



DOES LEGALIZING PROSTITUTION PROTECT WOMEN AND GIRLS?

Findings from countries and states where prostitution is legal

Millions of women and girls around the world are exploited in the commercial sex industry (i.e. the buying and selling of sex), which is often the end destination of sex trafficking. While human rights activists, government officials and the United Nations all agree that the trafficking of women and girls for prostitution is a serious – and growing – problem, there is disagreement as to the best way to prevent trafficking and exploitation. Some believe that targeting the demand for commercial sex that fuels sex trafficking while decriminalizing those exploited in prostitution is the most effective way to curb sex trafficking, while others argue that legalizing or decriminalizing the commercial sex industry is the best way to weed out and prevent exploitation and trafficking.

The legalization of prostitution includes legalizing the activities involved in and surrounding prostitution, and often imposing regulations specific to the sex industry. Countries and states that have legalized prostitution include: **Senegal** (1969), states in Australia including **Victoria** (1994) and **Queensland** (1999), the **Netherlands** (2000) and **Germany** (2002).

The decriminalization of prostitution includes repealing all laws or provisions against prostitution, and not imposing prostitution-specific regulations. Countries and states that have decriminalized prostitution include the Australian state of **New South Wales** (1995), and **New Zealand** (2003).

SEX TRAFFICKING AND EXPLOITATION OF WOMEN AND CHILDREN

- **NETHERLANDS:** In 2003, the Amsterdam Mayor stated that legalization had failed to prevent trafficking, saying “it appeared impossible to create a safe and controllable zone for women that was not open to abuse by organised crime.”ⁱ In 2007, a government report noted that “**pimps [i.e. traffickers] are still a very common phenomenon.**”ⁱⁱ
- **NEW SOUTH WALES (AUSTRALIA):** One police officer who investigates sex trafficking commented on the effects of decriminalization: “Although the intention was to provide a safe working environment for sex workers the reverse has occurred in that **pimps and brothel operators were empowered and enriched.**”ⁱⁱⁱ
- **NEW ZEALAND:** The government noted that the law that decriminalized prostitution “cannot in itself prevent or address the causes of under age prostitution.”^{iv} The National Council of Women of New Zealand, which originally supported decriminalization, expressed their concern that “we are **still seeing girls as young as 13 and 14 on the streets selling their bodies,**” and that men arrested for buying sex from minors are receiving light sentences under the law.^v

MONITORING OF COMMERCIAL SEX INDUSTRY

- **GERMANY:** In 2007 the government found that there “are no viable indications that the [law] has reduced crime,” and that the law “has as yet contributed only very little in terms of improving transparency in the world of prostitution.”^{vi} Over one-third of prosecutors noted that legalizing prostitution “**made their work in prosecuting trafficking in human beings and pimping more difficult.**”^{vii}
- **VICTORIA (AUSTRALIA):** In 2010 the government stated that “both law enforcement and service providers have noted that they have **limited ability to enter brothels to meet with women, and to check for trafficked women and girls.**”^{viii} A law enforcement officer complained that “many brothels have not had a visit for years” and a service provider stated that her access to brothels “is limited and at the discretion of the brothel management.”^{ix}
- **NETHERLANDS:** The government noted that “a large part of police capacity was used for inspections in the regulated sector [of prostitution], leaving them with **no capacity to play a major monitoring and investigative role** with regard to punishable forms of prostitution outside the licensed businesses” (i.e. the illegal sector).^x

- QUEENSLAND (AUSTRALIA): In 2009 the University of Queensland found that an **estimated 90% of the commercial sex industry existed outside the legal sex industry** as “illegal forms of prostitution cater for a demand that is not met by the legal industry.”^{xi}
- NEW SOUTH WALES (AUSTRALIA): Senior police officials have acknowledged that policing of organized crime in legal brothels is “patchy” and the regulation of brothels is “often woeful.”^{xii} One investigator noted that because of decriminalization “**police were cut out of the equation and organised crime infiltrated** the brothel and massage parlor industry.”^{xiii}
- NEW ZEALAND: The police noted that “as a result of legislative changes, Police... has **less contact with the sex industry**, and there is no systematic intelligence gathering and collation,” making it more difficult to discover abuses and exploitation.^{xiv}

SAFETY AND VIOLENCE

- GERMANY: A 2007 government report stated that the law has “not been able to make actual, measureable improvements to prostitutes’ social protection” and that “**hardly any measureable, positive impact has been observed**” regarding their working conditions.^{xv} The government also stated there are “**no viable indications that the [law] has reduced crime.**”^{xvi}
- NEW ZEALAND: According to a 2008 government report, “the majority of sex workers interviewed felt that the [act decriminalizing prostitution] **could do little about violence that occurred**” in the sex industry.^{xvii} The review concluded that there was conflicting evidence on whether people in prostitution were more likely than they were before decriminalization to report acts of violence they suffered to the police,^{xviii} and one of the main studies for the review found that “**few’ women across all sectors of the sex industry had reported violence** to the police.”^{xix}

DISCRIMINATION AND STIGMA

- NETHERLANDS: A 2007 government report found that “the prostitutes’ **emotional well-being is now lower** than in 2001 on all measured aspects, and the use of sedatives has increased.”^{xx}
- VICTORIA (AUSTRALIA): The government admitted in 2010 that people in prostitution continued to face stigma and discrimination, despite prostitution now being legal. One service provider noted that “women constantly tell us that **their status as having done prostitution is used against them.**”^{xxi}
- SENEGAL: A 2010 report found that a large majority of women in prostitution did not register as they fear stigma from the public and harassment from the police.^{xxii} Women in prostitution are considered **social outcasts.**^{xxiii}
- NEW ZEALAND: A government report noted that “despite decriminalisation, the social stigma surrounding involvement in the sex industry continues”^{xxiv} and “**abuse and harassment of street-based sex workers by drunken members of the public is common.**”^{xxv}

ACCESS TO SERVICES

- GERMANY: The government found that the majority of women in prostitution didn’t have – and didn’t want – employment contracts that might safeguard some of their rights as they didn’t want to lose autonomy or anonymity, they didn’t want to pay taxes or they didn’t believe they would be in prostitution for a long time.^{xxvi} Hardly any women in prostitution registered as an employee with a social insurance agency, and thus were **not afforded greater social protection and benefits** like health insurance and pension insurance.^{xxvii}
- NEW ZEALAND: According to the government, most people in prostitution “felt there had been **no great change**”^{xxviii} in their access to health services and information since decriminalization, and key informants “were **not aware of any substantial change in the use of safer sex practices** by sex workers as a result of the enactment of [the law that decriminalized prostitution].”^{xxix}

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- ⁱ “Why streetwalkers are getting the boot,” Expatica, 9 December 2003.
- ⁱⁱ Daalder, A.L., *Prostitution in the Netherlands since the lifting of the brothel ban*, WODC (Research and Documentation Centre, Dutch Ministry of Security and Justice), 2007.
- ⁱⁱⁱ “Licensing law to tighten screws on brothel chiefs,” *The Sydney Morning Herald*, 11 October 2011.
- ^{iv} New Zealand Ministry of Justice, *Report of the Prostitution Law Committee on the Operation of the Prostitution Reform Act 2003*, May 2008, pg. 112, available at: <http://www.justice.govt.nz/policy/commercial-property-and-regulatory/prostitution/prostitution-law-review-committee/publications/plrc-report/documents/report.pdf>.
- ^v “Men ‘the only winners of Prostitution Reform Act’,” *Stuff.co.nz*, 20 Nov 2008, available at: <http://www.stuff.co.nz/national/727258/Men-the-only-winners-of-Prostitution-Reform-Act>.
- ^{vi} German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, *Report by the Federal Government on the Impact of the Act Regulating the Legal Situation of Prostitutes (Prostitution Act)*, July 2007, pg. 79.
- ^{vii} *Id.* at pg. 47 – 48.
- ^{viii} Parliament of Victoria Drugs and Crime Prevention Committee, *Inquiry into People Trafficking for Sex Work: Final Report*, June 2010, available at: http://www.parliament.vic.gov.au/images/stories/committees/dpcp/Trafficking_Final_full_report_with_cover.pdf.
- ^{ix} *Id.*
- ^x Daalder, A.L., *Lifting the Ban on Brothels: Prostitution in 2000-2001*, WODC (Research and Documentation Centre, Dutch Ministry of Security and Justice), 2002.
- ^{xi} Andreas Shloenhardt & Human Trafficking Working Group, *Happy Birthday, Brothels! Ten Years of Prostitution Regulation in Queensland*, The University of Queensland, TC Beirne School of Law, 21 September 2009.
- ^{xii} “Legal brothels linked to international sex trafficking rings,” *The Sydney Morning Herald*, 10 October 2011.
- ^{xiii} “Licensing law to tighten screws on brothel chiefs,” *The Sydney Morning Herald*, 11 October 2011.
- ^{xiv} New Zealand Ministry of Justice, *Report of the Prostitution Law Committee on the Operation of the Prostitution Reform Act 2003*, May 2008, pg. 101.
- ^{xv} German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, *Report by the Federal Government on the Impact of the Act Regulating the Legal Situation of Prostitutes (Prostitution Act)*, July 2007, pg. 79.
- ^{xvi} *Id.*
- ^{xvii} New Zealand Ministry of Justice, *Report of the Prostitution Law Committee on the Operation of the Prostitution Reform Act 2003*, May 2008, pg. 14.
- ^{xviii} *Id.* at pg. 58.
- ^{xix} *Id.* at pg. 122.
- ^{xx} Daalder, A.L., *Prostitution in the Netherlands since the lifting of the brothel ban*, WODC (Research and Documentation Centre, Dutch Ministry of Security and Justice), 2007.
- ^{xxi} Parliament of Victoria Drugs and Crime Prevention Committee, *Inquiry into People Trafficking for Sex Work: Final Report*, June 2010.
- ^{xxii} Foley, E.E. and Nguer, R., “Courting success in HIV/AIDS prevention: the challenges of addressing a concentrated epidemic in Senegal.” *African Journal of AIDS Research*, 2010.
- ^{xxiii} *Id.*
- ^{xxiv} New Zealand Ministry of Justice, *Report of the Prostitution Law Committee on the Operation of the Prostitution Reform Act 2003*, May 2008, pg. 154.
- ^{xxv} *Id.* at pg. 124.
- ^{xxvi} German Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, *Report by the Federal Government on the Impact of the Act Regulating the Legal Situation of Prostitutes (Prostitution Act)*, July 2007, pg. 16 – 20.
- ^{xxvii} *Id.* at pg. 20 – 29.
- ^{xxviii} New Zealand Ministry of Justice, *Report of the Prostitution Law Committee on the Operation of the Prostitution Reform Act 2003*, May 2008, pg. 49.
- ^{xxix} *Id.* at pg. 50.