



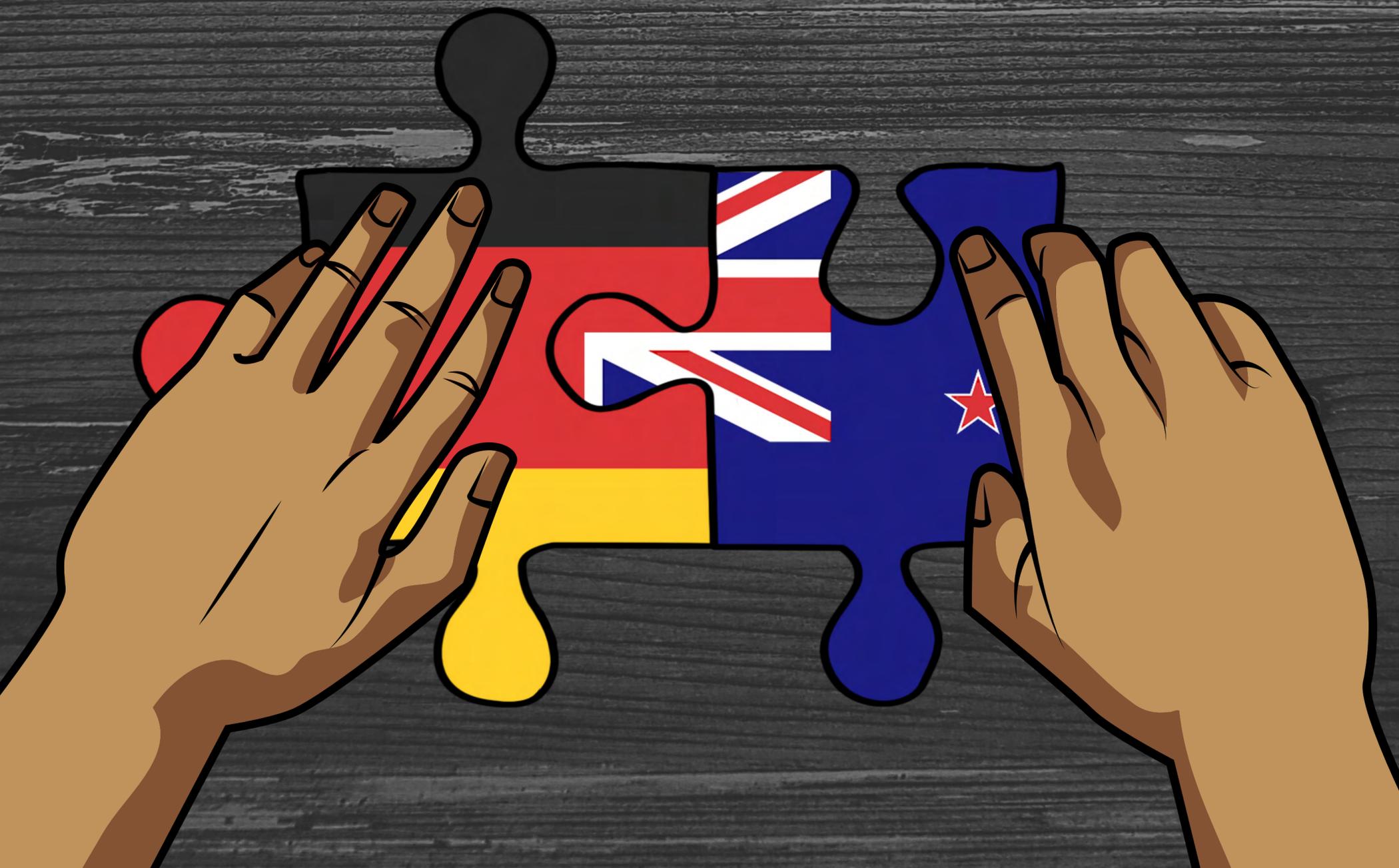
GERMANY

NEW ZEALAND



A Comparison in Prostitution Laws

2002-2017

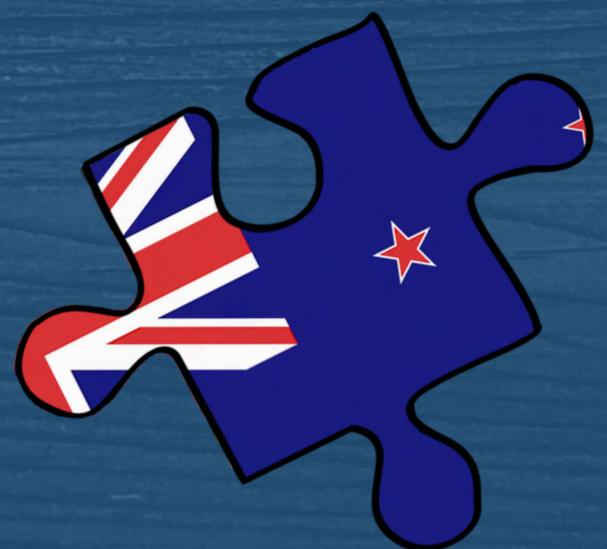




Why Germany and New Zealand?

People caught in the global sex trade, who are overwhelmingly women and girls, are among the world's most marginalized. Yet, in the 21st century, states too often treat them as criminals. Some countries have acknowledged that the common approach of criminalizing people in prostitution is harmful. Sweden, for example, recognized prostitution as an exploitive system of gender-based violence and discrimination and consequently decriminalized only prostituted people, offering them access to support services, while holding sex buyers accountable. Other countries — most prominently **Germany and New Zealand** — gave state-sanctioned approval to the sex trade and framed prostitution as a legitimate industry.

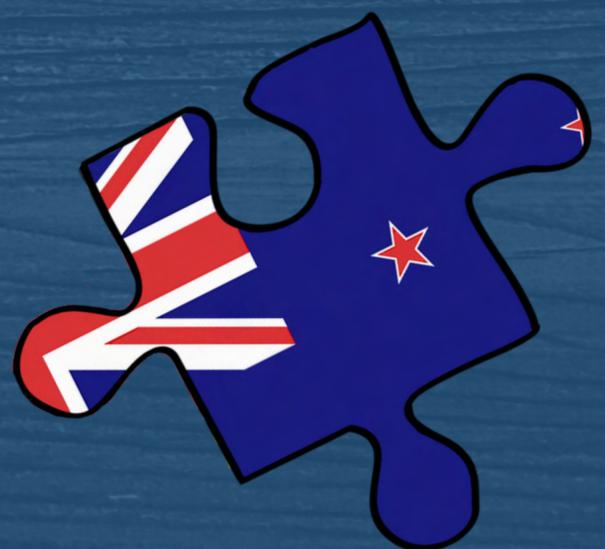
The laws governing prostitution in Germany and New Zealand are often portrayed as markedly different from each other. A closer look reveals that the distinction between the German and the New Zealand models is minimal and neither national legislation achieves its stated goals. While the German law is now branded a failure, the New Zealand framework is upheld as the "progressive" approach to addressing prostitution. **Both laws, however, expand the sex trade, empower sex buyers, legitimize pimps and brothel owners, and increase sex trafficking.**





A Note on Data

Reliable data regarding the sex trade is hard to come by due to a lack of political will from governments and research institutions, including those within the United Nations system, to study prostitution and its effects. Standard research methodologies are difficult to apply in data collection given the way the sex trade operates, regardless of the legal framework in the country. **Consequently, data related to the sex trade should generally be viewed as approximations.**



2002

GERMANY

2003

NEW ZEALAND

+

... each frames **prostitution** as a **legitimate** and **legal industry**, defines people in the trade as "workers," and brothel owners and other third-party exploiters as "employers and *bone fide* business owners."

Over the years...

Germany is dubbed "the brothel of Europe" by the media, and recognized internationally for **enabling organized crime** and **systematic dehumanization of women**.¹ In 2017, the government acknowledges its failure and tightens regulations.

New Zealand's law is declared a **success story** in some circles and becomes the **favoured model** of sex trade proponents.² They claim that New Zealand avoids overregulation, which is argued as the cause of Germany's failure.

Becomes known as...

Legalization

Definition: Many prostitution-specific laws (e.g. mandatory health check-ups of women in brothels, state registration of brothels).

Becomes known as...

Decriminalization

Definition: Prostitution-specific laws are minimized and the sex trade is governed by general civil and criminal law.

BUT HOW DIFFERENT TO EACH OTHER ARE THEY REALLY?

BASIC FACTS & HISTORY



- **Population:** 84 million
- **Geography:** Central Europe, open borders to 9 countries

History

Legal prostitution has a thousand-year-old history in Germany evidenced as early as the Roman Empire. It was tolerated throughout the Middle Ages and was systematized and expanded during the 1933-1945 Nazi dictatorship.³

Germany's Prostitution Act explicitly permits brothel-keeping and drawing up employment and service contracts in a prostitution context. The Act, consisting of only 3 paragraphs, passed Parliament in 2002.

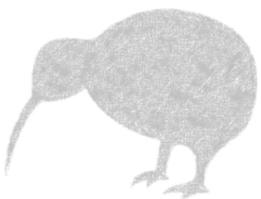


- **Population:** 5 million
- **Geography:** An island country in the Pacific Ocean

History

In the 19th century, European settler-colonialists established a system of sexual exploitation of Indigenous women for profit. In the 20th-century, brothels disguised as "massage parlors" were tolerated and proliferated.⁴

In 2003, the Prostitution Reform Act, consisting of 51 paragraphs, decriminalized all parties in the sex trade — people bought and sold in it, sex buyers, and third parties. A controversial bill, it narrowly passed by a single vote.



Prostitution is integral to both countries' patriarchal systems and colonialist histories.

In both countries, people in prostitution suffered criminalization, exclusion, and forced medical exams for centuries, while **sex buyers rarely faced legal accountability and brothel owners socialized with elites**. In the late 20th century, sex trade profiteers were actively involved in the decision-making processes around the law revisions in both countries.⁵

PEOPLE IN PROSTITUTION

GERMANY*

NEW ZEALAND



Population in prostitution

Gender	90% female, 7% male, 3% trans & gnc
Age	Most between 20-40 years
Presence of Minors	Children are found in sex trade
Ethnicity	80-90% Eastern European & Global South
Economic Status	Majority poor and (undocumented) migrant

64,000 - 250,000

6-11

7,500 - 9,000+

Gender	Majority female, trans & gnc
Age	Most between 20-40 years
Presence of Minors	Children are found in sex trade
Ethnicity	Maori, Pacific Islanders & Asian overrepresented
Economic Status	Majority poor and (undocumented) migrant

12-17

... can enter into legal contracts with registered brothels, as well as sex buyers, and sue for non-payment.



... don't have to obtain government licenses; may access legal or health counseling on a voluntary basis only.



... must take reasonable steps to use condoms, dental dams, etc, during any commercial sex act.



... may be fined or imprisoned if they neglect to pay taxes or operate in no-prostitution zones, and risk deportation if in violation of immigration laws.



Individual lawsuits, already rare, are unable to address power dynamics and violence in prostitution.

Both countries frame people in prostitution as independent agents, failing to recognize systemic vulnerabilities, often borne of histories of childhood abuse, child sex trafficking, and other trauma, that create barriers to reporting abusers and exploiters even in adulthood.¹⁸ Earnings are low¹⁹ and few people have contracts for myriad reasons, including prostitution-related stigma, fear of exploitation and third-party evasion of responsibility. Holiday, sick pay, maternal leave, pensions, and other benefits remain hypothetical.²¹ They **experience significant abuse and violence**²² (further evidenced by "workplace advice" on how to avoid vaginal pain, rape, and murder),²³ frequently leading to long-term ill-health, PTSD, and addiction.²⁴ Exit support is lacking or non-existent for those who want it.²⁵ Both countries view undocumented migrants as "illegal workers," not likely sex trafficking victims deserving of state protection, and frequently deport them.²⁶

SEX BUYERS

GERMANY*

NEW ZEALAND



Number
Gender
Age
Economic status
Civil status

10-20% of male population
99% are male
Slightly younger than average pop.
Above-average income
50% married or partnered
27-31

No government data available
Majority male
No government data available
Socially integrated & successful men
Often married or partnered
32-36

... fully decriminalized, even in some designated no-prostitution zones, where people in prostitution face punishment.



... have to take reasonable steps to use condoms and other protection for all purchased sex acts.



... can legally purchase sexual access to people who are under the influence of alcohol and/or drugs, or ill, impaired, or heavily pregnant.



... are not liable for purchasing sexual acts from human trafficking victims since the "customer" isn't seen as responsible for the "service provider's" situation.



Legal sex buying entrenches inequality and protects violent men.

Far from "sex between consenting adults," legal prostitution is commonly marked by a stark power imbalance, as socially integrated men with disposable income purchase sexual acts with marginalized people. States that sanction prostitution are not meeting their legal obligations to protect people in acute financial or physical distress, suffering from severe illness, drug addiction, or when pregnant or nursing. It proves impossible for sex buyers to reliably identify victims of human trafficking.³⁷ Furthermore, data shows that sex buyers, regardless of laws, **are frequent perpetrators of physical, sexual, and lethal violence against people in prostitution.**³⁸ This violence is motivated by male sexual entitlement, often triggered by anger over perceived "bad services." Perpetrators are emboldened under laws that cast them as "consumers like any other" and undeterred by potential prosecution — which they know is unlikely.³⁹

BROTHEL KEEPERS

**1€ (US\$1.22) equals c. 1.6 NZ dollars.
60€ (US\$73) equal c. 100 NZ dollars .
Calculated 6/4/2021.

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Legal brothels
Size
Room rent (+ tax)
Shift length
Sex buyers per day
Price

c. 10,000+
3-150 women
80-185€** per day
No legal limit, 6-12 hours common
5-15
30-60€** per buyer
40-44

c. 900+
3-50 women
110NZ\$** per day
12 (legal limit) - 17 hours
5 at the high-end of the trade
80-100NZ\$** per buyer
45-49

... must obtain a license, which is easier to obtain than a permit for selling food or adopting a pet.
50



... must prove a clean criminal record before opening a brothel.



... may have women living on the premises, sleeping where they "work", making them dependent for shelter.
51



... can refuse entry to police without a warrant, with the exception of immigration enforcement, and health and liquor license inspectors.



Legal brothels do not provide safe exploitation-free "workspaces."

Brothel owners are motivated by profit maximization, charging exorbitant room rents and other fees while rarely providing "employment" benefits.⁵² Brothels may or may not have panic buttons, cameras, and bouncers—none of which have a reliable record of preventing harassment, rape, or murder.⁵³ **For every legal brothel, there are many illegal ones, and organized crime is involved in both.**⁵⁴ Inspections by health officials are sparse and unable to verify condom use.⁵⁵ Social workers and police have limited access to brothels, either to offer support to prostituted people or attempt to investigate their exploiters. Victims can rarely reach out for help due to trauma bonds, intimidation, not knowing their rights, not speaking English or the national language, mistrust in authorities, and fear of deportation.⁵⁶ **Sources indicate that the sex trade expands in both countries in order to meet the demand for prostitution.**⁵⁷

THIRD PARTY PROFITEERS

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NEW ZEALAND



Yearly profits

Profiteers can legally take...
Profiteers include ...

14,5 billion euros per year

... about 50% of people's earnings.
... gangs like the Hell's Angels, United Tribuns and organized criminal networks from victims' home countries (e.g. the Balkans, Nigeria).

58-60

Multi-million dollar sex trade

... about 50% of people's earnings.
... gangs like the Mongrel Mob and organized criminal networks from victims' home countries (e.g. China, Thailand, Taiwan).

61-63

... may advertise prostitution venues and businesses in public places, e.g. taxis, billboards, posters, etc.



... are required to keep records of employees and make them available to authorities.



... may set "work" hours, prices, dictate dress codes, or mandate near or total nudity.



... profit from dehumanizing and racialized advertising, and risky practices such as "all-inclusives," "flat-rate sex," and "gangbang parties."



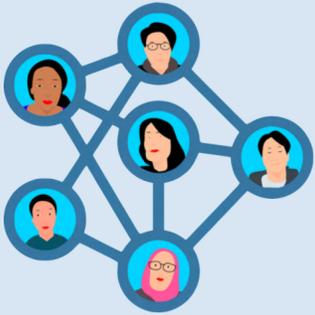
Decriminalizing third parties makes prosecuting exploiters nearly impossible.

Both countries have drastically narrowed their legal definitions of sexual exploitation by third parties, raising the standard of proof for coercion and requiring difficult-to-obtain victim testimony, making the prosecution of pimps and traffickers nearly impossible. Through sketchy book-keeping and by avoiding work contracts, third parties frequently take more than half of prostituted people's earnings and otherwise violate the legal limits of "managing."⁶⁴ The rate of convictions for sex trafficking in Germany is low and decreasing, while New Zealand has not convicted a single sex trafficker since passing its 2003 law.⁶⁵ In both countries, this trend coincided with a strong increase in undocumented migrants⁶⁶ who are especially vulnerable to exploitation and have extra barriers to reporting abusers.⁶⁷ **The power imbalance tips in favor of third-party profiteers.**⁶⁸

EFFECTS ON SOCIETY

GERMANY

NEW ZEALAND



Public opinion

80% of the population does not believe the law works.
86% associate prostitution with exploitation and believe the government isn't doing enough to stop it.⁶⁹

66% of the population support an amendment to ban brothels in residential areas.
50% support a ban on street prostitution.⁷⁰

Significant resistance is mounting to the establishment of brothels in residential areas leading to stricter local laws.



Job centers can't threaten benefit cuts for refusal to enter prostitution, but the trade is normalized for marginalized people.



Widespread denial of the harm of sexual exploitation of minors, disincentivizing and creating barriers to identification and exit.



People in prostitution continue to be stigmatized and fight to maintain anonymity to avoid social exclusion, hostility, and violence.



Marginalized communities suffer the most consequences of state-sanctioned prostitution.

In both countries, communities fight to keep out red-light districts as they involve organized crime, drugs, and threats to female residents.⁷¹ Job centers can't legally take away unemployed women's benefits if they refuse to enter the sex trade, but they can and do suggest taking up "work" at a brothel. Marginalized people and workers in legitimate service industries are increasingly harassed for paid sex as part of the culture.⁷² **What had previously constituted sexual harassment is now a business offer.** The legal sex trade thrives on overt bigotry, such as advertising human beings by body sizes, race, ethnicity, and transgender identity.⁷³ Moreover, NGOs, media, and the government increasingly deny the harm and existence of minor sex trafficking.⁷⁴ While these laws were designed to destigmatize people in prostitution, reduce violence, and allow them equal participation in society and sustainable employment — none of these goals have materialized.⁷⁵

GERMANY

NEW ZEALAND

SO, HOW DIFFERENT TO EACH OTHER ARE THEY REALLY?

For 15 years the German approach was **highly similar** to New Zealand's — in some aspects, going further in its deregulation. In truth, the German federal law consisted of only 3 paragraphs, compared to New Zealand's 51, deferring to the state level for specifics, where the degrees of regulation vary widely.⁷⁶ New Zealand's law can only be promoted as a success by ignoring:

- Similarities with Germany
- Regulations in New Zealand's Act and by-laws⁷⁷
- Absence of prosecutions for trafficking and taking it to mean that it doesn't happen⁷⁸

Both countries continue to **dismiss systemic marginalization and vulnerabilities** experienced by people in prostitution. By framing prostitution as "labor," both unfairly burden prostituted people with the **obligations of an employee** (e.g. taxes) **while receiving little to none of the benefits** and no protection against exploiters unless able to bring a case to court.

Prostitution Laws & the COVID-19 Pandemic

While brothel owners can apply for government support grants, many prostituted persons in both countries are not registered with any authority and consequently **left without income, support, and even shelter**.⁷⁹ During social distancing, legal prostitution turns into prohibition — criminalizing prostituted people — while sex buyers push for lower prices, refuse to use condoms, and sabotage contact-tracing.⁸⁰



Changes to German Law in 2017

In 2017, parties across the political spectrum declared the 2002 German law a failure and introduced amendments:⁸¹

- Mandatory licensing and counseling for prostituted people
- Sex buyers mandated to use condoms
- Purchasing sexual access to a trafficked person criminalized
- Stricter regulations for opening and running brothels
- Ads for "flat-rate," "gangbang," and pregnant women become illegal
- Third-party profiteers are reminded to stop exploitive practices

Politicians and experts have already declared these tighter regulations a failure and are considering further revisions.⁸²

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The German sex trade operates on a more industrial scale than New Zealand with mega-brothels all across the country. Its biggest, the "Pascha," has 126 rooms and 7 floors — at least one dedicated to women offering "cheap services," another to "transsexuals." **Dividing women into categories in accordance with skin color or body type is common.** One of New Zealand's largest brothels, the "Femme Fatale," advertises itself with the words: "Elite selection of beautiful women of varying ethnicities, body types and hair colour [...] here to [...] satisfy your every need."

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On the left is [Jürgen Rudloff](#), the owner of legal German mega-brothel "Paradise" for 10 years until he was [sentenced to 5 years in prison for knowingly profiting from organized sexual exploitation](#). He stated that **it's impossible to meet the demand for prostitution without the aid of organized crime**. On the right is [Mauha Huatahi Fawcett](#), who killed Ngatai Lynette Manning, a woman in the New Zealand sex trade, who refused to pay protection money to his gang. Despite such cases being [common](#), there is little inquiry into third-party profiteers and the role of organized crime.

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One difference between Germany and New Zealand is the regulations around **small brothels** (4 or fewer women). In New Zealand, they do not require a license as long as there is no third party earning a share. If looked up online, however, one finds many of these mini-brothels open for 24-hours with an ever-changing roster of Asian women, which makes the **assumption of "independent entrepreneurs" rather dubious**. In Germany, most prostitution also takes place in such brothels, where **organized crime rotates women bi-weekly**.

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The normalization of adult prostitution impacts the public perception of the sexual exploitation of children. NGOs and the media in both Germany and New Zealand frequently use harm-denying language, calling children "sex workers" or "trick-turners" and the men who rape them "clients." **Children** are not **exploited** in a completely separate sector, but **often alongside adults** in brothels and on the street. As a direct consequence of the law in New Zealand, it's become more difficult for police to obtain identification, which makes it harder to confirm presence of minors.



Coalition

AGAINST TRAFFICKING IN WOMEN

June 2021

