



# New Zealand

- Population: 4.6 million
- GDP per capita (in US dollars): N/A in 2014 - 37,896 (in 2011)
- Parliamentary monarchy
- Human development index (HDI): 0.913 (9<sup>th</sup> rank among 187 countries)
- Gender inequality index (GII): 0.157 (32<sup>nd</sup> rank among 147 countries)
- Corruption Perceptions Index (CPI): Score of 88 on a scale from 0 (highly corrupt) to 100 (very clean)
  
- No national official statistics on prostitution for 8 years. NGOs estimate a total of about 3,000 prostituted persons.
- Maoris over-represented in prostitution, particularly street prostitution.
- Minors belonging to the native communities are vulnerable to prostitution for survival
- Sex industry supposedly brings in 800 million NZ\$ (519.44 million US\$) per year in the country
- Regulationist country. The Prostitution Reform Act dated 2003 decriminalizes prostitution, the purchase of sexual services, soliciting and brothel managing
- New Zealand passed an anti-trafficking law (Crime Act) as early as 1961. The Dealing in Slaves Act and the Prostitution Reform Act (2003) more specifically criminalize sexual exploitation, carrying heavy sentences up to a 14-year imprisonment
- Two convictions for sexual exploitation of minors in 2014: 200 hours of community service and 10 months of imprisonment
- In New Zealand, most trafficking cases are related to forced labor
- According to NGOs there has been a significant increase in street prostitution these last years, particularly in Auckland, abuses in Christchurch in relation with street prostitution
- Country of destination for victims of trafficking with purposes of sexual exploitation.
- Most victims are from China, Hong Kong, Taiwan, South Korea, Thailand and Vietnam.

## Laws, estimates, evolutions

The 2003 Prostitution Reform Act (PRA) provided the legislative basis for the decriminalization of prostitution and its organization as a “commercial activity.” Prostitution,

brothels, soliciting and revenue sharing are allowed as long as there is no forced prostitution. Prostituting minors is forbidden and human trafficking is repressed. In 2013, the law on human trafficking was enacted in order to suppress virtual cases of trafficking even when the victim did not cross any borders (human trafficking within the country).

The latest official estimate delivered in 2007 by the Prostitution Law Review Committee estimated the existence of 2,332 prostituted persons compared to 2,396 in 2006 (*Ministry of Justice NZ*, 2008). This demonstrated some stability and enabled the government to claim that the PRA had only a limited influence on the sex industry. However, some NGOs mention estimates above 3,000 prostituted persons (*Fondation Scelles*, 2015). Among these 2,332 persons, a little more than half of them are supposedly in Auckland, 17% are supposedly involved in street prostitution and 52% are supposedly in brothels or work as escorts. However, a significant increase in street prostitution has occurred, particularly in Auckland, between 2006 and 2007 (+56%). Several residents of Christchurch have also noted that, as of the date of publication, street prostitution also takes place in the daytime (*Feminist Current*, November 24<sup>th</sup>, 2014). Streetreach is an NGO which helps street prostituted persons in Auckland and in Manukau City; they too have noticed a significant increase in visible prostitution. There has been no official estimate on prostitution for 8 years, so it is difficult to conceive the prominence of the prostitution phenomenon only using available testimonies from NGOs, academic studies and newspapers.

Very little information exists on the number of certificates granted to operators of brothels with a minimum of 5 prostituted persons. Although they must obtain a certificate from the Ministry of Justice, the latter communicates no data on this issue, except to the police. Do all establishments really have a certificate? Are they all registered? This could be doubted.

In Blenheim, in spite of suspicion and an advertisement published in a local paper by a prostituted person describing “large, luxury and appropriate rooms in the Gentlemen’s Club” (*The Marlborough Express*, April 22<sup>nd</sup>, 2015), the concerned District Council claimed they had validated no registration application from any establishment. These certificates are not necessary for the Small Owner-Operator Brothels (SOOBs) which are run by less than 5 people who share the “profits.” Many have adopted these structures because of the constraints on registered brothels (costs, operating hours) and the lack of clients. To date it is difficult to estimate the number of brothels as local councils may adjust the legislation to limit their number on a geographical level. The sex industry supposedly brings in 800 million NZ\$ (519,44 million US\$) per year in New Zealand (*Stuff.co.nz*, October, 27<sup>th</sup>, 2014).

### **Prostitution is not the presumed success story**

In June 2014 the Minister of Immigration, Michael Woodhouse, asserted that all the allegations concerning trafficking cases had been examined but none of them were justified (*Stuff.co.nz*, June 21<sup>st</sup>, 2014). According to the 2015 U.S. Department of State Report on Trafficking in Persons, there are probably very few actual cases of sex trafficking in New Zealand. Only “risks of forced prostitution” are mentioned, concerning persons from China, Hong Kong, Taiwan, South Korea, Thailand and Vietnam. The document also points out that a few girls and boys involved in street prostitution are probably often of maori origin and

exploited by other girls or gangs, even by members of their family. How much of this is the truth? Maori population represents less than 15% of all New Zealanders. As early as 2008, in a post-decriminalization survey, one third of the 772 questioned persons were maoris. Among the latter, 70% prostituted themselves in the street (NZPC, 2013).

Two traffickers were convicted in 2014 for child sex trafficking. One received a sentence of 14 months’ imprisonment and the other 200 hours’ of community service, whereas the maximum sentence for this offence is 7 years. These verdicts do not seem severe enough for perpetrators of child sexual exploitation.

In April 2015, a New Zealand woman born in Thailand was also sentenced to 27 months’ imprisonment for recruiting Thai girls whom she intended to prostitute illegally in Auckland. However, the PRA does not permit prostitution for temporary visa owners. After several visits to brothels and massage parlors between April 2014 and April 2015, (see the table below), the immigration services identified, no less than 42 women of foreign origin with temporary visas, practicing prostitution (New Zealand Herald, April 15<sup>th</sup>, 2015). Even without proof of any coercion, it is difficult not to consider a *modus operandi* which at least resembles “migratory plans” in order to practice a prostitutional activity.

Nationalities of the 42 women identified	Temporary Visa Types
18 from China, 14 from Hongkong, 3 from Taiwan, 1 from Malaysia, 1 from Thailand, 1 from Fiji Island, 1 from France, 1 from South Korea, 1 from Japan, 1 from Brazil	25 visiting visas 8 student visas 7 work visas 2 expired visas

Source : Immigration New-Zealand

At first, one could trust the present, majority discourse that was easily exported and made this country the world leader in terms of “sex workers’” rights, says Catherine Healy, the national coordinator of the New Zealand Prostitutes’ Collective (NZPC) (20 Minutes Suisse/ATS, March 1<sup>st</sup>, 2015). Decriminalization is an approach that is also widely supported by academics. On the one hand, the complete decriminalization of prostituted persons, clients, and brothels owners is supposed to make prostituted persons safer. According to Gillian Abel, Head of Department of Public Health and General Practice at the University of Otago in Christchurch, since decriminalization, prostituted persons are, “able to govern their own work, collaborating with their peers or electing to use third party management, such as a brothel operator. Sex workers can now request police assistance if they are exposed to violence, and report crimes without fear of being held accountable for involvement in the illegal acts themselves” (The New York Times, August 26<sup>th</sup>, 2015). For Sandra Ka Hon Chu, “studies show high levels of condom use and a very low rate of HIV/AIDS among New Zealand’s prostituted persons” (Ottawa Citizen, March 26<sup>th</sup>, 2014).

In March 2014, a prostituted person won her trial for sexual harassment against a brothel manager who was ordered to pay her a compensation of 16,454 US\$; this was viewed as a major first in the national press. The police applauded the verdict whose public impact should “serve to free the speech and encourage prostituted victims of violence to report assaults” (Stuff.co.nz, April 24<sup>th</sup>, 2015).

On the other hand, a study conducted by Dr Laura Meriluoto with a survey involving 724 prostituted persons shows that violence still occurs. “About 23 percent of all those surveyed had had money stolen or a client refuse to pay, 20 percent had been threatened with violence or received an abusive text message and 16 percent had been subject to physical violence, rape or been held somewhere against their will.” The study clearly identifies that drug or alcohol addicted prostituted persons are more likely than others to be abused, particularly those who work on the street.

Besides, while the 2003 law was supposed to urge street prostituted persons to turn to brothels, it had the opposite effect, since prostituted persons have to bear some costs such as the room rent, the purchase of condoms, when in a brothel. Dr Meriluoto considers that “there are things that pull them to the street. Flexible work hours, they get to keep the money they make, it is anonymous and good if you need quick money for drugs” (*The Press*, April 22<sup>nd</sup>, 2015).

In February 2014, Anna Reed, the regional coordinator for the NZPC, reported incidents in Christchurch of migrants treating prostituted persons rudely, trying to get more for less, being abusive or stealing money afterwards” (*The Press*, February 10<sup>th</sup>, 2014). In Christchurch, the police declare that cases of violence and abuse against prostituted persons are reported at least once a month. “Most violent acts are not even reported by the victims,” detective Sweeney adds, although the police and the NZPC repeatedly encourage prostituted persons to do so. In March 2014, two prostituted persons were attacked in Christchurch on the same night (*The Press*, June 26<sup>th</sup>, 2014). It is “ridiculous” to say that New Zealand is “good for sex workers” (*Family First NZ*, May 25<sup>th</sup>, 2015). As early as 2012, the Prime Minister John Key claimed that legalization had failed to protect prostituted persons and put an end to the prostitution of minors. A series of striking testimonies from women describing their professional life and their view of prostitution on Manchester Street (Christchurch) leaves no doubt about the hard reality of the environment, which is far from the ideal image supporters of the legalization of prostitution would want others to believe (*The Press*, 4 April 4<sup>th</sup>, 2015). Their words are strong and make reference to the indescribable violence they experience: “yes, it’s hard (...) I just hate myself (...) It’s not nice, it’s never so (...) this son of a bitch of street.” Their futures have been ruined, their parents have abandoned them or sold them in the street, or in brothels when they were very young and they have often been victims of sexual abuse in their childhood. “I’ve been to over 200 brothels, my father gave me up to a gang.” The following testimony expresses even more violence: the Streetreach NGO met with a prostituted person, she told them she operated in massage parlors between the ages of 14 and 17 and had to receive up to 20 clients each night in shipping containers. During this she dreamt of one thing: getting out of it all. “I can honestly say getting out of prostitution was the best move I ever made” (*Malaysia Chronicles*, July 22<sup>nd</sup>, 2014).

### **Are minors present or not?**

There are opposing versions as to whether or not the prostitution of minors exists. The PRA of 2003 prohibits prostitution for people under 18 particularly in sections 20, 21 and 22. Georgina Beyer, a former prostituted child and today a member of Parliament, says “she has found no evidence to support claims of underage sex workers prowling the streets of Otago in

South Auckland (...) I went out on the streets last night (...) and was escorted around. Unfortunately, nothing much was happening” (*Sunday Star Times*, April 7<sup>th</sup>, 2013). On the contrary, the Maori Wardens consider this prostitution exists. Gordon Wright, Head of the Maori Wardens believes that “police weren't looking in the right places” (*Sunday Star Times*, April 7<sup>th</sup>, 2013). The girls arrange appointments with their clients in places that are not usually supervised. The Head of the West Manukau County police emphasizes: “a taskforce had been set up, but no evidence of child prostitution was found.” According member of Parliament Assenati Lole-Taylor, however, there are most likely girls between the ages of 13 and 15 who prostitute themselves in Otara neighborhoods. Most of them are supposedly Maories “but there are also Samoan, there are a few Tongan, a huge number of Cook Island Māori and there are a number of Chinese girls” (*Pacific Scoop*, April 6<sup>th</sup>, 2013). A 2004 post-decriminalization study already showed an over-representation of the Maoris in survival prostitution, up to 40% (*ECPAT NZ*, 2004).

Three kinds of prostitution can be clearly distinguished: survival prostitution, prostitution under a third person's constraint, and prostitution without “visible” constraint. According to ECPAT New Zealand, even if procuring does occur, a certain number of these girls act on their own. One can still wonder whether minors are capable of giving their consent to a sexual act when they have not yet acquired the social and emotional maturity or the perspective necessary to make important decisions. Survival prostitution is the most common form of prostitution practiced by minors. How many of them? It is difficult to give a precise estimate. In 2014, Susan Glazebrook, a Supreme Court judge, estimated that 200 minors were illegally involved in prostitution (*Waikato Times*, 9 juin 2014). ECPAT New Zealand estimated the number to be at 195 in 2001, 145 among whom were under 16 (*Aotearova New Zealand Social Work*, 2014). The hidden feature of this prostitution makes it difficult to assess. The financial transaction must be proved. Once the minor is in the car, only presumptions are possible. The legal definition of the facts remains uncertain even if most observers agree on the final nature of the practice. Lynn Brown is a Maori Warden who claims that some girls are forced into prostitution by their family: “It's fast money for them. Some of them are my nieces, my cousins, pretty much family...” (*Manukau Courier*, 5 avril 2013). This prostitution is thought to exist both in urban areas and rural environment (*Aotearova New Zealand Social Work*, 2014).

Tina Herewini, another Maori Warden, states that there are probably around thirty of them in Otara downtown. “I don't know which ones are prostituted persons but there is also a line of cars leading up the lane into the parking lot. You see the girls talk with the drivers and then hop in the cars and drive a few more meters into the parking lot...” (*New Zealand Herald*, March 27<sup>th</sup>, 2013). According to Debbie Baker, a member of Streetreach, this form of prostitution is constantly and quickly changing. While walking in the streets it is possible to notice no hints of it one day and encounter many the day after.

She adds: “Yes, there is a problem of minors' prostitution.” Some are prostituted by gangs, sometimes exploited in exchange for a mere cigarette pack. “The youngest that I've seen is 14” (*Radio Australia*, September 13<sup>th</sup>, 2012).

Natalie Thornburn has interviewed about 10 prostituted children in Auckland streets who are now between 16 and 20 years old. Her study shows the harsh realities of this prostitution (*Thornburn*, 2014). “All of the girls I interviewed had been raped or sexually abused”

(*NZCatholic Newspaper*, August 5<sup>th</sup>, 2015). Their portraits are very much the same: chaotic lifetime, family structures shattered, if not missing, despair, addictions... Thornburn expresses her astonishment: “Some of the teens would don school uniform and attend classes, having been out all the previous night as prostituted persons. I ask myself how someone can go to school everyday under the influence of meth without anyone realizing. One girl, for example, spoke about being repeatedly punched in the breast by a client who paid 50 NZ\$ [32,5 US\$] for this privilege” (*NZCatholic Newspaper*, August 5<sup>th</sup>, 2015). Sexual violence seems trivial and almost normal when these young people are speaking about it. Furthermore, three prostituted children claimed they were sexually abused by the very people who were supposed to help them (social services, police) (*Radio New Zealand*, June 20<sup>th</sup>, 2015). They have no trust in the system or the authorities anymore. They won’t lodge a complaint because they just want to forget.

As for child prostitution in relation to gangs, the Ministry of Justice website mentions that there are probably links between both, it might imply girls dating groups of young men possibly organized as gangs, rather than stories of “procuring or coercion” (*Ministry of Justice NZ*, 2008). However, this does imply a form of domination and exploitation. The process and its characteristics have been known for a long time: emotional grooming, isolation from their family, threats cleverly interwoven with affection. The New Zealand Police Association has confirmed that some girls are under male gangs’ control, but also sometimes under their own family’s control. Others probably ask their friends to find clients and organize appointments for them (*Police News*, May 2013).

This brings about the question of whether legislation like the PRA can be properly adjusted to suit the needs of prostituted children and combat child prostitution. For these victims there is no plan that is sufficiently adapted to their needs. One can inquire about the silence and lack of action surrounding the survival prostitution of young people; The decriminalizing legislation is widely supported by the “sex work pros” but it eludes reality in spite of numerous testimonies. In 2015, the government passed a new law which authorizes the creation of a database to record the names of child sex offenders, providing they were of age (18 or above) when the act was perpetrated. The accused will remain in the database for 8 to 15 years depending on the gravity of the crime. It aims to allow the specialized police units to prevent subsequent crimes and to promote the protection of children (*New Zealand Herald*, August 13<sup>th</sup>, 2015).

### **Failed attempts to modify the law**

While the Parliament was relatively divided in 2003 concerning the PRA, which was finally adopted with 60 votes for, 59 against, and 1 abstention, the latest attempts to modify the law have been rejected by the New Zealand Parliament with a strong majority. In May 2013, Elizabeth Subritzky, the director of Freedom from Sexual Exploitation, and presented Parliament with a petition signed by nearly 3,000 people, demanding a national action plan intended to fight against street prostitution and the penalization of the purchase of sexual services (*House of New Zealand Representatives*, 2013). Subritzky thinks the PRA “not only encouraged more men to buy sex, but transformed prostitution into an acceptable, even attractive job for young, poor women (...)” (*Stuff.co.nz*, November 22<sup>nd</sup>, 2013). She was

accompanied by survivors of prostitution who gave edifying testimonies about their lives. They suffered abuse, addictions and had a strong desire to leave the violent spiral. She emphasized that the enforced legislation failed to stop this horrible cycle of circumstances and caused prostituted persons to find themselves in similar situations. The Parliament Committee was touched by these testimonies and immediately declared its intention to examine the petition. However, the latter was rejected in November 2014 on the grounds that no jurisdiction this far, had been able to eradicate could ever stop street prostitution. The Committee also justified their decision by arguing that prohibiting street prostitution would have negative consequences on prostituted persons' safety and health because it made the activity more clandestine. C. Healy thinks such a moderation in the legislation (penalization of the clients) would represent a move back "to those dreadful days" when the prostituted persons "had to duck and hide" (*3NewsNZ*, February 13<sup>th</sup>, 2014). The police had the same point of view, as they think a change in line with the petition would make the identification of trafficking cases more difficult.

A draft law in Manukau Council was rejected by an even greater number at a second hearing, where it lost by 109 votes (versus 11 in February 2015); after a 4-year long dispute between opposing sides. Historically opposed to the 2003 reform, the Manukau Council already protest through its 197-1 proposition for the limitation of prostitution within specific areas in order to separate it from "residential areas, schools and churches" (*Fondation Scelles*, 2013). This proposition was supported by Family First NZ and by A. Lole-Taylor but it faced a strong opposition from the Green Party and the NZPC. After a series of failures in 2005 (73 votes versus 46) and in 2010 (82 votes versus 36), the supporters of the suppression of prostitution now find it very hard to continue to support their position. According to Bob McCoskrie, the director of Family First NZ: "How can we be serious about reducing sexual violence against women when the state legitimizes the sexual abuse and exploitation of vulnerable people" (*Family First NZ*, May 25<sup>th</sup>, 2015). The cohabitation of prostitution activities with public areas or residential neighborhoods remains a difficult issue. Local councils have little support from the legislation, however, Parliament is convinced that it has adopted the best solution and follows the PRA line engaged in 2003, and remains unwilling to change its direction.

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