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Human trafficking and legalized prostitution in the Netherlands

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On 1 October 2000, the Netherlands became the first European country to legalize prostitution as a profession, with its rights and duties. On the other hand, this new Dutch law excluded those sex workers, who come from outside the EU. The majority of women working in the sex industry, who are considered illegal migrants in the Netherlands, had two choices: either leaving the country or disappearing into the illegal criminal circuit. For law enforcement and assistant services, it became extremely difficult to control the sector. In this paper, the consequences of the 'Brothel Law' are presented. What happens with illegal non-European sex workers in the Netherlands, how the problem of human trafficking is constructed in Dutch media and combated in the country, what could be learned from the 'Dutch case'? The paper aims to answer these questions and contribute to the general study on human trafficking and voluntary prostitution in Europe.

Keywords: prostitution, human trafficking, legislation, Netherlands

The 'Brothel Law'

A small bronze figure of a woman stands centrally located in the Red Light District of Amsterdam. The woman is waiting for a client at an open door. The title is *Belle*, and it says: „Respect sex workers all over the world.“ This is a Prostitute Monument, which was placed here in 2007 by the Prostitution Information Center (PIC). The message is clear – prostitution is a profession as any other work, it should be respected and protected.

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On 1 October 2000, the general ban on brothels was lifted in the Netherlands. With this legislation, the Netherlands became the first European country, which legalized prostitution. The main aim was to legalize the adult, voluntary prostitutes (male and female) who possess a valid municipality permit, certifying that it has fulfilled the legal requirements to operate. (Daalder, 2007). In return, every sex worker has to submit an income tax declaration and pay taxes, as in any other legal profession.

Another official aim of the new legislation was to contribute to the governmental efforts for combating organized crime by introducing harsh punishments for offenders, who use violence, who exploit minors and who are involved in trafficking of humans for sexual exploitation.

The intention of the law was to offer European sex-workers social security and protection from criminal gangs. However, together with new developments concerning prostitution as a normal profession, other, more negative aspects became clear. The most important was that sex-workers from outside the EU were excluded from the law. Those non-European women who were working in legal brothels were banned from working in a legal environment. Two consequences could be expected as a result: either that they would leave the country for their homeland or for another European country, or that they would disappear into the illegal circuit becoming vulnerable to illegal entrepreneurs and various forms of criminal activities.

In the present paper I focus on the consequences of the new Dutch law in regard to human trafficking, illegal (and therefore often 'invisible' prostitution) and the efforts of Dutch justice and police to keep control on the situation. The question is what could be learned from this Dutch experience with legalization of prostitution and its (possible) mistakes.

Human trafficking

There is a broad literature on the social phenomenon of human trafficking, in addition to a huge number of governmental and non-governmental reports. The diversity of definitions, moral judgments and stereotypes of offenders and victims is great. Human trafficking is considered interchangeably an 'immigrant offence', organized crime activity, illegal labour, exploitation, deception, one of human smuggling variants, etc.

In general, human trafficking for prostitution could be understood in the context of the international debate on voluntary versus non-voluntary (forced prostitution), with a special emphasis on persons from non-EU countries.

In addition, human trafficking is also often associated with transnational organized crime. The members of criminal organizations, mainly from East European origin are believed to kidnap, deceive, sell and force young women to travel abroad, where they are exploited and mistreated in shabby brothels and window prostitution. In the last years these crime groups have even perfected their lies and recruitment methods by offering East European women jobs in high-tech companies, asking them to sign written contracts, which look authentic, or even setting up 'career days' with promises of profitable and respectful jobs (Hughes and Denisova, 2001; Hughes, 2002, Siegel and Yesilgoz, 2003).

The cross-border aspect is important in this context, because it emphasizes the link between migration and prostitution (Spencer, 2008:57). Different studies, however showed that such a link is sometimes very vague and often either there is no evidence of organized crime involvement (Siegel, 2005), or there is trafficking in a local, regional context (so-called 'loverboys' phenomenon in the Netherlands, see Bovenkerk e.a., 2006).

The poor economic situation in East European countries plays an important role in the explanation of human trafficking. While some authors argue that traffickers take advantage of low salaries and the high level of unemployment in East European countries in order to recruit young women for work in prostitution abroad (Bruinsma and Meershoek, 1999), in other sources, the economic situation is explained as a 'push factor' for women to make their free choice to look for better financial opportunities abroad (Siegel, 2005). In my on-going research among the Russian-speaking sex workers in the Netherlands I have found that most of them make their calculations, get information on conditions and dangers for potential sex work from friends and connections who work in the Netherlands, and finally make their decision to go abroad. Most of them never had any contact with organized crime and nobody forced them to leave for the Netherlands in order to work in sex industry. I do not exclude, however, the possibility that there are other women who could be possibly forced or manipulated to work in prostitution, as presented in numerous publications on this subject in the last years. These controversial initial thoughts of explanation form the basis for a debate on voluntary versus non-voluntary prostitution.

Voluntary prostitution versus human trafficking

Prostitution in the Netherlands occurs in different settings: window prostitution (mainly in Red Light districts of big cities), prostitution in official sex-clubs and brothels, escort prostitution, 06- prostitution (refers to call girls), sex services in massage and beauty parlors, couple clubs and saunas, home prostitution and streetwalking. The last one is considered the most dangerous and vulnerable to organized crime and exploitation activities.

The distinction between voluntary and forced prostitution is important especially for social workers and NGOs: naive girls, forced into prostitution, allegedly need their protection and help, in contrast to independent sex workers, those 'fallen women', who choose prostitution as occupation and therefore deserve all evils (Doezema, 2000; Markovska and Moore, 2008).

In literature about voluntary and forced prostitution, serious doubts have been expressed about one-sided stereotypes of women as innocent victims seduced by men – the merciless pimps who violently force them into prostitution (Hughes and Denisova, 2001; Siegel and Yesilgoz, 2003; Janssen, 2001; Siegel and de Blank, 2008). Different authors showed, however that many women made their own conscious choice to work in prostitution voluntarily and perceive themselves as independent businesswomen.

In addition, the prevailing image of a female prostitute as a victim of trafficking was challenged as well. According to the data of Van Dijk on prostitution related human trafficking in the Netherlands during the period 1997-2000, 25% of offenders appeared to be women (Van Dijk, 2002).

Research on different ethnic groups of sex-workers in the Netherlands (Siegel, 2005; 2007; Korf, 2005, Janssen, 2007, etc.) showed that most of them arrived to improve their economic situation, to support families and children who remained at home in their native countries. But there were also other 'push-factors', such as adventure, a combination of travel and business, etc. (Siegel, 2007).

There are about 25.000-28.000 sex-workers in the Netherlands (De Rode Draad, 2004; Gemeente Amsterdam, 2006). About 20% works in window prostitution (4.000 sex workers). In 2005-2006 approximately 8.000 prostitutes worked in Amsterdam, from them 25% (2000) in window prostitution, 25% in sex clubs, 49% in escort and at home, and 1% in street prostitution (Gemeente Amsterdam, 2006). Of all sex workers in the Netherlands, the largest group consists of non-EU women – the statistic data varies from 65 to 80 percent

(Janssen, 2007; De Rode Draad, 2004, etc.). In a research on clandestine prostitution in Amsterdam in 2004, East European and West African women prevailed (Korf, e.a., 2005:130).

'Migrant women who are involved in the sex industry are either constructed as being "legitimate" victims and to be so defined have to present themselves as trafficked women or they are seen as accomplices and deported to their country of origin if possible' (Spencer, 2008: 48). The role of the media is important in this context. 'Support measures (crack-downs) that are presented as mechanisms to cull people-trafficking, may confirm the public's perceived fears of immigrants as the 'other', which can add to the moral panic that is popularized through the media and political agenda' (Markovska and Moore, 2008: 122).

The media and various NGO's are spreading, in the Netherlands, images of non-European women as victims of human trafficking. On the other hand, the Dutch media repeatedly present the migrant sex-workers as 'illegal' and even 'criminal', associated with other illicit activities, such as drugs and arms trafficking, violent robberies, etc. Such a 'black and white' picture which is often reduced to a 'victims-offenders' presentation is not relevant any longer in the complex context of migrations and new forms of regulation of prostitution in the 21st century. In case of voluntary sex work, a combination of being a victim (either of pimps or of poor socio-economic conditions in their native countries) and an offender (often associated with illicit behaviour and illegal status) may lead to confusion and, therefore, demands much more detailed analysis on the part of 'story-makers' as well as politicians, assistant services and researchers.

It would be wrong, on the other hand, to claim that all sex workers (legal and illegal) are working voluntarily in the Netherlands, enjoying rights and privileges. Diverse cases concerning forced prostitution that took place in the last years show that the human trafficking for sexual exploitation phenomenon, though exaggerated in the media, does exist in the Netherlands (Coster van Voorhout, 2009). In 2007, a Turkish gang was dismantled who was running a prostitution ring of about 100 women from East Europe and the Netherlands (the so-called Sneep-case) (Van Hout, 2008). It is remarkable, in this case, that such a large-scale human trafficking activity took place in the licensed window prostitution.

In 2008, the District Court of Zwolle found, in a specific case of Bulgarian young women, that though there was no evidence of threats, they were

exploited because of their vulnerable position, including their illegal status and dependence on offenders (Coster van Voorhout, 2009:65).

Combating Human Trafficking

Human trafficking in the Netherlands is punishable by law under article 273f Wetboek van Strafrecht (Dutch Criminal Code), which introduces a broad concept of human trafficking, including not only sexual exploitation, but also wider forms of exploitation such as forced labour and trade in human body parts (Korvinus e.a., 2006:286).

Since 2000, Dutch police regularly controls sex establishments, to verify that minors or illegal aliens are not working as prostitutes. In 2007, the municipality of Amsterdam withdrew the licenses of 30 different sex businesses, accusing them of breaking the existing laws.

However, not only law enforcement takes measures as a result of the prevailing image of human trafficking and the active role of organized crime. The city council of Amsterdam applies also administrative measures, 'trying to curb brothels in order to cut crime'. In 2008, the city council started 'cleaning up' the historic Red Light district, buying up brothels and renting windows to fashion designers. The main idea behind this operation was to combat organized crime groups, which operate in the area, especially East European gangs. These criminal organizations allegedly traffic women from the former Soviet Union and other East European countries for window prostitution and brothels. Closing up of the brothels became possible since 1 June 2003, when the Public Administration Probity in Decision-Making Act (BIBOB - Wet Bevoordering Integriteitsbeoordelingen door het Openbaar Bestuur) entered into force. According to this law, administrative authorities are allowed to decide on whether or not to grant a permit, subsidy or building contract to an organization or a company. They may refuse this if they only suspect that criminal activity or presence of criminal group in any form is involved. In 2007 and 2008, two of the most famous sex clubs in Amsterdam were closed under this BIBOB law.

Another measure to combat organized crime, including forced prostitution, taken by municipalities of different Dutch cities was closing up the streetwalking zones. In Amsterdam the Theemseweg, an official place for streetwalking prostitution was closed in 2003. When after introducing the Brothel Law in 2000 many non-EU prostitutes left the legal brothels and window prostitution in the Red Light District, many of them came to work

on the Theemseweg. The majority of these prostitutes were illegal migrants from East Europe. However, in 2003, the city council stated that many of these women were victims of human trafficking and there were signs of organized crime activities in the area, such as illicit trade in hard-drugs and arms. The closing up of the Theemseweg led to pushing these illegal prostitutes further to the arms of violent organized crime groups, to a wider spread of street prostitution around Amsterdam and other Dutch cities, to the displacement of the problem and loss of control and of ability to provide medical and psychological assistance.

Effects of the legalization nine years later

For generations the Netherlands has had the reputation of a very liberal, tolerant, open country, where the spirit of free entrepreneurship prevailed and where there were plenty of opportunities to engage in any kind of business and occupation. Becoming the first European country that decides to legalize prostitution is therefore a logical and not unpredicted step. The question is however, what are the effects of this legalization? Did prostitution become an equal and socially accepted occupation? Did Dutch authorities achieve their goals in combating organized crime and human trafficking? And what happened with the 'illegal' sex workers who had no luck to have an EU citizenship?

In 2001-2002, the researchers of the Dutch Verwey Jonker Institute tried to make some first estimations of the effect of the legislation (Goderie et al. 2002). Their conclusion was that one year after the introduction of the law, prostitutes without a legal status in the Netherlands were not only still active in sectors that were difficult to control, such as streetwalking and escort (call) business, but they were also present in licensed window prostitution and in sex clubs, much like the situation before 2000.

In 2006 in a new evaluation of the law and its implementation was conducted by the Regioplan (Dekker, e.a. 2006). The conclusion was that in spite of the efforts of the law enforcement there were still minors and illegal immigrants in the Dutch sex industry. Especially escorts (and call-services) were extremely difficult to control, because they were not 'territorially organized' and therefore out of a municipal license-policy (ibid: 86). In addition, it looks like that in the illegal circuit there came a new wave of sex-

workers, who advertised and communicated with their clients via websites and mobile telephones (ibid).

The interviews with the licensed sex workers about their social position in Dutch society showed that it was not improved since the introduction of the new law. Sex workers did not get more respect and acceptance, the image of an independent sex worker remained negative and was often associated with criminality (ibid).

The recent research of the Scientific Research and Documentation Center of the Ministry of Justice emphasized that there appeared a paradoxical situation: 'where formerly commercial operation was prohibited and is now legalized, prostitutes and operators feel that the *regulations* have become stricter, whereas in practice it is a matter of stricter *enforcement*' (Daalder, 2007:94). The police are inspecting licensed sex businesses more often than non-licensed (Daalder, 2007:93). In the non-licensed businesses, therefore, the number of 'illegal foreign nationals' is reduced (ibid: 97). On the other hand, the illegal sector remains almost unapproachable for research. It is very difficult to estimate the extent of both voluntary and forced prostitution particularly in clandestine clubs and escort services.

Conclusion

A Prostitute Monument in the Red Light District in Amsterdam symbolizes the new Dutch legislation of prostitution as an equal, legal and respected profession, without the negative consequences of the 'Brothel Law'. Similar to other West European countries and in contrast to the wide publicity, there is still not enough empirical data in the Netherlands on these consequences. And when there are no facts and knowledge, there is a lot of imagination and fear. The image of the Netherlands, as a country where everything is permitted with its legalized prostitution and which attracts and facilitates human traffickers from all around the world is a myth. Human trafficking actually became the main target of the Dutch authorities and one of the reasons to introduce the new legislation. However, as a social phenomenon human trafficking is limited in Dutch media and in public debate to a vague generalized abstraction, which does not distinguish between voluntary independent sex workers and the cases of violent exploitation (as mentioned above).

From various evaluation reports and criminological research, the conclusion could be drawn that in spite of the legalization and strict inspections, the non-EU sex workers, mainly from East Europe, are still active in both legal and illegal prostitution in the Netherlands.

Legalization has also done nothing to diminish the taboo associated with the sex trade. There is still discrimination and stigmatization of this profession. Many prostitutes face, for example, refusals of banks to grant mortgages. Though there is almost no public discussion of the moral side of prostitution (in contradiction to, for example, the Scandinavian countries) especially migrant prostitutes are often associated in the media with illicit activities and crime.

Such stereotypes and stigmatization of prostitutes, in combination with moral panic on violent human trafficking and organized crime activities led to drastic measures from the side of the local municipalities. Closing streetwalking zones and applying the BIBOB law to refuse licenses for sex businesses are some of them. The local decision of the city council of Amsterdam to transform the Red Light District from an organized crime meeting place into the art and design center is another result of the changing legislation. Only tourists who come to the sin-city of Amsterdam for sex and drugs, but for Rembrandt and Van Gogh are welcome from now on. In my view, this is just wishful thinking!

References

ABC (2004) Amsterdam: De Rode Draad

Bovenkerk, F, Van San, M., Boone, M., Boekhout van Solinge, T. and Korf D. (2006) *Loverboys of modern pooierschap*. (Loveboys or modern souteneurship). Amsterdam/Antwerp: Augustus.

Bruinsma, G. and Meershoek, G. (1999) Organized Crime and Trafficking in Women from Eastern Europe in the Netherlands, in Williams, Ph. (ed.) *Illegal Immigration and Commercial Sex*. The New Slave Trade. London: Frank Cass, pp. 105-118.

Coster van Voorhout, J. (2009) *Human trafficking for labour exploitation. A framework for implementation of the crime of human trafficking for labour exploitation as defined in the European Council Framework Decision in EU countries*. Utrecht: Kennispunt Faculteit Recht, Economie, Bestuur en Organisatie

Daalder, A. (2007) *Prostitution in the Netherlands since the lifting of the brothel ban*. WODC: deel 249a. The Hague: BJU.

Dekker, H., Tap, R. and Homburg, G. (2006) *Evaluatie opheffing bordeelverbod. De sociale positie van prostituees 2006*. (Evaluation lifting brothel ban. The social position of prostitutes 2006). Amsterdam: Regioplan/WODC.

Doezema, J., (2000), Loose Women or Lost Women? The re-emergence of the myth of 'white slavery' in contemporary discourses of 'trafficking in women', in: *Gender Issues*, vol. 18, no.1, pp. 23-50.

Gemeente Amsterdam (2006) *Hulp, advies- en gezondheidscentrum voor prostitutie en uitbreiding opvang en ondersteuning voor slachtoffers van mensenhandel*. (Help, advice and health center for prostitution and extension of absorption and assistance for victims of human trafficking)

Goderie, M., Spierings, F. en Ter Woerds, S. (2002) *Illegaliteit, Onvrijwilligheid en Minderjarigheid in de Prostitutie Een Jaar na de Opheffing van het Bordeelverbod*. (Illegal, Forced and Minor Prostitution One Year After Lifting the Brothel Ban). Den Haag: Verwey Jonker Instituut. WODC Ministry of Justice.

Hughes, D. (2002) *Trafficking for Sexual Exploitation: The Case of Russian Federation*. IOM.

Hughes, D. and T. Denisova (2001) The Transnational Political Criminal Nexus of Trafficking in Women from Ukraine, *Trends in Organized Crime* 6 (3 & 4), pp. 43-67

Janssen, M-L. (2007) *Reisende sekswerkers: Latijns – Amerikaanse vrouwen in de Europese prostitutie*. (Traveling sex-workers: Latin American women in the European prostitution). Apeldoorn: Het Spinhuis

Korf, D., Van Vliet, E., Knotter, J. and M. Wouter (2005) *Tippelen na de zone. (Picking up behind the zone)* Amsterdam: Rozenberg.

Korvinus, D., Koster, D. en De Jonge van Ellemeet, H. (2006) Mensenhandel: het begrip uitbuiting in art. 273a SR, *TREMA*, 7, pp. 286-290

Markovska, A. and Moore, C. (2008) Stilettos and steel toe-caps: legislation of human trafficking and sexual exploitation, and its enforcement in the UK and the Ukraine, in: Van Duyne, P., Harvey J., Maljevic, A., Scheinost, M., Von Lampe, K. (eds.) *European crime-markets at cross-roads: Extended and extending criminal Europe*. Nijmegen: Wolf Legal Publishers, pp.121-151

Siegel, D. (2005) Recent Trends in Women Trafficking and Voluntary Prostitution: Russian-speaking Sex-Workers in the Netherlands, *Transnational Crime*, 4 (1), pp. 4-23.

Siegel, D. (2007) Nigeriaanse madams in de mensenhandel in Nederland, (Nigerian madams in the human trafficking in the Netherlands), *Justitiele Verkenningen*, 33 (7), pp. 39-49.

Siegel, D. and De Blank, S. (2008) Vrouwen die in vrouwen handelen. De rol van vrouwen in criminele netwerken (Women who traffic women. The role of women in human trafficking networks), *Tijdschrift voor Criminologie* 50 (1), pp. 35-48.

Siegel, D. and Yesilgoz, Y. (2003) Natashas and Turkish men: new trends in women trafficking and prostitution, in: Siegel, D., Van de Bunt, H. and Zaitch, D. (eds.) *Global Organized Crime. Trends and developments*. Dordrecht: Kluwer Academic Publisher, pp. 73-84.

Spencer, J., 2008, Media constructing organized crime concepts in an extended criminal Europe: Trafficking women for sexual exploitation, in: Van Duyne, P., Harvey J., Maljevic, A., Scheinost, M., Von Lampe, K. (eds.) *European crime-markets at cross-roads: Extended and extending criminal Europe*. Nijmegen: Wolf Legal Publishers, pp. 43-63

Van Dijk, E. (2002) *Mensenhandel in Nederland 1997-2000 (Human trafficking in the Netherlands 1997-2000)*. Zoetemeer: KLPD.

Van Hout, L. (2008) *Schone Schijn. De signalering van mensenhandel in de vergunde prostitutiesector. (Beautiful Shine. Signals of human trafficking in licensed prostitution sector)*. Master thesis. Erasmus University Rotterdam

Trgovina ljudima i legalizovana prostitucija u Holandiji

Prvog oktobra 2000. godine Holandija je postala prva evropska zemlja koja je legalizovala prostituciju kao profesiju, uz odgovarajuće regulisanje prava i obaveza. Sa druge strane, ovaj novi holandski zakon je isključio seksualne radnice/ke koji dolaze iz zemalja van Evropske unije. Većina žena koje su radile u seks industriji, a koje su se smatrale ilegalnim migrantkinjama u Holandiji imale su dva izbora: ili da napuste zemlju ili da se uključe u ilegalne kriminalne aktivnosti. Za kriminalističke službe i službe za podršku, postalo je veoma teško da kontrolišu sektor. U ovom radu, predstavljene su posledice „Bordel zakona“. Šta se dešava sa neevropljanima zaposlenim u seks industriji, kako je predstavljen problem trgovine ljudima u holandskim medijima i kako mu se suprotstaviti, sta možemo naučiti iz slučaja Holandije? Cilj ovog rada je da pruži odgovor na ova pitanja i da generalno doprinese bavljenju problemima trgovine ljudima i dobrovoljnom prostitucijom u Evropi.

Ključne reči: prostitucija, trgovina ljudima, pravna regulativa, Holandija