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Statement

**On the Consultation of the Committee on Gender Equality and Women of the
State Parliament of North Rhine-Westphalia on the 14th of January, 2021**

regarding the

**Motion by the Christian Democratic and Free Democratic Party¹ on the 8th of
September, 2020, “No! to the Ban on Sex-Buying of the Nordic Model –
Support Affected Persons and Don’t Push Them into Illegality.”**

A – Preliminary Remarks

The following statement will comprise my professional experiences in the field of human trafficking and the monitoring of prostitution as well as an assessment of the motion from the 8th of September, 2020.

First a few words about my person:

Up until my retirement about a year ago I was employed for nearly 30 years starting in 1990 at the Criminal Investigations Department of the Augsburg police and nearly continuously worked in the field of prostitution and human trafficking. For almost 15 years I worked as an investigator and was responsible for the monitoring of prostitution, as well as investigative procedures in the field of human trafficking, pimping, and organized crime, etc. Afterwards, I was head commissioner of a police station that worked specifically on fighting human trafficking as well as monitoring prostitution. During this time, I lead numerous police investigations and deployments and had direct experience with the consequences of the changing laws and evolving prostitution market.

Note: For improved legibility and because they comprise the majority of the affected, I will use “women” to refer to persons in prostitution. Naturally, men and transsexual people are included here.

Since 1990 prostitution law has undergone several reforms, new regulations and definitions for offenses without satisfactory change to the conditions on the ground. Overall, the approach towards prostitution has increasingly worsened the situation – both for the women in it and for the authorities. The changes in the prostitution market and particularly the conclusions drawn from three years of the Prostitutes’ Protection Act (PPA) being in force have caused me to seek workable alternatives to the current laws. Finally, I have arrived at the conclusion, that the Nordic Model is much more suited to improve the situation regarding this complex problem in the long term, than the current approach.

¹ The German neoliberal party, also in support of various free-market policies and concepts of personal freedom extending to support for currently illegal commercial surrogacy, the legalization of adult incest, etc.

Before I will go into the notes of the motion at hand, I want to point out some basic facts relating to prostitution. They will help make a fair evaluation of the current situation.

B – Basic Facts

Who engages in prostitution? In contrast to every other industry, there are unfortunately no reliable statistics regarding the total number and the demographics of prostitutes on the federal level. This is one of the shortcomings of the PPA. Different numbers circulate in the public sphere of up to 400.000 or more prostitutes in Germany. I believe these estimates to be too high. By my estimation, the total number of prostitutes should be around 250.000.

The demographics of prostitutes have completely shifted during the last 25 years. While in the early 1990s a foreign prostitute was an absolute exception, now women who come from abroad make up around 90% of the market. German prostitutes comprise a maximum of about 10%, while the demographics vary between different sectors of the industry. In the so-called niche areas such as BDSM-studios and luxury apartment prostitution there is a higher proportion of German women, while in the so-called “mega businesses” such as mega-brothels, rent-a-room-brothels (“Laufhäuser”)², nudist clubs³ or in street prostitution, you rarely encounter German women anymore.

Consequently, the frame of reference and level of personal agency varies between the different sectors. In the niche sector, which comprises about 5% of the market, women work independently and are self-employed. Here you very rarely find any cause to suspect the involvement of criminal elements (pimping, forced prostitution, human trafficking, etc.).

The situation in the “mega businesses” is completely different and these comprise a majority of the industry. There you find a very high number of women whose self-perception, education, age, behavior, appearance, origin, and company give reason to suspect that they are victims of criminal actors. Even though these women are victims, they do not report as such during brothel inspections. In the absolute majority of cases, women will only affirm that they have been victimized after extensive investigations into their environment and arrest(s) of the perpetrator(s). This has been my experience after decades of actively investigating many dozens of cases and interacting with hundreds of victimized persons.

This group of victimized persons who are under duress or at least in distress in brothels or street prostitution makes up the largest group. Only a fraction of these women is ever identified officially as victims. The vast majority remains, even though they are equally victimized, unrecognized and unidentified by authorities and official statistics. Unable to see a way out, they resign to their situation.

There is no disagreement to be had about the fact that a large proportion of women are in prostitution against their will (to varying degrees). It is not relevant whether they make up 90 or 70 or just 60 percent of affected persons. Their number is still too high.

In the search for solutions, the central questions are therefore 1) which group most strongly requires governmental protection and 2) how to effectively help this group.

² Laufhaus = Brothel, where the operator rents the rooms to women, but theoretically does not dictate prices, hours, dress, etc. In practice however, this kind of “managing” or pimping still occurs and of course, external pimps and organized crime brings women to these brothels thereby still exploiting them as third parties.

³ While named „nudist clubs“ or „free body culture clubs“ this is just a euphemism for a brothel usually combined with a spa/sauna. Women in these brothels are usually mandated to be half or completely naked, while men may choose to wear bathrobes in public areas.

These issues were strongly outlined by the PPA in 2016. It has come under fire, however, as it focuses one-sidedly on the small sector of self-employed independent prostitutes and overlooks the concerns of the vast majority of everyday prostitutes, who are highly vulnerable to exploitation. For example, there is no option to forego registering for a license to prostitute for women who are illiterate or mentally disabled, which indirectly sanctions forced prostitution. On the other hand, the PPA enables women to use an alias on their prostitute's license. For the average prostitute, these laws are worthless – she has other worries. That's why we say that "the law missed its target group."

In regards to the deplorable conditions which it sought to improve the PPA has in its three years of implementation accomplished nothing of substance. It is urgent to decide if regulations should focus on the very small group of independent, self-employed prostitutes, who are publicly visible and able to advocate for their concerns, or on the anonymous majority of almost exclusively foreign women, in the mega-brothels and on the streets, often 24 hours a day, under third-party control, unable to make themselves heard (as they don't speak German). These women have neither voice nor lobby, simply endure their victimization, have most likely never interacted with a politician or spoken to them, but dearly need an improvement of their living conditions.

Their conditions are roughly comparable to the temporary workers of the meat industry, only that the women's situation is much more extreme, as it is not their capacity for labor that is being exploited, but their most personal and intimate sphere. Many of the working conditions rightfully lambasted within the meat industry, relating to work hours, living quarters, hygienic conditions, ill-treatment, etc. can be equally applied to prostitution. While politicians acted quickly and decisively on exploitative conditions in the meat industry through a labor protection law, we have been waiting for workable solutions for the prostitution sector for a long time.

C – Comments on the motion from the 8th of September, 2020

In what follows I wish to remark on the motion by the Christian Democrats and the Free Democratic Party from the 8th of September, 2020.

Note: The motion's text has been separated into 21 blocks and for legibility been marked by cursive lettering.

Text of the motion:

- I. *Current situation*
 1. *Due to social-distancing measures in the context of the Corona pandemic many prostitution establishments across the country have been temporarily closed. A few parliamentarians have called on the heads of federal states to undergo a complete transformation in regards to their approach to prostitution. They have called to forgo opening up the prostitution sector and to instead implement the so-called Nordic Model. This describes an approach that prohibits the buying of sex, which fundamentally constitutes a criminalization of prostitution.*

Comment: The Nordic Model does not constitute a criminalization of prostitution. The act of the woman, i.e., the act of engaging in prostitution, is not criminalized. Only the sex-buyer and third-party profiteers act in a manner penalized by this law.

2. *Here the sex-buyer is penalized, not the prostitute. It operates on the assumption that sexual services in exchange for money are violence per se.*

Comment: The term "violence" does not sufficiently describe the problem at hand. More precise would be the added terms of "coercion, manipulation, [violation of] human dignity". At its core this is

a question of social acceptance towards allowing the buying or renting of the most intimate spheres of people who are coerced in a myriad of ways and unable to enact their true free will.

- 3. In Germany however, prostitution means the offering and use of sexual services, legally and under specific regulations. In the year 2017 a law to regulate the prostitution industry and to protect people in prostitution, the so-called Prostitutes' Protection Act (PPA) came into force. The law is supposed to create contractual and humane working conditions, exclude exploitative business models, strengthen sexual self-determination and fight violence and human trafficking.*

Comment: The PPA has mostly failed. The inhumane working conditions and the exploitative business models condemned here continue to proliferate, alongside violations of prostitutes' sexual self-determination. Violence and human trafficking have not been reduced.

- 4. There is no reliable evidence for the effectiveness of the Nordic Model.*

Comment: Experts from the justice field and policing in Sweden, who are professionally tasked [with the implementation of the Nordic Model] report the opposite. Prostitution and crimes against prostitutes have been massively reduced. Per-Anders Sunesson, the Swedish special ambassador for the combatting of human trafficking, draws the following conclusion from Interpol investigations: "The Swedish market for human trafficking is practically dead." The Swedish police officer Simon Häggström, a stated expert on the subject of monitoring prostitution, with whom I have had repeated personal correspondence, affirms the effectiveness of the Swedish model. One indicator for this is the number of murdered prostitutes: While there was only 1 recorded case during the last 20 years in Sweden, there were more than 100 prostitute murders recorded during the same time period in Germany.

- 5. An official evaluation in Sweden merely shows a decrease in visible prostitution. The reduction in the area of street prostitution can however not be studied in isolation and must be put in the context of the increased use of technology to advertise prostitution on online platforms. One can assume that there is a sizeable underground industry.*

Comment: The remark regarding a "sizeable underground industry" is merely undefined (and really baseless) conjecture. The phrasing of "going underground" is often used as an apparent argument against the Nordic Model, but lacks meaningful substantiation.

One important aspect addressed in the motion are the "online advertisements". Fear of such a shift occurring is unreasonable, considering that it has already happened in Germany. For a few years now one can observe an increase in prostitutes advertising online with offers to meet in hotels, private or holiday apartments. This offers a variety of advantages to organizers or profiteers, e.g., avoiding the cost of high daily rent, as well as increased anonymity and flexibility, etc. Since the Corona pandemic and the closing of brothels, such offers are increasingly showing up online. Corona is sometimes falsely framed as the cause of this development. However, this phenomenon has existed for considerably longer and despite the liberal German prostitution law. Due to the outlined advantages for the users (according to observations up to this point these are small, flexible, constantly traveling groups) this variant of prostitution will continue to increase independently of any future Corona-related reopening of brothels and require specific laws to counteract.

This phenomenon has not affected the demographics of women in the large prostitution establishments.

This form of prostitution, sometimes erroneously labeled “underground”, is not hard to reach out to and investigate from the authorities’ perspective. In contrast to organized drug trafficking, which flourishes in a secretive environment, the prostitution market cannot do without a certain degree of publicity and advertising. Via advertising platforms, the police can access the market with the same speed as the target audience of the advertisements – meaning the buyers.

6. *From the perspective of the Christian Democratic and Free Democratic coalition of North-Rhine Westphalia a change of policy towards the Nordic Model would push prostitution underground and into illegality.*

Comment: Adding to my previous remarks, it has to be noted that there is already an underground industry operating within official German prostitution establishments. This observation may seem confusing to persons unfamiliar with the mechanism of this milieu, but they sadly are true. In many brothels, especially large so-called “mega businesses”, but also in the street prostitution sector, one finds predominantly young foreign women, who are highly likely in situations of exploitation. The expert authorities who are familiar with the situation on the ground, are usually aware that these women are controlled and exploited by third-parties. However, proving this requires extensive investigation of concrete causes of suspicion, usually bolstered by a prostitute’s statement. This rarely ever occurs due to the aforementioned reasons (e.g., violence, threats, intimidations). This is why authorities are often forced to wait instead of act despite obvious cause for concern.

A brothel’s public facade rarely reveals the real conditions happening behind closed doors – which is where you find the real “underground”. A well-known example of this phenomenon is the case surrounding the “Paradise” mega-brothel in Stuttgart. For years its operators advertised their business as the modern prime example of “clean, legal brothel prostitution”. They were routine guests on famous talk shows such as “Jauch”⁴, “Maischberger”⁵, etc. One of the operators was even handed his own weekly TV-show as a “brothel reviewer”⁶. The “Paradise” was viewed by the public as a modern, fair, and women-friendly model brothel, even though experts at the time already knew that the media framing of the brothel contrasted with its deeply criminal reality⁷.

In 2013 the Criminal Investigations Department of Augsburg uncovered reasonable suspicions against the operators of the “Paradise” and my department led concealed investigations into the matter. The investigations were later continued by the authorities in Stuttgart with great success. The look behind the facade, meaning into the underground milieu, surpassed all fears and revealed a cleverly camouflaged network of highly organized serious crime. In 2019, after strenuous investigative efforts, the brothel owners were sentenced for repeated milieu-typical crimes such as the assisting of serious human trafficking and pimping in 18 cases which lead to a sentence of 5 years prison time.

⁴ Günther Jauch is one of Germany’s most famous TV show hosts, who hosted our equivalent of “Who Wants to Be a Millionaire” as well as various talk shows. [Source](#).

⁵ Sandra Maischberger is another leading TV show host, including a much-watched weekly talk show on Germany’s flagship national television channel.

⁶ Michael Beretin, one of the operators of the Paradise brothel, had his own TV show named “Red-light-expert on a mission”. He had been in front of courts for violent assault 10 times, including [severe battering](#) of his then-wife, when he signed the TV contract. After he was let go from jail in 2015 the TV channel affirmed, [they would let him return to his show](#), but he was later sentenced and went to prison. He has since been [replaced by a female brothel owner](#), who boasts about mandating that women get bi-weekly medical tests and making sure no woman gets paid less than 35 euros per buyer.

⁷ Before the owners of the „Paradise” were implicated in and sentenced for the human trafficking of women in 2019, there had already been trafficking victims discovered behind its doors in 2009 – just one year after opening. [Source](#). There was also a woman [stabbed to death](#) by a “long term customer” in front of the brothel.

The four perpetrators all admitted to their crimes in front of the Stuttgart federal court. Their sentences were final.

It must be assumed that behind many supposedly clean facades one finds similar criminal networks dominating other brothels throughout Germany. This is confirmed by investigations into other German mega-brothels⁸. Without the successful investigation, the “Paradise” would still be held up as a model-brothel and proof of the effectiveness of the Prostitution Act⁹.

In the debate around the Nordic Model, the phrases “underground” and “illegality” are being used in a misleading manner, which aid certain misconceptions.

There is no doubt that prostitution and exploitation will continue to exist after a shift to the Nordic Model, but their extent would be considerably less than it currently is. On the one hand, the specific kind of underground criminality that happens inside regular legal brothel would disappear, because there would be no more licensed brothels. On the other hand, there is a limit to how much prostitution can move into hotels or private apartments, as there would be specific laws, limiting the options of hotel owners or landlords to offer up their rooms for prostitution.

Further, the police would be enabled to monitor the industry with far more precision. The lawfully required monitoring of prostitution, as it happens currently in all of Germany, with an estimated 250.000 prostitutes, spread out among thousands of brothels, streets, and other prostitution venues requires an immense effort and sizeable staff from the police (and since 2017 from the licensing authorities), which is often vastly insufficient. Brothel inspections are consequently not possible to the degree that they are required and occur rarely or in a superficial manner. Professional monitoring measures that would enable results that can be used in court require far more effort than the mere presence of inspection personnel checking IDs.

The disparity between the current estimate of ca. 250.000 prostitutes (with a high percentage of likely victims of exploitation) and just roughly 300 recorded victims of human trafficking for all of Germany (Federal Bureau of Criminal Investigations: The Situation of Human Trafficking, 2019) is additional proof of that the current avenues for control and investigation are insufficient. It needs to be added, that the number [of 300] constitutes merely the suspected cases. A majority of recorded investigations had to be ceased due to the high bar for demonstrating proof. Only a generous estimate of roughly half of these cases led to the conviction of the perpetrators.

With the introduction of the Nordic Model the market would experience an estimated 80% decrease. Initially, there would be maximally 50.000 active prostitutes left (with a further decrease to be expected). The police would be able to monitor this smaller and more manageable market with the same personnel costs as now, but more effective in the identification of victims and successful in the conviction of perpetrators. I believe the occasional call for reinforcement of the police surveillance staff to be an unlikely solution considering the developments in police personnel and the tasks at hand. Accordingly, future solutions must consider the necessary personnel requirement.

⁸ This is an incomplete list of such cases: <https://dieunsichtbarenmaenner.wordpress.com/establishments/>

⁹ Three paragraphs of federal law that codified prostitution as a legal occupation by clarifying brothel-owning and other ways of third-party-profiteering as explicitly legal and enabling employment contracts with people in prostitution. The law also explicitly says that a person in prostitution may sue a buyer or brothel-owner for non-payment, but there isn't any legal obligation on their part to “perform services”, if they initially agreed, but changed their mind. It also codifies the limited right to instruction currently under fire.

Sometimes the Nordic Model is criticized because there is concern about additional work for investigative authorities. It is argued that at least now one knows where to find the prostitutes. On this matter, the following must be considered:

What is the use of knowing in which brothels the prostitutes are located, when, as previously described, there is usually nothing that can be done about abuses such as human trafficking, forced prostitution, and pimping? These are happening, so to speak, before the very eyes of investigative authorities, whose hands are usually tied. The marginal case numbers of the Bureau of Criminal Investigations report on human trafficking are proof of this deplorable state of affairs.

7. *The prohibition of sex-buying does not prevent prostitution itself.*

Comment: This is not the central question. Irrespective of other aspects, it is also the extent of prostitution as well as the extent of exploitation, and their reoccurrence, which are of importance. The current situation in Germany is hardly comparable to any other country. This is why sex tourism inside Germany has become so established. Large department stores for the sale of humans (known to experts as “rent-a-room-brothels” or “nudist clubs”) are part of everyday life. The matter at hand is not an arbitrary service like car-washing or hair-styling, but the highly personal sphere of people, in full knowledge, that most, who are offered up for sale, do so not out of their own free will, but due to force or desperation.

In some cases, there is a mentality of simply not acknowledging reality. This is why Germany is being criticized abroad. On the one hand, Germany has very high standards when it comes to the protection of the private and intimate sphere – take for example the laws regulating acoustic surveillance of private homes (also known as “bugging operations”). Here it is necessary even in a serious crimes’ context to interrupt investigations should they threaten the private sphere, the so-called “most personal sphere of life” of a suspect (i.e., their private and intimate conversations). But when it comes to the protection of the highly personal spheres of prostitutes exploited by third-parties different standards apply. This is another reason that a decrease in the size of the problem is of particular importance.

8. *This is what we have been experiencing since the onset of the Corona pandemic. [Prostitutes] have only been forced from public space and thus from legality. This has fatal consequences for affected persons, usually women. They become invisible and can no longer be reached by expert support organizations and authorities. Violent crimes are less frequently reported.*

Comment: The Corona pandemic has laid bare, that after the closing of brothels many licensed prostitutes are without income or shelter, even though they were previously making sufficient income. The responsibility for the destitution of many women lies with the profiteers of the milieu who caused it through their horrendous, exploitative room rents, the costs for internet advertising, and other exploitations. This again reveals how exploitation is widespread within the state-sanctioned prostitution industry, i.e., in the “legal above-board sector”.

The fear of being unable to reach women in the industry is unfounded. As described, there is no prostitution possible without a degree of public visibility. The claim that fewer violent crimes are being reported is not plausible. Lack of reports by prostitutes is a general problem in the milieu, as women fear revenge acts due to their accusations. As far as I am aware there are no statistics to compare the level of reporting pre- and post-onset of the pandemic. Furthermore, this short time span is unsuitable for making such a claim robustly.

9. *A ban on prostitution through criminal sanctions opens up an unregulated uncontrollable market that eludes efforts of transparency and prosecution of criminal offenders.*

Comment: This concern corresponds to the claim made under number 6. The out-of-control market is already our reality. There is hardly any transparency. It is for instance impossible to track how many women are working in a given city or the entire country. The prosecution of criminal offenders is already extremely unsatisfactory. I point again to the report on human trafficking by the Bureau for Criminal Investigations covering the last 10 years, which describes a vanishingly small number of cases, which is still decreasing, although it is undisputed that the majority of the 200.000 to 300.000 prostitutes in Germany are not free and independent workers. The number of cases consequently does not represent the real situation at all. Considering these conditions, fear about worsening rates of criminal prosecutions of exploiters remain unconvincing.

10. *Furthermore, a sex purchase ban thwarts goals such as the improvement of working conditions, protection from STIs, and the curbing of illegal forms of prostitution.*

Comment: These concerns do not correspond with reality. The conditions are already, without the Nordic Model, simply abysmal. The reasons for the horrid working conditions are well-known (e.g., an excess in the number of women, market pressure from high levels of competition, exploitation by landlords charging horrendous sums and by brothel owners due to the limited right of instruction¹⁰, advertising firms, pimps, etc.). Due to the pressure of market competition and the associated price-dumping, many women in regular prostitution are forced to accept requests from buyers which put their health at risk, such as unprotected sex acts, in order to earn any income at all and be able to meet the financial demands of the profiteers.

The PPA has been de facto unable to improve anything in regards to these conditions. Future regulations other than the Nordic Model will not be able to deliver decisive change.

Currently, illegal forms of prostitution, whatever one may count as such, will remain illegal even when there is no sex purchase ban.

11. *Many expert associations and support centers are critical of a sex purchase ban because it disadvantages those especially in need of support.*

Comment: There is no noticeable “disadvantage” [created by the Nordic Model]. The opposite would be the case, as the majority of vulnerable women and likely victims of exploitation would no longer have to be or be able to engage in prostitution due to a lack of venues. One needs to let go of the idea that likely victims would remain in prostitution under all circumstances. Instead, alternative avenues of employment need to be created, which do not put human dignity at risk. Prostitution cannot be the state’s strategy to combat poverty or be justified in any other way.

12. *Studies show that affected people who are pushed into an illegal sector by such a prohibitionist law coming into force are more frequently exposed to violence.*

Comment: The assertion makes a generalization without reference to the quality of these “studies” or a definition of the term “violence” and consequently holds no water. The assertion creates the inaccurate impression that the current conditions are decent or at least low in violence. In reality the milieu is filled with violence in general. The fact that there is little awareness among authorities and

¹⁰ A brothel owner may dictate work hours, locations, rules for the use of certain rooms, and dress codes (including mandated nudity). They may not legally dictate which buyer the woman must take on or which “sexual services” to offer. Because this law was repeatedly violated as brothel owners made all kinds of additional dictations to women, lawmakers kindly reminded them within the PPA to stop. [Source](#).

effective action within the justice system regarding the common subtle coercion or violence against women does not alter these precarious realities.

According to several studies, including a widely cited study by the University of Heidelberg, liberalized prostitution law encourages human trafficking.

13. They can no longer access the security detail present in legal brothels.

Comment: Security exercise authority not just over the buyers but also the prostitutes employed there. They are partially involved in the oppressive system (strongly evidenced by the court case against the "Paradise" brothel in Stuttgart) and tasked with ensuring that women stick to in-house rules and that there are enough women present to meet buyers' demands. In the small segment of legal truly self-employed prostitutes, on the other hand, one hardly finds any security personnel.

14. The possibility of enforcing negotiated wages and improved working conditions through legal action is also eliminated without replacement.

Comment: This argument completely bypasses reality. There are only about 40 prostitutes with an employment contract recorded for the whole of Germany (= approx. 0.002% of German prostitutes). This aspect is therefore absolutely negligible. Moreover, I am not aware of a single legal dispute between a prostitute and a brothel owner over wages or working conditions. Furthermore, the limited right of instruction, which is still in force, can entrench poor working conditions for women in brothels. It favors the brothel owners at the expense of women. It is difficult to imagine worse conditions than the current ones, with mandated shifts of up to 24 hours, horrendous daily rents, strict rules of conduct, restriction on the right to sexual self-determination, etc. Moreover, the introduction of the Nordic Model would not automatically preclude recourse in the courts, as is suggested here.

15. Because the customers of sexual services fear being sanctioned, they enact more pressure on prostitutes to make the sexual service cheaper and more rewarding to balance out the risk they're taking.

Comment: This assertion is not plausible. In truth, it is the other way around. The prostitute is then in the stronger position. [Under the Nordic Model] the buyers would be acting illegally and at a disadvantage when negotiating, because they have to fear state prosecution, while the prostitute does not. In contrast to the buyer, she has no sanctions to fear. This view is also confirmed by the agencies directly responsible for prostitution in Sweden.

16. Further reduction in prices, expansion of practices on offer, or lack of contraception and protection against STIs may result.

Comment: This fear is also unfounded. Due to the developments of the past years leading to an oversupply of prostitutes and associated competitive pressure, the prices for sexual services are currently at an extreme historic low that cannot be lowered any further. Unprotected sex is widespread, because of the buyers' demand for it. The prostitutes are forced to tolerate such medically risky practices in order to earn any income at all and to be able to pay all the persons they owe money to. A high number of women are therefore currently in a precarious health situation. Further deterioration is not conceivable.

17. In the event of criminal prosecutions under the sex purchase ban, the prostitutes, when called upon as witnesses, must, for fear of being incriminated as potential accomplices, make use of their right to refuse to testify. The ban, however, can only be effective as a deterrent if its successful enforcement is guaranteed and will result in the conviction of the perpetrators. This is not likely when those who are supposed to be protected by the ban, simultaneously feel threatened by it.

Comment: This argument isn't plausible, since it incorrectly confuses (suspected) perpetrators with witnesses/victims. The prostitutes have witness status in criminal proceedings against third-parties (buyers, pimps, brothel operators) and do not have to fear sanction, neither currently nor when the Nordic Model is introduced. Therefore, there is no reason to refuse to testify, unless a person is involved in the exploitation of another person, e.g., as an on-site chaperone on behalf of the primary profiteers. This constellation is rather common, to keep prostitutes under total control. But in this case, this on-site monitor has the status of an accused.

18. It is to be assumed, that a sex purchase ban will alter the public perception of prostitution: Several examples from Sweden show for example the loss of parental rights of some mothers due to the stigmatization of their occupation, even though there was at no point evidence of child endangerment.

Comment: I have personally investigated these claims with Swedish police. They reject these claims fully. This assertion is consequently inaccurate. Interference with parental rights occurs in Germany as well as Sweden only when there is evidence of child endangerment, not on the mere basis of a mother being engaged in prostitution. The authorities are being baselessly accused of acting in a stigmatizing rather than appropriate manner. In other aspects, however, the perception of prostitution within the evolving public awareness is likely to change and, unlike now, to be viewed more in terms of exploitation and violations of human dignity.

19. Prostitution, forced prostitution, and human trafficking have to be strictly differentiated. These terms are often conflated in the debate and public perception. This prevents a nuanced perspective on affected persons, especially women whose profession is to offer sexual services.

Comment: This demand is unrealistic. Prostitution cannot be generally distinguished from forced prostitution and human trafficking. Broad sectors of prostitution are characterized by coercion, force, and human trafficking. As long as vulnerable people make up a high number of those in legal prostitution establishments, the milieu is and remains overall a highly criminal area. Accordingly, milieu-specific crimes such as forced prostitution, pimping, etc. are committed primarily within the legal, publicly visible prostitution establishments, where one finds this vulnerable population. This is confirmed by the Bureau of Criminal Investigations human trafficking report.

By differentiating "good legal" prostitution and "bad illegal" prostitution one falsely suggests, that legal brothels and legal locations for street prostitution are free of crimes typical for the milieu such as forced prostitution. In reality, the opposite is the case, as the investigation into the "Paradise" showcases. The key question is whether one allows oneself be blinded by this facade or looks behind it and then forms an opinion.

I do not wish to create the impression that all prostitution establishments are locations of crime. Some operators work hard to stick to the law. But they, too, aren't always able to identify whether a given prostitute is under third-party control. The more vulnerable women are employed at a prostitution establishment, the more likely it is that criminal elements are involved – independently of whether the operator is aware, is complicit, or not.

The call for this differentiation can only be perceived as sound when one takes a superficial look. As described above there is no distinction to be made based on location. The separation remains a theoretical construct and possibly an attempt by interested parties, to distract from questionable practices inside legal prostitution establishments.

Sex buyer forums help paint a realistic picture of regular prostitution. There, buyers exchange about their experiences in brothels and with prostitutes, rate the women, and offer live-commentary on the conditions in legal brothels¹¹.

20. The goal must be to enable those who wish to exit to do so and to protect those who wish to continue doing this work.

Comment: The need for exit support showcases that prostitution is not a regular occupation as much as it's sometimes presented as such. No other industry requires such support measures to exit. Exit support for prostitutes trying to leave legal, widely-known ("clean") prostitution establishments shows that the conditions even there do not adhere to the image presented to the public.

21. As the governing coalition of North-Rhine Westphalia, we want to protect sex workers, especially women, from being perceived as consumable and subservient objects. This means that we have to enter into dialogue with affected persons and listen to what they have to say. We want to protect prostitutes, rather than paternalize them, thereby making them more vulnerable and putting them at risk. Our approach is to bring prostitutes out of the underground into a visible legal area. This is why a change in policy towards the Nordic Model is the wrong approach.

Comment: This paragraph appears contradictory. Efforts to prevent prostitutes from being viewed as objects are of course sensible. However, it is usually impossible to enter into dialogue with the most vulnerable class of prostitutes (the previously mentioned likely victims of exploitation) and to listen to them, as the coalition intends to. This large group lacks the opportunity to express itself publicly or even politically, due to third-party control, lack of language proficiency, lack of contact with the outside world, etc. This group has no voice and no lobby. They do not appear on talk shows. The idea of the e.g., 18-year-old Romanian girl with no knowledge of German, whom you encounter in a rent-a-room-brothel, or the Bulgarian woman in street prostitution with a pimp in the background, able to freely and truthfully express her wishes, exists only in theory, considering the reality of her circumstances, as well as her mental and physical state.

Consequently, authorities and participants in the political dialogue only hear from the comparatively small group of people in prostitution who are in a position to publicly express their concerns. This can create the false impression that this minority is able to speak for the large majority of women. This is false, however, as this privileged minority has completely different interests and needs to the large "voiceless" majority. This minority consists of self-employed, independent persons, without the typical vulnerabilities of likely victims.

Concerning the third sentence in the paragraph: The correct protective laws do not heighten the vulnerability or risk of those in need of protection. No argument follows from there as to why the Nordic Model would be the "wrong approach".

The Nordic Model would not worsen conditions, as has been evidenced many times. The current conditions however are highly deplorable, otherwise, we wouldn't keep circling back to this debate about necessary change. The paragraph suggests that the current conditions are fine and the Nordic Model would make a mess of things. For the majority of women, the opposite is the case.

The model also has implications for the profiteers of the milieu, who in the context of the current law often make considerable profits at the expense of victims. These profiteers would have to forego daily rent fees as well as income through online advertising under the Nordic Model. Also affected would be the silent profiteers of the legal brothels, who emerged from the regular business world

¹¹ For English translations of German buyer forums: <https://dieunsichtbarenmaenner.wordpress.com/menu/>

and invest large sums of money in the operation of prostitution establishments such as nudist clubs with corresponding expectations of large returns. Investigations into the “Paradise” in Stuttgart have shown that several regular and respected businessmen had invested large sums (into the millions of euros) into the brothel.

D – Further aspects regarding the motion and the subject of prostitution law

- The motion at hand contains strongly biased language against the Nordic Model. This is likely to influence the expert hearing which is supposed to take place without foregone conclusions. The motion contains arguments that constitute entirely unevidenced claims or simple falsehoods.
- The critical claims against the Nordic Model stand in complete contrast to the experiences and reports of Swedish experts like Special Ambassador Per-Anders Sunesson and Stockholm police officer Simon Häggström. It is irritating that questionable and lobby-aligned claims are presented and given credence over the experience of experts.
- The quality of much of the research used to discredit the Nordic Model has to be put into question. The study from the Queen’s University of Belfast, Northern Ireland, for example, is not representative and makes many questionable claims, which do not withstand closer examination.
- The motion does in no way address the difficult situations of many prostitutes in legal brothels, especially regarding the protected group of under 21 years of age, the issues arising from the limited right of instruction, the habitation in brothels with a lack of contact to the outside world, the extortionate rent practices in prostitution establishments and other accruing ancillary costs, etc.
- Of high importance would be the collection of statistics regarding the (very small) portion of self-employed, clearly chosen prostitution compared to the large number of clearly third-party controlled prostitutes, who do not work out of their own free will but under duress. These target groups have, as described, different concerns and needs (of protection). Future laws and regulations cannot satisfy the needs of all groups equally. The prostitution milieu is too heterogenous to accomplish this. It thus remains to be seen, which law creates the most improved conditions for the largest group of affected people. If regulations orient themselves around the wishes of the circa 5% of independent prostitutes, one neglects (like happened with most parts of the PPA of 2016) the protection of the up to 90% of prostitutes who are third-party controlled and not acting freely. At the end of the day there is a risk that once again, nothing will substantially improve for the vast majority of women.
- It is the duty of policymakers to prioritize. A concrete example clarifies this need: In 2012 the situation regarding street prostitution in Augsburg escalated, even though the area had been previously inconspicuous to law enforcement. Eastern-European actors put their women into the area and fought each other with brute force. Serious crimes, such as extortionate kidnapping, human trafficking, serious bodily injury, blackmail, etc. occurred. After substantive consideration and debate the authorities responsible chose to close down the legal street prostitution area as the only tenable solution. This measure was an absolute success. The criminal actors, who hadn’t yet been arrested, disappeared quickly. However, the prohibition also affected a few German women, who had been engaged in prostitution in the area for years, without any interference from law enforcement. Nonetheless, the restoration of public safety which had been a strong demand of affected local inhabitants was prioritized. It was impossible to implement exceptions to the law. The affected women had to reorient themselves.

- Germany has to become less attractive to human traffickers. This is the central focus of a good solution. This goal can best be met if localities where women can be exploited disappear. At the same time, the situation requires preventative measures, meaning preventing the trafficking of young female victims in the first place. This is as important as the efforts to support women in their exiting process after they have been harmed.
- To improve the miserable conditions of many prostitutes in the long term, the focus has to be on the causes of the situation. Present efforts constitute a mere treatment of the symptoms of the problem. To provide victims with hygiene products is surely a necessity in the moment and well-intended, however, it is not a solution to the problem. As are, to name another example, the provision of so-called “sex boxes” as have been implemented in the Kurfürstenstraße in Berlin¹². This doesn’t really help women, but only secures the income of their pimps without providing a solution. It constitutes a mere administration and maintenance of the horrid conditions. In connection with this one needs to take a critical look at the guidelines of the family ministry regarding the health counseling mandated by section 10 of the PPA.

E – Summary:

Across the political spectrum the following consensus has been reached regarding the legislative debate on prostitution:

- The PPA has failed to meet expectations, as it has not accomplished the improvements that were hoped for. The abuses that existed, remain.
- The vast majority of prostitutes in Germany do not meet the criteria of a self-determined woman but are in prostitution partially or entirely against their will.
- The laws regarding prostitution require substantive improvement to better protect vulnerable persons and victims of prostitution.

In the process of engaging with different approaches two opposing camps – supporters and opponents of the Nordic Model – have emerged.

While critics of the Nordic Model wish to improve the situation of prostitutes, they are falling short of concrete ideas as to workable solutions. Measures may include: A protected minimum age of 21 years, a working mandatory licensing scheme for prostitutes with more transparency, a prohibition on the licensing of disabled and illiterate persons, a limit on room fees and other horrendous ancillary costs, the abolition of the limited right to instruction, mandatory health insurance, health examination and tax registration, a definite residence in Germany, improved applicability of formal and material criminal law, a functioning Sex Purchase Ban, etc.

Sadly, the reasoning given for the motion is kept in very general terms, containing vague wording, and raising the question as to what exactly requires change. The core issue regarding the assessment of the degree of independent versus third-party controlled women in prostitution is only marginally addressed. This creates the impression that the motion is out of touch with reality and operates on an illusionary view of conditions on the ground.

The Nordic Model on the other hand constitutes a completely different approach: It is an expression of a modern societal consciousness and contains four pillars creating a coherent governing concept.

¹² More accurately translated as „performance/execution boxes” which German term refers both to urination and defecation as well as prostitute “sex” (as the boxes double as mini-brothels and toilets): <https://berlinspector.com/2019/12/09/berlin-the-prostitutes-on-kurfurstenstrasse-and-their-lone-helper/>

Back in 2002 lawmakers dared a then-novel approach and rigid change of course through the Prostitution Act.

The Nordic Model would not create a situation entirely free of violence, but it would overall markedly reduce many of the lambasted horrid practices. The leverage effect would be greater than in other countries that have introduced the Nordic Model, as, for example, France or Sweden did not have anywhere near the number of prostitutes, that Germany currently has.

Finally, I'd like to offer the following for consideration:

If a decision against the Nordic Model is to follow, there is reason to fear that, after an evaluation in a few years' time, further years will be spent discussing and perhaps passing a lukewarm compromise solution, possibly by 2026. Until then hardly anything will change about the current conditions. During this time many thousands will fall victim to exploitation.

But even if all the conventional improvement measures (e.g., the protective minimum age of 21 years or a limit on brothel room rents) were to be implemented, these would still not suffice to decisively alter the horrid conditions.

- a) As long as the number of women who can be brought in from South-Eastern Europe is sheer endless, this stream of trafficking from EU-countries will remain unregulated and every "used-up", exited woman is immediately replaced with a new victim, and...
- b) Because the necessary investigative personnel that is supposed to implement new regulations to monitor and control the prostitution milieu, which is intertwined with serious criminality, is simply not able to stem these demands in the future, and...
- c) The basic tenants of the law regarding forced prostitution etc. require direct as well as personal evidence, usually combined with victim testimony in court, most investigations will continue to fail.

Translation by Elly Arrow

Footnotes by translator to provide additional context.