

Prostitution regulation in Ireland: which way now?

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Editorial

The regulation of prostitution in Ireland is currently under review. If fundamental changes are to be made as to how prostitution is regulated in Ireland then the rationale behind these changes needs to be considered. For example, is the aim to eliminate prostitution entirely? Or is it to ensure prostitutes are better protected? Or to update current laws to react better to a changed market?

The regulation of prostitution is only one aspect of the complex issue that is the sale of sexual services. Reasons for entry into prostitution and barriers to exiting prostitution must be examined in any changes in approach. Furthermore, any approach to regulation needs to be adequately resourced so that it can be properly policed.

This *Spotlight* is intended to give members an overview of the approaches taken in Sweden, the Netherlands, Germany and New Zealand.

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Executive summary

Prostitution regulation in Ireland is currently under review. At present, the sale or purchase of sex is not criminalised in Ireland although some activities associated with prostitution are. Prostitution is generally regulated through one of the following approaches: criminalisation; partial criminalisation (for example decriminalising the prostitute); and decriminalisation and regulation.

Approaches to regulation and its effects

The approaches to prostitution regulation in Sweden, the Netherlands, Germany and New Zealand are considered in this *Spotlight*.

In **Sweden** prostitution is partially criminalised. The purchase of sexual services is a crime but the sale of sexual services is not. The Swedish law aims for the promotion of equality for women and protection from violence. It aims for the abolition of prostitution in the long run and for public support for this aim.

In the **Netherlands** prostitution is legal. The Dutch regulatory approach aims to safeguard prostitutes' rights, remove criminality from prostitution and stamp out prostitution by illegal immigrants.

In **Germany** prostitution is legal. The legislation aims to improve the legal and social status of prostitutes, improve their working conditions and stop criminal activity in relation to prostitution.

In **New Zealand** prostitution is legal and the legislation aims to promote the human rights, welfare, occupational health and safety of sex workers.

It has been difficult to get accurate information on the numbers of prostitutes in each of the countries

examined. Much of the research conducted focuses on street workers who are more visible than indoor workers but who represent a minority of prostitutes in a country.

There was a drop in the number of street prostitutes in Sweden following the introduction of the law criminalising the purchase of sexual services but this may not have lasted. A review of the law found that 'prostitution in Sweden... has not in any case increased since the introduction of the ban.'

Changes in the regulation of prostitution in the Netherlands have led to a dramatic decrease in prostitution by illegal immigrants and illegal residents. However, there has been an increase in prostitutes from Eastern Europe who have legal residency.

It is not clear in Germany if there has been any increase or decrease on numbers in prostitution.

The New Zealand legislation aims specifically to lower the numbers in prostitution. Numbers have not been significantly reduced but there has been movement from the managed sector (brothels, massage parlours, escort services) to the private indoor sector.

Are prostitutes safer?

This is also difficult to ascertain, particularly when much of the research focuses on street workers rather than other less visible prostitutes.

The Swedish Health and Welfare Board concluded that it could not say for certain whether violence against prostitutes had increased or not following the ban.

The Dutch Ministry of Justice states that Dutch decriminalisation has been moderately successful in improving working conditions and safety for legal prostitutes. However, Dutch authorities

estimate that approximately 90 % of reported incidents of violence against prostitutes are against women working illegally.

In Germany planning regulations in relation to exclusion zones has led to some prostitutes working in tolerance zones on the outskirts of towns without any kind of infrastructure. This has put prostitutes at a higher risk of becoming victims of violence. This is an unintended consequence of German regulation.

In New Zealand a survey of some 770 prostitutes felt that the introduction of the legislation had little impact on client violence. However a majority of sex workers felt that they could now report violence and adverse incidents to the police.

The effect on trafficking for sexual exploitation

There are large information gaps in relation to trafficking statistics. This makes it difficult for any country to assert that their particular approach is working as there is little information on whether trafficking is reduced under any one legislative or regulatory approach.

Trafficking and prostitution are separate but interlinked issues. The number of court cases involving trafficking is used as an indicator of trafficking by some countries. However the number of court cases does not correlate directly to overall trafficking figures. More court cases could reflect more police action on the issue. A smaller number of cases, or no cases, could mean that police resources are being used somewhere else.

A number of common themes can be seen from the U.S. State Department reports on trafficking into and in Ireland, Sweden, New Zealand, the Netherlands and Germany:

- Sentencing for trafficking offences is too lenient particularly after appeal;
- Specific trafficking legislation is often not used in the prosecution of offences: traffickers are prosecuted using other legislation such as other sexual offences legislation;
- An increase in the number of detected trafficking cases and in the number of cases being prosecuted does not necessarily represent a rise in trafficking overall;
- The numbers of those trafficked into any of the above countries cannot be accurately calculated;
- The different approaches taken by countries in relation to the regulation of prostitution may have some impact on trafficking for the purposes of sexual exploitation in that country.

Conclusion

The regulations in each country have had effects. However, all the policies examined have had unintended consequences, for example by moving people into less secure situations. Tax evasion motivates women to stay out of licensed premises and work independently, and planning regulations may move prostitutes away from city centres to less visible tolerance zones. Prostitutes may be under pressure to take any client they can in countries where the sale of sexual services is criminalised.

Prostitution in Ireland

Ireland's approach to the regulation of prostitution is the partial criminalisation of prostitution. The sale or purchase of sex in Ireland is currently not criminalised. However, activities associated with prostitution such as pimping, soliciting or brothel keeping are crimes. It is also an offence to organise prostitution, coerce or compel a person to be a prostitute or knowingly live on the earnings of a

prostitute. The rationale behind these offences is the protection of prostitutes and an attempt to protect society from the nuisance and public-order problems associated with prostitution.

Since 2008, there is also specific legislation in relation to human trafficking which makes it an offence to knowingly solicit or importune a trafficked person, in any place, for the purpose of prostitution. Prostitution by children is also outlawed.

The nature of prostitution in Ireland has changed dramatically over the past decade. Street prostitutes, the most visible face of prostitution, have been outnumbered by off-street prostitutes who can be contacted over the internet or by phone. Many more foreign prostitutes operate in Ireland than a decade ago and the extent of the trafficking of women into and within Ireland for sexual exploitation is unknown.

There is no accurate information on the number of prostitutes in Ireland. However, it has been estimated that up to 1,000 prostitutes are working here daily.¹

Incidents of prostitution offences from 2004-2011 do not give an indication of the overall numbers in prostitution. In 2011 there were 50 incidents of brothel-keeping detected which is a drop from 61 incidents recorded in 2010. Only 4 similar incidents were recorded in 2004. There were 170 incidents of prostitution including solicitation detected in 2011, up from 127 in 2010. However, in 2004 there were 181 similar incidents.

¹ See www.ruhama.ie

Approaches to the regulation of prostitution

Some jurisdictions opt for the legalisation of prostitution to try to reduce crimes associated with prostitution such as organised crime, police corruption, child prostitution, and sex trafficking. However this can also be the aim of jurisdictions where prostitution is criminalised. These different approaches may have an impact on the levels of supply and demand for sexual services, and this in turn may have an impact on the trafficking of persons for sexual exploitation.²

Prostitution is generally regulated through one of the following approaches:

- Criminalisation;
- Partial criminalisation such as decriminalising the prostitute;
- Decriminalisation and regulation.

Criminalisation

Countries who follow the criminalisation approach, such as the United States,³ want to eliminate prostitution completely. Prostitution is illegal and it is a crime both to sell and to purchase sexual services. This approach attempts to reduce both the supply and demand of prostitution by deterring prostitutes and their clients. In theory, targeting both the supply of and demand for prostitution will result in a reduction in both. The effects of the criminalisation of prostitution can have a number of effects on trafficking for the purposes of sexual exploitation.

² See <http://www.kentlaw.edu/perritt/courses/seminar/VHayes-final-IRPaper.pdf> for a fuller discussion of the issue.

³ With the exception of the state of Nevada

Criminalisation of both the supply of and demand for sexual services	
Arguments in favour of this approach:	Arguments against this approach:
<p>It deters trafficking because of the risk of arrest and prosecution.</p> <p>The limited profitability of trafficking into countries where prostitution is criminalised will deter criminal gangs from trafficking</p>	<p>It increases trafficking because there may be an insufficient supply of prostitutes in the country (because of the fear of prosecution), and demand outweighs supply.</p> <p>It makes prostitutes more vulnerable and easier to coerce, as they will not seek help from the authorities for fear of prosecution. This can make it easier for prostitutes to be trafficked.</p>

This paper does not look at a country where prostitution is criminalised.⁴

Decriminalising the prostitute (partial decriminalisation)

In jurisdictions where this type of partial decriminalisation approach is taken, the act of selling sexual services is decriminalised, but the act of buying sexual services remains a crime. This approach is taken in states where all prostitution is viewed as exploitation and involuntary. This is the so-called Swedish approach and it has also been followed in Norway and Iceland. This approach aims to decrease demand for the sale of sexual services by criminalising the purchase of sexual services. The

⁴ See the US State Department Report on Trafficking in the US for details

supply of sexual services is not specifically targeted by this approach. Decreasing the demand for sexual services can have an impact on trafficking.

Partial decriminalisation – decriminalising the sale of sexual services	
Arguments in favour of this approach:	Arguments against this approach:
<p>A decrease in demand for prostitutes will lead to a decrease in trafficking.</p> <p>Trafficked prostitutes will be more likely to seek help and get out of prostitution as they will not be prosecuted for selling sexual services.</p>	<p>The criminalisation of the purchase of sexual services drives prostitution deeper underground which makes it both more difficult to find and assist trafficked prostitutes, and more dangerous for the prostitutes.</p> <p>Clients will be less likely to report suspicions about trafficked prostitutes as the clients are likely to be prosecuted.</p>

Decriminalisation and regulation of prostitution

Under the decriminalisation approach prostitution is legal but is regulated by government. Germany, the Netherlands and New Zealand follow this approach which is based on the belief that prostitution is part of human life but should be controlled. Human trafficking for sexual purposes is still a crime in these jurisdictions.

Decriminalisation of prostitution and regulation	
Arguments in favour of this approach:	Arguments against this approach:
<p>It has a positive effect on trafficking as voluntary prostitutes will supply sexual services and therefore there will be no demand for trafficked prostitutes.</p> <p>Clients of prostitutes will report suspicions of trafficking to the authorities as there is no fear of prosecution.</p>	<p>The legalisation of prostitution leads to less investigation of the sex industry by police which results in less trafficking being discovered.</p> <p>It is also thought that in some jurisdictions traffickers can obtain valid work permits as sex workers for the people who are being trafficked. Therefore, it is more difficult to prove that trafficking has taken place</p>

Political aims behind approaches to the regulation of prostitution

Sweden⁵

The purchase of sexual services has been a criminal offence since 1999.⁶

The political aims of the Swedish law are:

- Promotion of equality for women;
- Protection of women from violence by men;
- To win public support for the endeavours to combat prostitution, and to win over public opinion;
- Abolition of prostitution in the long term.

The law assumes that prostitution cannot be voluntary and that it is a serious social problem, which should and can be abolished.

The Netherlands⁷

Prostitution has not been illegal in the Netherlands for over 100 years, though living on the profits of prostitution and owning a brothel was criminalised until 2000.

⁵<http://www.si.se/upload/Human%20Trafficking/The%20ban%20against%20the%20Purchase%20of%20Sexual%20Services.%20An%20evaluation%201999-200.pdf>

⁶A Norwegian government report (2004) on prostitution in the Netherlands and Sweden was also used.
http://www.regjeringen.no/nb/dep/jd/dok/rapporter_planer/rapporter/2004/purchasing-sexual-services.html?id=106214

⁷<http://english.wodc.nl/onderzoeksdatabase/1204e-engelse-vertaling-rapport-evaluatie-opheffing-bordeelverbod.aspx>

Prostitution policy of the Netherlands has the following political aims.

- Improved monitoring and regulation of legal prostitution and where it takes place, by issuing licences for the operation of prostitution businesses;
- Curbing illegal prostitution and stepping up efforts to combat exploitation and forced prostitution;
- Protection of minors from sexual exploitation;
- Safeguarding and asserting prostitutes' rights;
- Separating prostitution from the criminal activities associated with it; and
- Stamping out prostitution by illegal immigrants and individuals without valid residence permits.

A pragmatic approach is taken towards prostitution in the Netherlands – it is seen as a social phenomenon which is almost impossible to stamp out. Prostitution is viewed as the sale of sexual services which constitutes a form of gainful employment. A distinction is made between voluntary prostitution, which is legally accepted, and forced prostitution, which is prosecuted. Prostitution involving minors is a criminal offence. Forced prostitution is viewed as a form of organised crime.

At the same time as the general ban on brothels was lifted in 2000, criminal laws were amended to introduce tougher penalties for the abuse of minors. The range of sentences available to deal with exploitation, trafficking in human beings and forced prostitution was also expanded.

Germany⁸

Before 2002, German law prohibited anything done in “furtherance of prostitution,” including operating a brothel. Prostitution was not illegal but it was deemed legally immoral as were businesses which made a profit from immoral activities. Prostitutes were compelled to register with the government and undergo mandatory disease screening.

In 2002 Germany passed *An Act Regulating the Legal Situation of Prostitutes (Prostitution Act) 2001* which decriminalised brothels and lifted the prohibition against promoting prostitution.

The *Prostitution Act* adopted the position that the law must “respect a person’s voluntary, autonomous decision to engage in prostitution as long as it does not violate any rights of others.”

The political goals of the German legislation are:

- Improving the legal status of prostitutes: not that of clients, brothel owners/managers or others;
- Improving the social position of prostitutes;
- Improving working conditions for prostitutes;
- Stopping the criminal activities that accompany prostitution; and
- Making it easier for people to get out of prostitution.

⁸ <http://www.cahrv.uni-osnabrueck.de/reddot/BroschuereProstGenglisch.pdf> The study was commissioned by the BMFSFJ (Federal Ministry for Family Affairs, Senior Citizens, Women and Youth)

New Zealand⁹

Until 2003, New Zealand prohibited brothel-keeping, living on the earnings of prostitution, procuring, and soliciting sexual services. Prostitution itself was not a crime. The 2003 *Prostitution Reform Act (PRA)* decriminalised consensual adult prostitution in all forms, and implemented a licensing regime for brothels. Small owner-operator brothels comprising four or fewer prostitutes were permitted without a licence.

The aims of the *Prostitution Reform Act (PRA) 2003* are to decriminalise prostitution and to create a framework that:

- Safeguards the human rights of sex workers and protects them from exploitation;
- Promotes the welfare, occupational health, and safety of sex workers;
- Is conducive to public health; and
- Prohibits the use in prostitution of persons under the age of 18.

The PRA created a certification system for brothel operators and made it a summary conviction offence for clients, prostitutes, or brothel operators to fail to promote or adopt safer sex practices.

⁹<http://www.justice.govt.nz/policy/commercial-property-and-regulatory/prostitution/prostitution-law-review-committee/publications/plrc-report/report-of-the-prostitution-law-review-committee-on-the-operation-of-the-prostitution-reform-act-2003/?searchterm=prostitution>

How does regulation affect the numbers in prostitution?

Sweden

Sweden aims for the abolition of prostitution. In 1998 there were an estimated 2,500 prostitutes in Sweden, which was a low number in comparison to other Nordic countries. Of this number only 26% were street workers with the majority working elsewhere. Swedish government reports estimate that the number of prostitutes on the street since the Act came into force has dropped by about 41%. This figure relates to street workers only. By 2006, there were an estimated 1,500 prostitutes working in Sweden, with up to 400 on the streets. Nevertheless, the Swedish authorities cannot estimate with any degree of certainty how many indoor prostitutes, who form the majority of prostitutes in Sweden, there are.

The inquiry on evaluation of the ban on purchase of sexual services from 1999-2008 concluded that:

‘Prostitution in Sweden, unlike in comparable countries, has not in any case increased since the introduction of the ban.’

The National Board of Health and Welfare’s [‘Prostitution in Sweden 2007’](#)¹⁰ report concluded that:

‘It is also difficult to discern any clear trend of development: has the extent of prostitution increased or decreased? We cannot give any unambiguous answer to that question. At most, we can discern that street prostitution is slowly

¹⁰http://www.socialstyrelsen.se/Lists/Artikelkatalog/Attachments/8806/2008-126-65_200812665.pdf The National Board of Health and Welfare carries out research on prostitutes in Sweden.

returning, after swiftly disappearing in the wake of the law against purchasing sexual services. But as said, that refers to street prostitution, which is the most obvious manifestation. With regard to increases and decreases in other areas of prostitution – the “hidden prostitution” – we are even less able to make any statements. ..But we do not know whether or not more people are in fact selling or buying sex due to this. What we do know is that prostitution has developed along with society otherwise. New technology is leaving its mark on the modes of contact and organisation of prostitution – buyers and sellers of sexual services now make contact with each other by multifarious means.’

The Netherlands

Control of the numbers of prostitutes is not a stated aim of legislation in the Netherlands. However it does aim to stamp out prostitution by illegal immigrants and by individuals without valid residence permits. Municipal authorities are responsible for licensing prostitution in their areas. In some areas home-based prostitutes and escorts do not need to be licensed, which makes it more difficult to estimate how many sex establishments or prostitutes are in a particular area. While a majority of municipalities could state how many licensed sex establishments were in their area, only a quarter of the municipalities knew the number of prostitutes working in their area. Information on non-licensed businesses was also limited. The Dutch government report notes a decrease in the number of prostitutes who need working documents (such as Russia and Latin American countries) and an increase in all sectors in the numbers of prostitutes from Eastern European countries. Prostitution by illegal immigrants has declined dramatically.

Germany

The German report did not comment on any increase or decrease in prostitute numbers following the decriminalisation of brothels. One of the aims of the German law on prostitution is that prostitutes should have the possibility of exiting prostitution for example by taking up opportunities to join retraining schemes. Exit support has been offered mainly through advice centres. However, cut backs mean that only one German state is still running an exit programme of this kind.

New Zealand

The legislation in NZ aims specifically to lower the numbers in prostitution. The NZ government report concluded that the size of the sex industry has not been affected by the legal changes; however prostitutes are slowly moving from the managed sector (brothels, massage parlours, escort services) to the private indoor sector. While it was hoped that the PRA would lead street-based prostitutes (11% of the NZ sex trade) to move indoors, evidence suggests there is little movement between the street and indoor sectors of the industry. There has not been a noticeable increase in the numbers entering prostitution.

Are prostitutes safer?

Sweden

A 2003 report by the Swedish Health and Welfare Board¹¹ concluded that: ‘We cannot say for certain whether violence in relation to prostitution has increased or not. While some informants speak of a more risky situation, there are few who really think that the actual violence has increased.’

¹¹www.socialstyrelsen.se/Lists/.../10488/2004-131-28_200413128.pdf

The same report noted that because there were fewer clients that it was therefore reckoned that a larger part of them were “dangerous.” As police do not monitor prostitution in private homes and clubs, the safety of women who are indoor prostitutes is unknown.

The Netherlands

According to reports commissioned by the Dutch Ministry of Justice, Dutch decriminalisation has been moderately successful in improving working conditions and safety in the legal practice of prostitution. The reports suggest that the women working in the licensed sector are neither underage nor exploited. These reports conclude that the supply of and demand for prostitution in the Netherlands has decreased since the legislative changes.

Regulation has improved working conditions in the licensed brothels. The prostitutes who were interviewed for the evaluation reported that hygiene conditions are now good to very good and that overall developments are positive.

The Dutch report states that:

‘Prostitutes are now also better protected: it is illegal to force them to consume alcoholic drinks with their clients, to have unprotected sex, or perform particular sexual acts. The department of public health and advisory centres have unobstructed access to the brothels. The police report that prostitutes’ awareness that violence and exploitation are unacceptable has been strengthened by the Act.’

However there is less information on women who do not work in legal brothels. Approximately half of all prostitution in the Netherlands happens outside of this legal sector, and often involves foreign prostitutes providing out-calls set up by telephone and over the internet. The Dutch authorities estimate that approximately

90% of reported incidents of violence against prostitutes are against women working illegally.

Some local authorities withdrew permits for street prostitution which led to previously self-employed prostitutes moving into brothels. The Dutch report notes that in some cases, it also led to prostitutes being forced to move out of the busy city centres onto the periphery of the city, putting them at higher risk.

It also notes that:

‘there are still illegal brothels, exploitation and forced prostitution and a market that cannot be fully controlled by the police, e.g. in the field of escort services or prostitution in private flats and houses. The fact that government agencies concentrated on the licensed sector at the beginning of the implementation process had the undesired effect of creating a greater gap. The poor working conditions of migrants without a legal residence status have become even worse.’

The Dutch report states that:

‘a large part of the available police capacity is deployed for inspections in the licensed sector, thus limiting the capacity for monitoring and investigative tasks with regard to punishable forms of exploitation in the non-licensed sector.’

Germany

Exclusion zones restrict prostitution in many German cities. The exceptions are usually typical redlight districts. The German report notes that these districts have

‘a high concentration of prostitution businesses and prostitutes, competition amongst the prostitutes is tough and pimps have a great deal of influence.’

It also notes that tolerance zones in areas on the outskirts of town without

any kind of infrastructure put prostitutes at a higher risk of becoming victims of violence. This is an unintended consequence of German regulation.

New Zealand

Around 770 prostitutes were interviewed for the NZ report. A majority of interviewees felt that the introduction of the legislation had little impact on client violence. However a majority of sex workers felt that they could now report violence and adverse incidents to the police. This was a significant change from the previous situation. Over 60% of those interviewed also felt that they were able to refuse clients following the introduction of the law.

How does regulation affect trafficking for sexual exploitation?

There is a lack of accurate information in relation to human trafficking in all the countries examined. Trafficking and prostitution are not synonymous although they are interlinked.

The number of court cases involving trafficking is used as an indicator of trafficking by some countries. However the number of court cases does not correlate directly to overall trafficking figures. More court cases could reflect more police action on the issue. A smaller number of or no cases could mean that police resources are being used somewhere else.

In theory, the approach taken to the regulation of prostitution in a country should have an effect on the supply and demand for prostitutes. This in turn should have an effect on the trafficking for the purposes of sexual exploitation which is based on demand for sexual services. However, in reality it depends largely on the resources allocated to combatting trafficking.

Official information from each country is used along with the U.S. State Department 2011 annual reports on human trafficking to assess trafficking Sweden, the Netherlands, Germany, and New Zealand. The U.S. State Department assesses countries in relation to the protection of trafficking victims; the prosecution of traffickers; and the prevention of trafficking.

Sweden

The Swedish report notes that court proceedings relating to trafficking in human beings have not increased as they have in other European countries and there are indications that organisers of trafficking are tending to avoid Sweden:

‘Although it is hard to assess the exact scale of human trafficking for sexual purposes, in Sweden the establishment of this kind of crime is considered to be substantially smaller in scale than in other comparable countries. According to the Swedish Police, it is clear that the ban on the purchase of sexual services acts as a barrier to human traffickers and procurers who are considering establishing themselves in Sweden.’

In its 2004 status report, the Swedish Police estimated the number of women who were victims of sex trafficking in Sweden at 400 to 600. The 2007 report avoided any specific figures and pointed out that the number of court sentences from year to year cannot serve as a basis for determining an increase or decrease in human trafficking or procurement. Instead, this data indicates police priorities, resources and the kinds of problems they face in different parts of the country.

The latest report from the Swedish Police states that it is difficult to estimate how many people may have been victims of human trafficking in Sweden in 2007 and 2008.

'The total analysis of the situation in the 2007 report stated that human trafficking for sexual purposes is a widespread crime taking place virtually throughout the entire country, but with a focus on the three big city regions.

Although it is difficult to assess the exact scope of human trafficking for sexual purposes in Sweden, some data indicate that the scope has been affected by the ban against the purchase of sexual services. Police in the field as well as social workers working with these issues state that criminal groups that sell women for sexual purposes view Sweden as a poor market and choose not to establish here because of the ban against the purchase of sexual services.'

The US State Department report on trafficking in Sweden in 2011 finds that:

- Sweden is a destination, source, and, to a lesser extent, a transit country for women and children subjected to sex trafficking. Swedish police have estimated that 400 to 600 persons are subjected to human trafficking, primarily in sex trafficking, in Sweden annually.
- The government proactively identified trafficking victims. It also funded studies of its own anti-trafficking policies and activities and produced reports on labor trafficking.

The U.S. State department notes with concern that the Swedish judiciary continued to award light sentences for trafficking in persons offences, including in cases involving very aggravated circumstances. The courts convicted 27 offenders in 2011, including three for sex trafficking, five for trafficking for other purposes, one for assisting trafficking, four for aggravated procurement, and 14 for

procurement. The sentences for sex trafficking ranged from three to six years' imprisonment (four year average sentence). Nevertheless, these convictions were often reversed or the sentences were reduced by the appellate courts.

The Netherlands

The Dutch report states that:

'Internationally, the Netherlands is viewed by some countries as a country where there are no limits with regard to prostitution and where trafficking in human beings is facilitated. However, it is likely trafficking in human beings has become more difficult, because the enforcement of the regulations has increased in comparison to the former situation, when all exploitation of prostitution was prohibited.'

The Dutch report did find evidence of involuntary prostitution. Of the prostitutes interviewed in the licensed sector, 8% stated that they had once begun working as prostitutes due to some form of coercion. The numbers for prostitutes outside of the licensed sector are not known.

The Norwegian Ministry for Foreign Affairs' report on the Netherlands estimates that about 10% of the 35,000 prostitutes in the country are victims of human trafficking and come primarily from Central and Eastern Europe.

The Dutch report found that the transparency resulting from the legalisation of prostitution has boosted prosecutions of human trafficking in human beings and checks on brothels have improved the chances of getting a successful prosecution. The police report that they are now able to work in a more focused way. The number of police investigations into human trafficking has increased in the Netherlands since the introduction of the legislation. However, according to the Dutch authorities, this can be

explained by the fact that people have more confidence in the police and not because conditions have worsened.

The U.S. State Department report on trafficking in the Netherlands in 2011 states that:

- The Netherlands is primarily a source, destination, and transit country for men, women, and children subjected to sex trafficking and forced labor.
- The Government of the Netherlands fully complies with the minimum standards for the elimination of trafficking. The government again showed regional and international leadership on anti-trafficking reforms.
- Sentences for convicted traffickers, however, remained consistently low.

While the Dutch government aggressively prosecutes sex trafficking offenders the average sentence imposed continued to be less than two years. In January 2011, the Judiciary Council adopted a taskforce proposal to limit litigation of trafficking cases to four specialized courts in the country in order to build necessary expertise among judges and to promote a uniform interpretation of the law.

The State Department report notes that in 2010, Comensha, the government-funded national victim registration center and assistance coordinator, registered 993 trafficking victims, an increase from 909 victims in 2009, and 826 victims in 2008. The majority of these 993 victims were identified by the police. The Government of the Netherlands has an extensive network of facilities providing a full range of trafficking-specialized services for children, women, and men; the government provided victims with legal, financial, and psychological assistance, shelter (in facilities that also serve victims of other crimes), medical care, social

security benefits, and education financing. Victims in government shelters were not detained involuntarily.

U.S. State Department recommendations for the Netherlands:

- Ensure convicted trafficking offenders receive sentences commensurate with the gravity of the crime committed;
- Continue to self-monitor and critique anti-trafficking efforts to advance the government's response; and
- Expand the government's international leadership role to share best practices with other countries, in particular on victim identification and assistance, protection of unaccompanied foreign minors, and establishment of a self-critical approach to enhance global anti-trafficking efforts.

There is an autonomous government – funded Office of the Dutch National Rapporteur on Trafficking to monitor the government's anti-trafficking efforts. The State Department notes that the Netherlands government again showed regional and international leadership on anti-trafficking reforms. However, trafficking remains a problem.

Germany

There has been a steady increase in the number of human trafficking investigations in Germany. Jorg Ziercke, the Chief Commissioner of the Federal Criminal Police Office of Germany stated in 2008 that 'Over the course of the last five years, the number of investigations has risen continuously from 317 to 534. This means an increase of 70% over five years and 11% last year alone. We attach great importance to this form of criminal activity

because the human dignity of the victims is violated.’

In 2008, 482 investigations into human trafficking for the purpose of sexual exploitation were concluded, 6% more than during than in 2007. There was a 52%¹² increase in the number of investigations from 2005 to 2008. The German authorities notes that most of the cases involved women forced into prostitution. Most victims of forced prostitution are from eastern European countries while one in three perpetrators is a German national.

As with figures in relation to court cases, a rise in the number of investigations into trafficking for sexual exploitation can mean that there is an increase in the numbers of persons being trafficked. However, equally it can mean that particular police forces or regions have decided to focus more time and resources on the area.

The U.S. State Department report on trafficking in Germany in 2011 found that:

- Germany is a source, transit, and destination country for women, children, and men subjected to sex trafficking and forced labor.
- Approximately 85% of identified victims of sex trafficking originated in Europe, including 25% from within Germany.
- The majority of identified sex trafficking victims have been exploited in bars, brothels, and apartments.
- Approximately 45% of identified sex trafficking victims reported that they had agreed initially to engage in prostitution.
- Sentences for trafficking offences are inadequate and do not reflect the gravity of the offences.

The report found that many of those found guilty of trafficking were given relatively light sentences. In 2008, 28.9 % of convicted sex trafficking offenders received non-suspended jail terms. Prison sentences for the remaining 33 offenders reached a maximum of five years. German officials reported that securing victim testimony remained a challenge for prosecutions. Poor or withdrawn victim testimony impaired trials and may have contributed to the high rate of suspended sentences by resulting in lower initial sentences.

The German government sustained its victim protection efforts during the reporting period and funded organisations that provided or facilitated shelter, medical and psychological care, legal assistance, vocational support, and other services for victims in all the German states. The services were available to adult female victims generally, with some NGOs attending to child and male victims.

The federal criminal police reported proactively identifying 57% of victims in trafficking cases in 2009, an increase from 38% in 2008. Authorities registered 710 victims of sex trafficking in 2009, an increase from 676 sex trafficking victims in 2008. The Government of Germany does not have a centralised national coordinator with the power to direct trafficking policy or to collect statistics on a systematic basis.

¹²http://www.bka.de/lageberichte/mh/2008/mh_2008_en.pdf (Germany Human Trafficking report from 2008 (with links to other years))

**U.S. State Department
Recommendations for Germany:**

- Explore ways to increase the number of convicted traffickers who receive sentences commensurate with the gravity of the crime committed;
- Establish an independent national anti-trafficking rapporteur to produce critical assessments on Germany's efforts to punish traffickers;
- Protect victims, prevent trafficking, and to ensure full reporting of statistics of trafficking prosecutions; and
- Ensure that conviction data reported includes all convictions for trafficking in persons.

The State Department reports state that Germany is proactive and aggressive in trying to combat trafficking for the purpose of sexual exploitation. However, there is a need for better national co-ordination between the different regions. A particularly worrying fact about trafficking in Germany is that approximately 45 % of identified sex trafficking victims reported that they had agreed initially to engage in prostitution. That means that they entered Germany willingly in order to work as prostitutes but were trafficked after they came to Germany.

New Zealand

The Government review of prostitution legislation in NZ notes that 'in the case of New Zealand, there is no link between the sex industry and human trafficking.'

It goes on to state that:

'Information received from Immigration Service NZ indicates that no situations involving trafficking in the sex industry have been identified (Department of Labour 2007). In addition, there have been no prosecutions for trafficking under section 98D of the

Crimes Act 1961. Immigration only monitors the indoor sector of the industry and does not check the employment conditions or immigrant status of street-based sex workers. The Committee is satisfied, on the basis of information received from the New Zealand Prostitutes Collective and other NGOs involved with street-based sex workers, that during its period of investigation, that there were no internationally trafficked women working as street-based sex workers in New Zealand.'

The US State Department report on trafficking in New Zealand in 2011 states that:

- New Zealand is a source country for underage girls subjected to sex trafficking within the country.
- New Zealand is reportedly a destination country for women from Asian countries, such as Hong Kong, Thailand, Taiwan, and China, and Eastern Europe trafficked into forced prostitution.
- Child trafficking victims are found engaging in prostitution illegally in brothels and off the street, some being closely controlled by local gangs.
- No independent research has been conducted to determine the full extent of the trafficking problem in New Zealand.

No victims of trafficking were identified in 2011 and no prosecutions were brought for any trafficking offences. New Zealand does not have specific anti-trafficking legislation. Cases of internal trafficking are not recognized or tracked by the government as trafficking crimes.

U.S. State Department recommendations for New Zealand:

- Make efforts to study sex and labor trafficking occurring in New Zealand;
- Significantly increase efforts to investigate and prosecute both sex and labor trafficking offenders;
- Make efforts to proactively screen vulnerable populations, including women in prostitution, in order to identify and assist trafficking victims;
- Identify and assist child trafficking victims engaged in commercial sexual activity; and
- Develop and implement a visible anti-trafficking awareness campaign directed at clients of the legal and illegal sex trades.

Common themes in the US State Department reports:

A number of common themes can be seen from the State Department reports on Ireland, Sweden, New Zealand, the Netherlands and Germany:

- Sentencing for trafficking offences is too lenient particularly after appeal;
- Specific trafficking legislation is often not used in the prosecution of offences, traffickers are prosecuted using other legislation such as other sexual offences legislation;
- An increase in the number of detected trafficking cases and in the number of cases being prosecuted does not necessarily represent a rise in trafficking overall;
- The numbers of those trafficked into any of the above countries cannot be accurately calculated;
- The different approaches taken by countries in relation to the regulation of prostitution may have some impact on

trafficking for the purposes of sexual exploitation in that country.

Conclusion

The official reports by Sweden, the Netherlands, Germany and New Zealand highlight the gaps in information in relation to prostitution in those countries. None of these countries can accurately state how many people are involved in prostitution, particularly in indoor prostitution. Indoor and illegal prostitution appear to be largely ignored by authorities.

This makes it difficult for any country to assert that their particular approach is working as there is little information on whether prostitutes are safer and trafficking is reduced under any one legislative or regulatory approach.

The regulations in each country have had effects. However, all the policies examined have had unintended consequences which may lead to prostitutes being placed in less safe situations. For example regulations have resulted in moving people into less secure situations e.g. tax evasion motivates women to stay out of licensed premises and planning regulations may move prostitutes away from city centres to less visible tolerance zones.

Ireland's approach to the regulation of prostitution has been the criminalisation of offences surrounding prostitution. The rationale behind this partial criminalisation has been an attempt to protect prostitutes and to protect society from the nuisance and public-order problems associated with prostitution. Any changes to this approach need to be considered carefully in the context of how other countries have attempted to regulate prostitution.