,

The legal principles and subjects within this field of law are constructed with the aim of ensuring that the person who is being accused of a crime is treated in accordance with the rule of law. Meanwhile, the victim of crime has not always an obvious position within the criminal justice system. Legal arguments based on the relevance of gender are often rejected since criminal legal principles are considered to be gender neutral. However, various studies argue for that law is not sex/gender neutral but instead dominated by a patriarchal discourse and therefore instead of promoting gender equality runs the risk of producing and reproducing hindrances to gender equality and to criminal legal protection for women.⁸⁷ The legal concept of violence often identify isolated violent acts and the definitions are closely connected to the identified rights of different individuals and social categories, instead of to what is experienced as violent or humiliating. When analyzing the legal arguments, it's important to remember that not all violent acts are made visible in law. Various authors claim that psychological violence needs to be contextualized in order to reveal underlying power relations.⁸⁸ Structural causes of violence and repression are now something that is widely known and much research has been directed at discovering and understanding the causes of violence. This, of course, is an important work that must continue, but it is also important to look further and examine the structural problems that affect legislation and application of the law. The structural inequalities. That leads to the practice of violence remains and effect still, for example, how laws are applied and how the judicial system works.

In the next section, I'm going to take the example of the introduction and implementation of the new crime *Gross Violations of Women's Rights*, ch. § 4a BrB, in order to highlight the role of the Swedish legislation in addressing the issue of domestic violence. And how it has come to shape the discourse regarding the Swedish criminal legal system.

⁸⁷ Burman, 2012:176; Davies, 2007

⁸⁸ Listerborn, 2015:99

4.2.1.1 The implementation of *Gross Violations of Women's Rights*

This paragraph, ch. § 4a BrB, aims at actions that involve repeated violations of personal privacy.

“Section 4a

A person who commits criminal acts as defined in Chapters 3, 4 or 6 against another person having, or have had, a close relationship to the perpetrator shall, if the acts form a part of an element in a repeated violation of that person’s integrity and suited to severely damage that person’s self-confidence, be sentenced for gross violation of integrity to imprisonment for at least six months and at most six years.

If the acts described in the first paragraph were committed by a man against a woman to whom he is, or has been, married or with whom he is, or has been cohabiting under circumstances comparable to marriage, he shall be sentenced for gross violation of a woman’s integrity to the same punishment. (Law 1998:393)⁸⁹”

This paragraph was introduced in the late 1990s as a result of the increased attention to men's violence against women and the serious societal problems this entails. In order for the provision to be applicable, several criminal acts must be committed and that there is a connection between them. The acts shall be directed against the same victim and the victim shall be a person who is related or formerly related or married, formerly married, cohabiting or former cohabitant to the perpetrator. The related concept includes, for example, mother, father, sister, brother or child. It is normally required that the perpetrator and victim reside or live together. The paragraph means that individual criminal acts are seen in a context and are judged as a whole. The actions have meant a repeated violation of the victim's integrity, and the provision focuses on the degrading nature of systematic violations. The section of the law presupposes that there are several acts that each constitute a crime, not a perpetual crime involving several sub-actions. The deeds must be more than two and be suitable for damaging the victim's self-esteem. It is up to the legal practitioner to decide what is meant by "repeated violation".⁹⁰

⁸⁹ Ds 1999:36. The Swedish Penal Code. (1998:393)

⁹⁰ Brottsbalkskommentar, *Holmqvist, Leijonhufvud, Träskman, Zeteo*, 4 kap. 4 §

In Proposition 2012/13:108 on enhanced criminal law protection in the event of gross violation and gross violation of women's rights, in addition to proposed and subsequently introduced increases in the crime's penalty value, it was discussed whether the legal technical design of the crime needed to be changed. However, no such need was deemed to exist, but it was pointed out that the entire situation at the crime must be taken into account. This meant that circumstances beyond the criminal acts would also be taken into account.⁹¹ Traditionally, criminal law has not been used as a means of remedying what society would define as 'social problems.' Today, however, a certain change is visible, and criminal law is used more frequently for this purpose.⁹² In traditional criminal law, the perpetrator and his rights are in focus and the interests of the victim are largely neglected. Men's violence against women was long seen as a political and social problem that was best dealt with outside criminal law. This clearly shows how violence against women was subordinated to other violence when "ordinary" violence was considered appropriate to handle criminal law while violence against women was placed outside the criminal law regulation.⁹³

Monica Burman writes regarding the discussion on the use of criminal law to combat violence against women, three important concepts are often highlighted. These concepts are "*efficiency, norm formation and punishment value.*"⁹⁴ The two latter strongly advocate the use of criminal law in the case of violence against women, since the violence is considered to have a high penalty value and that there is a need for a mark on the part of society. On the other hand, lack of efficiency is often used as an argument against the use of criminal law in these issues. It was long considered by the legislature that the underlying causes of violence could not be remedied in criminal law. Thus, criminal law could not offer the protection that was required and therefore became an ineffective means. However, there has been a change in recent times where norm formation now weighs heavily.⁹⁵

⁹¹ Prop. 2012/13:108 p. 10

⁹² Burman, 2007: 196-198

⁹³ Burman, 2007:220

⁹⁴ Burman, 2007:398-399

⁹⁵ Burman, 2007:398-399

4.3 How do the promises made to the international community capture the essence of the Swedish Gender Equality Policy?

The promises made to the international community regarding measures against violence against women can be seen as a mirror that reflects the Swedish self-image and the essence of the Swedish gender equality policy. In terms of concepts, the aim of the Government in addressing the issue of domestic violence has to an extent been served. It may be concluded from analysing the Swedish gender equality policy and strategy, which shows an effort on the part of the Swedish Government to provide adequate protection. When Sweden was presented with the opportunity with a place on the UN Security Council during 2017-2018, the Swedish Government was given a unique opportunity to carry out its feminist foreign policy in the highest decision-making body within the UN. During the same time that Sweden took its place on the Council, the Government announced that it would push for the implementation of the agenda for Women, Peace and Security.⁹⁶

There are those who argue that Sweden has helped to increase the references to women in the debates in the security council, and also facilitate the participation of women in the Security Council debates.⁹⁷ For most nations, Sweden being one, their own interest and safety is the primary. When it comes to international efforts and coordination, it is the individuals' rights, protection and equality that come back frequently in the countries policy. A central part of the establishment of Sweden as a gender equal country and developed in the opposite discourse on other countries as unequal which the extract shows in the emphasis that Sweden's prioritization of gender equality is not something that is shared by all countries. Since establishing other countries as unequal fills the function of the construction of Sweden as a gender equal country.⁹⁸ Nylén is one of those who argue that the legislative changes and efforts made to combat violence against women are not sufficient to address such a complex problem. He points out that it is a problem that exists throughout society and that there are several forces in various parts of the leading society that

⁹⁶ CONCORD Sweden's Gender Working Group, *How Feminist is Sweden's Foreign Policy - A summary*, Jessica Poh-Janrell, 2017

⁹⁷ CONCORD Sweden's Gender Working Group, *How Feminist is Sweden's Foreign Policy - A summary*, Jessica Poh-Janrell, 2017

⁹⁸ Reimers, 2005: 143

counteract the problems and preserve a discriminatory view of women.⁹⁹ As a political and policy concept, gender equality is frequently linked to other political and policy goals. Verloo argues that if the concept of gender equality is pinned down to specific labels that might narrow down its content, a shrinking of the concept of gender equality shapes the latter by reducing its meaning to something that is confined to a particular policy area or a specific interpretation of an issue.¹⁰⁰

Gender equality is something that is described as crucial for the Government's priorities in decision-making and allocation of resources and is the most important tools for implementing a feminist policy. The Government describes that it is a matter of human rights, democracy and of justice that women and men should have the same power to shape society and their own lives and that gender equality is a part of the solution to the challenges that society faces.¹⁰¹ Meanwhile Sweden has a self-image as one of the worlds most equal countries, where gender equality is a generally recognized ideal, it is also a fact that Sweden has a long way to go before the gender equality policy goals are achieved in practice. In addition, most people at this time know that more power aspects than being based on gender are crucial for people's preconditions for power to shape society and their own life.¹⁰² In the Government's gender equality policy, it begins with a clear power analysis regarding gender, but when later gender mainstreaming is presented, this analysis becomes blurred when it comes to the administrative solutions. Which arguably demonstrates that the Swedish gender equality policy presents somehow limited solutions to address the issue of domestic violence. The positive self-image of equal Sweden is something that is reflected in the Swedish gender equality policy. The gender equality work is described in positive terms and there is a strong feeling of optimism and commitment. However, at the expense of this positive and optimistic understanding of gender equality there is a lack of a clear - cut power perspective.

⁹⁹ Nylén, p. 187- Nylén, Lars: "Rättsväsendet – polisens, åklagarens och domstolens roller", i: Heimer, Gun – Björck, Annika – Kunosson, Chrystal (red.), *Våldsutsatta kvinnor – samhällets ansvar*, tredje upplagan, Lund 2014.

¹⁰⁰ Verloo, 2005a; *The Discursive Politics of Gender Equality: Stretching, Bending and Policy*, Emanuela Lombardo, Petra Meier, Mieke Verloo

¹⁰¹ <http://www.regeringen.se/regeringspolitik/jamstalldhet/>

¹⁰² Tollin, Katharina, *Sida vid sida: en studie av jämställdhetspolitikens genealogi 1971-2006*. Diss. Stockholm: Stockholms universitet, 2011

4.3.1 What should be included and acknowledged in the Swedish gender equality policy in order to promote gender equality more effectively?

According to international law, Sweden is obliged to guarantee women's human rights in accordance with a number of different conventions. In the 1948 Universal Declaration of Human Rights, the 1966 Civil and Political Rights Convention and the 1966 Economic, Social and Cultural Rights Convention state that women and men have equal rights. Despite these conventions, the UN saw a great need to establish a convention aimed only at clarifying women's human rights.¹⁰³ The foundation of the Special Rapporteur on Violence against Women (SRVAW) mandate and the appointment of an incumbent in 1994, formed part of a series of developments that led to accorded explicit recognition to violence against women as a human rights concern within the United Nations.¹⁰⁴ In 2006, the UN Special Rapporteur on violence against women visited Sweden in order to address the discrepancy between the progress of achieving gender equality and the continuous reports of violence against women. The indications then were;

*“the SRVAW indicated the need to enhance the gender equality and institutional framework so as to integrate and involve marginalized constituencies within it”*¹⁰⁵

Simply put, the SRAW argued that the authorities and government did not execute the law in the way intended. This would lead to the conclusion that legislative measures are not enough in order to meet the international requirements in regard to violence against women.¹⁰⁶ Sweden is bound to the Convention on the Elimination of all Forms of Discrimination of Women, (CEDAW) and Istanbul Convention and has also joined to follow the recommendations that appear in the women's declaration. In accordance with these, Sweden must work actively to combat men's violence against women and protect women's human rights. It also emerged that Sweden continuously

¹⁰³ Amnesty, 2004:12

¹⁰⁴ 15 Years of the United Nations Special Rapporteur on Violence Against Women (1994-2009) A Critical Review, Yakin Ertürk,

¹⁰⁵ 15 Years of the United Nations Special Rapporteur on Violence Against Women (1994-2009) A Critical Review, Yakin Ertürk, p.46

¹⁰⁶ 15 Years of the United Nations Special Rapporteur on Violence Against Women (1994-2009) A Critical Review, Yakin Ertürk, p.46

reports on its work to the CEDAW Committee and as a consequence of the Committee's recommendations introduced a national strategy to combat men's violence against women. According to the Government's reports published in 2017, gender-related violence occurs in many countries that are affiliated with CEDAW. The Government believes that there are norms about masculinity and femininity that contribute to the notion of men's subordination and women's subordination and that it is the underlying causes of why men use violence against women who must be combated. The strategy contains goals that will work for expanded and preventive work, strengthened protection for vulnerable, more effective law enforcement and better knowledge of men's violence against women.¹⁰⁷

*(c) Further study the root causes for the low reporting and conviction rates in cases of violence against women, and strengthen its efforts to eliminate all barriers preventing women from reporting violence to the police;*¹⁰⁸

Despite the international obligations that Sweden is bound to follow and the praise given by CEDAW, they meant that Sweden still does not do enough to combat the violence. The CEDAW Committee has expressed great concern in its two latest recommendations that violence against women in close relationships is widespread in Sweden. In both of its latest recommendations, the Committee has emphasized that the notification inclination is low and that too few reports lead to prosecution and convictions and that women do not get the protection they need, especially when it comes to protected housing.¹⁰⁹ Sweden has in its latest report taken measures that have been taken to make improvements in these areas, but the Committee has not considered it to be effective enough. The four objectives of the national strategy address the areas of the CEDAW Committee pointed out that Sweden should work more effectively with. However, the strategy has been criticized by authorities, municipalities and organizations for not being sufficiently clear about what the goals really mean, how they are to be achieved, and that it is unclear on several points what different authorities have for different responsibilities. The critics argue that more concrete and clearer guidance is required for all parties involved.¹¹⁰

¹⁰⁷ <http://sverigeskvinnolobby.se/wp-content/uploads/2016/01/Skuggrapport-CEDAW-Engelska.pdf> CEDAW; Report

¹⁰⁸ CEDAW/C/SWE/CO/8-9

¹⁰⁹ CEDAW; Report

¹¹⁰ CEDAW Report

4.3.2. What happens when the political becomes the legal and vice versa?

If one wants to understand the legal decisions, it's first important to understand how these decisions were made. Although reforms and legislation can be seen as a result of a political agenda setting, this has not happened without conflicting with the right to define reality. Some reality descriptions support some options of action, while others are dismissed or defined from the political agenda. The relationship between politics and practice can be understood as dialectical, or as interdependent.¹¹¹

“ In a society claiming to be working toward gender equality, it, therefore, seems necessary to include in gendered policies on violence men's agency, violent men's responsibility for their violence, and the extent to which it constructs and limits what is possible for women. “¹¹²

That a decision is made does not automatically mean that it is also implemented. Not only is there a legitimacy from the top, but also from below. Even though the state has the right to name what is illegal acts in criminalizing acts and new laws, a consensus, legitimacy of the population, is also required to anchor this exercise of power. This means certain inertia in the system which should also be reflected in the various professions dealing with changes in terms of legitimacy and legality. Therefore, there is every reason to problematize the relationship between political decisions and their implementation.¹¹³

In the 1970s and 1980s, the discussion was marked, regarding individuals' equal rights to physical and sexual integrity. And violence against women can be said to be established on the political agenda as it regularly returns to the debate. Reforms and a package of measures were proposed in which women's abuse was seen primarily as a social problem that required care and treatment. In official political documents during this period, however, it is pointed out that the amended prosecution rules from individual to public prosecution should not be understood as a specific form of women's reform, but aimed at making the law more gender neutral.¹¹⁴

¹¹¹ Cerar, Dr. Miro (2009) "The Relationship Between Law and Politics," Annual Survey of International & Comparative Law: Vol. 15: Iss. 1, Article 3.

¹¹² Burman, 2007:183

¹¹³ Steen, 2003

¹¹⁴ Wendt Höjer, 2002:23

A tension situation is during this time emerging between gender neutral and a gender-specific problematization. Later when the discussion becomes gender-specific, it is about women's physical inferiority. Violence against women becomes part of the generally reprehensible violence and the overall problem of violence in society in general. And women's abuse is then also linked to the general violence and attitudes to violence in society at large.¹¹⁵

4.4. The construction of the Swedish self-image

In this last chapter of my analysis, I want to try to tie together the previous questions raised in the analysis on the issue of domestic violence and in this way create a final contextual background to the Swedish legislation and policy before I present my concluding remarks.

4.1 What assumptions and influences underlie the construction of the Swedish self-image?

In this section, I will discuss and question the belief, which is also common to many Swedes, that Swedish gender equality policy has an ambiguously positive ring in the ears of much mainstream public in other liberal or social democratic countries, that celebrate equality and egalitarian values of part of their national identities. I don't argue against this image and I do believe that there are strong arguments supporting this image as well. Instead, my point is to question the assumptions and influences that underlie the construction of the Swedish self-image.

According to official documents, it is presented that gender mainstreaming has been part of the official strategy for reaching gender equality goals in Sweden since the early 1990s and that this was something that occurred before both the UN and the EU. On the website of the European Institute for Gender Equality (EIGE), the image that it represented presents a view of Sweden that is very common. Which entails a small country, but with a big profile in the European community and it also suggests that Swedish gender equality policy is something that can be exported in the global context.¹¹⁶ The Swedish national identity is deeply rooted and invested in maintaining a reputation for being “good” at gender equality. Sweden is not the same country today, as it was in

¹¹⁵ Wendt Höjer, 2002

¹¹⁶ Angelika Sjöstedt Landén and Gunilla Olofsdotter, 2016:169-170 (Towns, 2002)

the 1990s, neither politically, socially and economically. The Swedish Model strategy reports that “GDP per capita rose by 50 per cent in Sweden during the period of 1995–2016.” This growth is one of the highest than any other OECD countries. Reports show that there was a temporary downturn in the trend during the 2008 financial crisis, but that the GDP per capita in Sweden has been growing again since mid- 2013.¹¹⁷ National and international events have formed in one way or another Sweden into the country of today. The political agenda is also together with the criminal justice system, not the same as it was then.

“Do we believe in the rationality and sensibility of our own policies? Are these practices as liberal and clever as some foreign commentators like to tell to the world?”¹¹⁸

Lappi-Seppälä, are one of those who argue that there seems to be a difference between an outside and an inside perspective, regarding the Swedish society and the penal policies and practices. Where Swedish, or Scandinavian researchers in contrast to non-Scandinavian, are normally less positive when describing, for example, the penal policies. Much that probably has to do with the fact that from the inside it is viewed differently since there has been a more strict crime policy that is more political orientated and influenced by the media and the public view.¹¹⁹ The origin of the idea of the Swedish model should be seen within the framework of the Swedish welfare state. The cause of Sweden being a role model within the penal area during this time, was due to specific social, cultural and political conditions. Unfortunately, this self-image has been partially dissolved in recent years, within several areas of society. The Swedish state itself is in many ways promoted as a good role model, with an almost equally divided Parliament between men and women. The Swedish state is constructed as to have already, to a certain point, achieved gender equality because of the even distribution of men and women in Parliament. This is something that is understood as something positive and presented as an example that more countries should follow.¹²⁰

¹¹⁷ The Swedish Model, Ministry of Finance, Government Office of Sweden,

¹¹⁸ Lappi-Seppälä, 2012: 85

¹¹⁹ Lappi-Seppälä, 2012: 106; Pratt, 2008b: 275-282

¹²⁰ Angelika Sjöstedt Landén and Gunilla Olofsdotter, ‘What should we do instead?’ Gender-equality projects and feminist critique, in Challenging the myth of gender equality in Sweden, 2016:170

I believe that there can be drawn a connection between the 1990s political reform on violence against women and to the #MeToo campaign in 2017. The general response to the #MeToo campaign in Sweden was both quick and positive, what first started out in Hollywood was something that quick was transferred into the Swedish society on a political level. And the global movement quickly made its way into the political and legal discussion, nationally and internationally. The national self-image was shaken in 2017 by testimonies of sexual harassment, violence and marginalization by men against women. During the time that followed in the aftermath of #MeToo, it somehow became clear that Sweden has still a way to live up to its self-image as a feminist state. The MeToo campaign didn't just present an opportunity to break the silence among women, it also opened up space for men to discuss masculinity norms and men's responsibility in the question of gender equality and on the issue of violence against women.

4.1.2 What is it that the Swedish political discourse on domestic violence has left out?

Some authors, argue that Sweden has not highlighted the problems that remain regarding the gender power regime, to the extent needed, which basically had required a new power investigation focusing on violence and gender.¹²¹ Different contradictions do not seem as obvious in this presentation of the problem in the form of dichotomies, but it appears that the male is kept as the norm in society, which means that men and women are separated into different categories of people, in accordance with the gender power scheme. The problem also seems to rest upon the assumption that there is a structure in society that allows men to use their power unnoticed and that the sexes are thus treated and expected to be treated differently.¹²² There has been a development in the recent years where also gender norms for men have become more central in the policy. Initially, men were rarely mentioned except possibly as potential perpetrators of violence. Meanwhile, the critical response to the traditional neglect of gender inequality often started with a focus on women, it has since then developed into more subtle analyses of a range of dimensions of gender relations in social institutions.¹²³

¹²¹ Edwards et al. 2018, <http://www.gp.se/debatt/det-behovs-en-ny-skarp-maktutredning-efter-metoo-1.5031002>

¹²² Bacchi 2009:182

¹²³ Walby et. al. 2017:5

Somewhat recurring in many discussions is the formulation of gender equality, references to the Swedish nation and thus implicit assumptions about the significance and meaning of the Swedish gender equality. For decades of trying to address gender inequality through various strategies and policies aimed at advancing and empowering women, but at the same time, very little attention is paid to examining masculinity. How we in our societies raise and think about men, or how certain policies, institutions or culture create and support the very inequalities that many are trying to diminish. What we finally find ourselves facing is a society with a culture that continues to award power and status to men, disregarding how they behave. Something that seems to be of rather less relevant nature. And which offers women a complex mixture of opportunity and constraint, empowerment and subjugation which they must be forced to navigate on a daily basis. ¹²⁴

When it comes to the state's opportunity to influence this, much is based on knowledge enhancing efforts. However, there are no direct requirements on how to address the gender power order which exists structurally in society. ¹²⁵ Instead, the gender-related structural violence gets an individual-based solution which according to the Swedish Government should disappear through increased competence and knowledge, which therefore can be resolved with more education.

This doesn't mean that education isn't important, quite the opposite, it is vital in order to change the mentality in society and come up with a solution as a whole. However, in the political discourse, this leads to a shift of focus and the most central presentation of the problem regarding the gender power is silenced.

¹²⁴ Elliott, 2018:18

¹²⁵ Elliott, 2018

6. Conclusion

6.1 Concluding Remarks

The aim of this study was to examine domestic violence in Sweden, looking at the nature of the measures taken by the Swedish Government in their work preventing domestic violence. Clarifying what challenges can be identified in the current legislation in terms of preventing domestic violence against women. How the promises made to the international community have captured the essence of the Swedish gender equality policy. And finally how it is connected to the construction of the Swedish self-image. It is important that the reader is reminded that this is a study that is influenced by me as an author. The result could, therefore, be presented differently if another person carried out the same form of study. However, I have tried to clarify my thinking and how I use theory, method and material in order for the reader to understand my starting point as well as possible. Now at the end of this process, I think that perhaps a richer and more complete analysis of representations and discourses could have been done with more material on the actual practice of policy-making and legislation.

The overall consensus regarding the perception that Sweden is a gender-equal country is widespread. And it's often when discussing the shortcomings in the ideal image causes strong reactions. ¹²⁶ The concluding results I've reached in this study are that there is a strong political and social will for change in Sweden combating domestic violence against women and has been for a long time. At the same time, I do believe that there are strong arguments for the construction of the Swedish self-image as a women-friendly and feminist state. However, I also think that there lies a truth in that the Swedish self-image as a "feminist state" is created in relation to those constructed outside or being "less gender equal". One could argue that it makes it easier to appear to have achieved its presented goals and promises. But at the same time, by focusing too much on comparing to those who are not a gender equal country, without reflecting about its own

¹²⁶ Eliasson, Mona, *Våldutsatta Kvinnor - samhällets ansvar*, 2003:15

achievement presented alone, it's easy to become blind what we ourselves lack and should work to improve. Sweden has an obligation under international conventions when it comes to preventing, investigate and combat domestic violence. Overall, I believe that one can say that there has been a positive development in the area of policy and legislation where the problem has been given increased attention and measures have been taken in order to improve the situation. Despite this, there are still some gaps that need to be filled in order for the protection to be considered sufficient.

The study shows that it can be stated that there is an obvious insufficiency in the Swedish justice system in addressing domestic violence. These are due, for example, to ignorance, lack of routines and guidelines, unclear legal rules, lack of resources and finally not least structural inequalities. In order to address the problem, education, structural awareness and social measures are required. The judiciary, therefore, has a great responsibility to improve the situation of women exposed to violence and provide stronger protection. Although that Swedish Government has invested a lot of resources in the area, it almost seems as though it is unclear how the problem should be solved. Since the concluding remarks from the study also confirm that gender equality in Sweden is not always living up to its expectations. I believe that politicians should perhaps listen more to that criticism and focus on why it is so. Personally, I think that in order to fully address the issue of domestic violence, the knowledge and already existing information about the situation of women exposed to violence must, of course, be taken into account when designing future legislation, but it also requires a change in gender equality policy where greater focus must lie on the power structures surrounding domestic violence.

In summary, it can be stated that the dimension of the measures of Sweden's gender equality policy is expressed on a very comprehensive plan in terms of goals and ambitions, meanwhile, the operational dimension is only presented when the concept is articulated in more concrete terms, which highlights the policy that characterizes Sweden, and what the perception of gender equality includes and is adapted after. I've reached the conclusion, like many before me, that several measures, both at a legislative level, application level and level are required for women to be able to live free from violence and oppression and in order to guarantee fundamental rights and freedom.

6.2 Final words

Is it just a political act? Well, some might very well argue it is just a charade that without much effort is easily dismantled. And I'm going to say that during the time working with this study me as well questioned the motives. But, one must remember that changes don't come easy and a few promises aren't going to change anything. So who said a national strategy, a Feminist Government or new legislation would? However, what it does is that it says something what kind of country Sweden would like to be. So maybe, alright if the self-image perhaps doesn't reflect 100 % the reality, and that Sweden still has a long way to go before reaching that goal. I do believe that the measures are taken and the promises made capture the essence of what kind of country Sweden would like to be. And what needs to be done to address an issue that as well can be compared to an international epidemic. Therefore, because of the proportion of the issue, a deeper more structural understanding is essential in order to combat and prevent violence.

The Government describes how gender equality for a feminist government is part of the problem solving for many of the challenges that society faces. This is something I absolutely agree with, but in order to achieve this, we first need to understand why and how these discourses exist? I think that great importance lies in the fact that in order to really see a change, structurally throughout society, one must crack the bubble that maintains an illusion of an image that might or might not be real. Since in order to change something, one must first admit that a change is needed in the first place.

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