

Briefing on legal prostitution in The Netherlands: policies, evaluations, normalisation

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1. Introduction

In 2000 The Netherlands became the first country to legalise all aspects of prostitution. It has since been a strong advocate for its pragmatic approach. This brief explains the Dutch law, lists research on the effects and outcomes of it, and explains the pending law proposal and current discussions.

The image that always comes to mind when discussing the Dutch prostitution policy is that of the statue of Belle in Amsterdam. It is an almost symbolic translation of Dutch thinking on prostitution. It translates the view that The Netherlands have on prostitution, on what prostitution is. It is the figure of a woman in a window frame, in a self-confident, proud posture, hands on her hips, chin in the air. The statue was placed on the square in April 2007, unveiled at the first open doors day of the red light district¹.

Less than a month earlier, the newspapers reported on a study that had been published on prostitution in Rotterdam. It found that more than half of the prostituted women in Rotterdam 'worked illegally'. 'Working illegally' meant that the women had been either forced into prostitution; were illegal (no residence status); were minors or worked in 'illegal sex establishments'².



If in Rotterdam at least half of the women weren't in prostitution legally or voluntarily, then how could they place a statue for them in Amsterdam in the same month? This contradiction, between the thinking on prostitution and the reality of it, is the topic of this brief.

¹ Het Parool, 31 maart 2007. Het is weer Open Wallen dag. Zie ook: NRC Next, 2 april 2007. Een werkkamer op de Wallen.

² Goderie, M. & H. Boutellier (2006). Prostitutie in Rotterdam. Utrecht: Verwey-Jonker Instituut.

2. The Dutch legislation on prostitution

What:

On the first of October 2000 the ban on brothels of 1911 was lifted; also the ban on pimping was lifted: the relevant articles have been removed from the Dutch Penal Code. Therewith The Netherlands became the first country in the world that legalised prostitution, that allowed brothels, that recognised sex as work; decriminalised pimps and brothel owners. Note that prostitution itself – that is, the selling of sex has never been prohibited in The Netherlands.

How:

Through regulation; creating a licensing system; by educating women about their new legal status; imposing taxes and police checks on brothels. The executive role and administrative responsibility were assigned to the municipal level.

Why:

Because of the belief in a distinction between forced and voluntary prostitution; the distinction between prostitution and trafficking; the belief in a *pragmatic* approach (as opposed to an idealistic or *moral* approach to prostitution) – pragmatic, in this case: based on the belief that prostitution is *inevitable*, that it always was and always will be. And so it is better to try making it as pleasant as possible; improve the employment status and working conditions of women; empower them.

In other words, the goals were:

- state control; by separating prostitution and ‘criminal side effects’;
- improve the working conditions for women in prostitution.

The six main goals of the law have been formulated as following³:

1. the control and regulation of the exploitation of voluntary prostitution;
2. the improvement of the combat against the exploitation of coerced prostitution;
3. the protection of minors from sexual abuse;
4. the protection of the position of prostitutes;
5. to disentangle the ties between prostitution and criminal peripheral phenomena;
6. to reduce the scale of prostitution by illegal foreign nationals.

³ Daalder, A. L. (2007). Prostitution in The Netherlands since the lifting of the brothel ban (English version). The Hague: WODC / Boom Juridische Uitgevers. (p.39).

3. Research and evaluations of the prostitution sector

Since the legalisation in 2000 there have been a number of studies on the impact of the lifting of the ban on brothels. Most well-known of these studies are the evaluations carried out by or for the Scientific Research and Documentation Centre of the Ministry of Justice (WODC) esp. those by Annelies Daalder: 2002; 2007; 2014 (see below).

Baseline study ('nulmeting') 1999⁴

Before the legalisation of brothels, it had not been legal in The Netherlands, but had been tolerated for a long time (*'gedoogbeleid'*). In March 2000, half a year before the lifting of the ban on brothels, a baseline study by the Mr. A de Graaf Foundation was published⁵. In 1999 research had been done through enquiries among the municipalities. At that moment, there were brothels in 30% of the Dutch municipalities. It was estimated that in the whole of the Netherlands there were about 6,000 women in prostitution at any one day. 2000 of them worked in window prostitution; they others in escort services, on the streets or in private homes. The researchers were not able to determine how many women that would be per year. The municipal health services (GG&GD) and Soa Aids Netherlands (an NGO aimed at fighting STD prevalence), estimated a maximum of 25,000 women yearly.

Daalder, WODC 2002⁶

The first WODC report on the prostitution policies dates from 2001/2002. Conclusions were that there are large differences in application of the prostitution legislation between the municipalities. Also it noted that prostitution shifted from the (legalised) brothels, to businesses where no rules apply and no permits are required, such as the escort business.

Moreover, it was established that most municipalities immediately after the lifting of the ban on brothels, had introduced a maximum or status-quo policy. Existing brothels could hardly be fought and had been granted permits without much ado, but most local governments did not allow new brothels on their grounds.

More recently, a civil servant described the legalisation as 'the biggest money laundering operation in Dutch history'⁷. The brothels established before the year 2000, had mostly been financed with black money. For example the brothels in the city of Alkmaar, where 92 of the 140 brothel windows were threatened to be closed in 2011. This decision followed a criminal investigation which showed that they had most likely been financed with the money from the 1983 Heineken-kidnapping⁸.

⁴ Mr. A. de Graaf Stichting (March 2000). Prostitutie in Nederland in 1999. De nulmeting, een jaar voor de invoering van de wet die de opheffing van het algemene bordeelverbod regelt. Amsterdam: in opdracht van het WODC en het Ministerie van Justitie.

⁵ *ibid.*

⁶ Daalder, A.L. (2002). Het bordeelverbod opgeheven; prostitutie in 2000-2001. WODC, Den Haag.

⁷ Roessingh, M. en Ramesar, P. (2011). Slaven in de polder. Amsterdam: Uitgeverij Atlas. p. 173.

⁸ NOS Nieuws, 20 juli 2011. Deel rosse buurt Alkmaar mag dicht.

Verwey-Jonker Institute 2006, Rotterdam

In 2006 a study was published on prostitution in Rotterdam⁹. It found that more than half of the prostituted women in Rotterdam 'worked illegally'. 'Working illegally' meant that the women had been either forced into prostitution; were illegal (no residence status); were minors or worked in 'illegal sex establishments'¹⁰. The findings in this study were one of the grounds for the drafting a new bill on prostitution in 2008.

DSP-Groep 2006¹¹

The study of DSP in 2006 is one of the three separate studies which together make up the 2007 evaluation. DPS looked into local authority policies on prostitution through questionnaires put forward to the municipalities. The response rate was 84%. Most important findings:

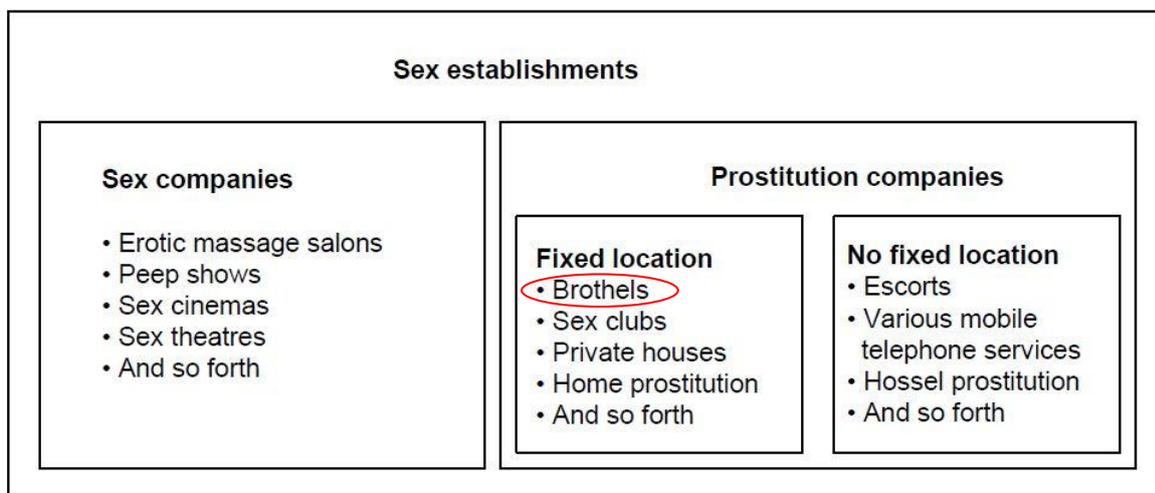
- Approximately two thirds of the municipalities (68%) have developed a formal policy on prostitution.
- Local authority prostitution policy is mainly focussed on sex establishments with a fixed location; there usually are no licensing systems for escort companies.
- Inspection by local authorities consists predominantly of checking licence requirements.
- Infringements that are easier to detect, such as prostitution of minors and prostitution without work permits, are tackled far more often than difficult to prove infringements such as forced prostitution and trafficking.
- An estimated one third of all fixed location sex establishments with a licence have received a sanction in the last five years, mostly in the form of a warning. In 20% of the cases the business was closed down (temporarily) or the licence was revoked.
- The most important reason for receiving a sanction is the presence of prostitutes without a valid residence and/or work permit.
- The number of *licensed* sex establishments in the Netherlands is estimated to have decreased by 17% to about 1,270 establishments between 2000 and 2006.
- A minority of the authorities with a prostitution policy include prevention and/or social care into their policies. Half of the participating authorities with a prostitution policy give consideration to combating human trafficking (49%). A minority of 6%, often the larger municipalities, offer exit programs from prostitution.

Below is a schematic of the categorisation that has been developed for the study to define different types businesses. Note that: only brothels have been legalised in 2000. All other 'sex establishments' remain illegal to date. i.e.: unless stated otherwise in local bylaws, only brothels receive permits and enforcement measures such as police checks etc.

⁹ Goderie, M. & H. Boutellier (2006). Prostitutie in Rotterdam. Utrecht: Verwey-Jonker Instituut.

¹⁰ Ibid. Also see: NOS Nieuws, 1 March 2007. Illegale prostitutie Rotterdam enorm. And: AD De Dordtenaar, 2 March 2007. Ruim helft seksbranche illegaal – onderzoeksinstituut licht prostitutie door.

¹¹ DSP-Groep (2006). Evaluatie opheffing bordeelverbod. Gemeentelijk beleid; English summary and conclusions. Amsterdam: WODC / DSP Groep.



Daalder 2007

The evaluation¹² of 2007 checks the existing situation in prostitution against the six goals formulated by the government (see above). As for the control and regulation of prostitution - the first goal-, the researchers had to admit that a large part, probably the majority of the sex industry, escapes government control for it takes place in couples clubs, sauna's, massage parlours and in the escort industry.

On combating the exploitation of involuntary prostitution, the researchers state 'it is virtually impossible to comment on developments in the number of prostitutes who are working in the sex business under some degree of coercion', for it is hard to establish coercion by third persons.

Minors (the third goal) have 'scarcely' been encountered in the licensed sector of the industry; this sector receives regular police checks.

The fourth goal, and one of the most important reasons for the legalisation, was the protection of the (legal) position of prostitutes. On this goal the research states: 'there has been no significant improvement', 'the prostitutes' emotional well-being is now lower than in 2001 on all measured aspects, and the use of sedatives has increased'; options for leaving the industry were in high demand, while only 6% of municipalities offer assistance¹³.

On the fifth and also one of the main goals; the 'disentangling of ties between prostitution and related peripheral crime', no statements could be made (yet); the BIBOB law ('Public Administration Probity Screening Act') was still being developed. 'Under this act, administrative bodies may refuse to issue a licence (or withdraw it), if there is a serious risk that it will also be used to commit criminal offences, or to make use of financial benefit from criminal activities'¹⁴.

¹² Daalder, A. L. (2007). Prostitution in The Netherlands since the lifting of the brothel ban [English version]. The Hague: WODC / Boom Juridische Uitgevers.

¹³ Ibid. p. 14, 15.

¹⁴ Ibid. p. 15.

Finally, the reduction of prostitution by illegal foreign nationals, seemed somewhat successful, since most women now were from EEA (European Economic Area) countries and thus can legally work in The Netherlands. (In their methodology the researchers did note that the majority of prostituted women in The Netherlands has not been born inside the country and that a substantial part of the interviewing had thus been conducted in another language than Dutch – mostly Spanish and English¹⁵).

KLPD 2008

Months later, in July 2008, another study on prostitution appears. This study was published by the KLPD, Korps Landelijke Politie Diensten, i.e. the national police force. The report is appropriately titled '*Schone Schijn*'¹⁶; 'keeping up appearances', and deals with what is mainly the fifth goal behind the legalisation: human trafficking, or more specific: sex trafficking. This report is very outspoken on the situation. It will be cause for the proposed changes in the Dutch prostitution policy; the new bill.

Direct cause for publishing this police study is the Sneep-case. In this trafficking case, the Turkish-German brothers Saban and Hasan Baran together with some 30 accomplices, trafficked over a hundred women to The Netherlands, Germany and Belgium. They used extremely violent methods. What is special about the Sneep case is that it is one of the first (if not the first) case in which all these women are exploited with extreme violence in the legal, licensed and taxpaying brothels; in what was deemed to be a clean, '*schone*', business.

The KLPD-report estimates that 50 to 90% of the women in licensed prostitution 'work involuntarily'. Add to this the knowledge that the number of women in the Amsterdam window prostitution is estimated at about 8,000¹⁷, and this would mean that in Amsterdam alone at least 4,000 women are being exploited and abused. '4,000 victims of trafficking on yearly basis' it states¹⁸.

RIEC 2010

In 2010 another, smaller study was published. One that was only briefly mentioned in free newspapers like Spits¹⁹ and Metro. The RIEC Noord-Holland (a government body whose role is to help administrations locate and fight organised crime²⁰) had conducted a study into sex advertisements²¹. This research analyses 2.600 ads in newspapers and on the internet. It concludes that in only 17% of the cases the advertisements are placed by licensed brothels, in other words: in 83% of the cases it involved prostitution in the illegal sector where there is no government control (see graph below)²². This research,

¹⁵ Ibid. p. 10.

¹⁶ KLPD (Korps Landelijke Politiediensten) – Dienst Nationale Recherche (July 2008). *Schone schijn, de signalering van mensenhandel in de vergunde prostitutiesector*. Driebergen.

¹⁷ Ibid.

¹⁸ Ibid. p. 14.

¹⁹ De Spits, 7 October 2010. Overheid heeft geen zicht op prostitutie.

²⁰ See: <http://www.riec.nl/index/een-georganiseerde-overheid-tegen-georganiseerde-criminaliteit> (accessed 21 April 2014).

²¹ RIEC Noord Holland, 19 October 2010. Methodiek 'Inzicht in prostitutiebranche'. <http://www.hetccv.nl/instrumenten/prostitutiebeleid/noordholland> (Accessed 12 Sept. 2011).

²² Ibid.

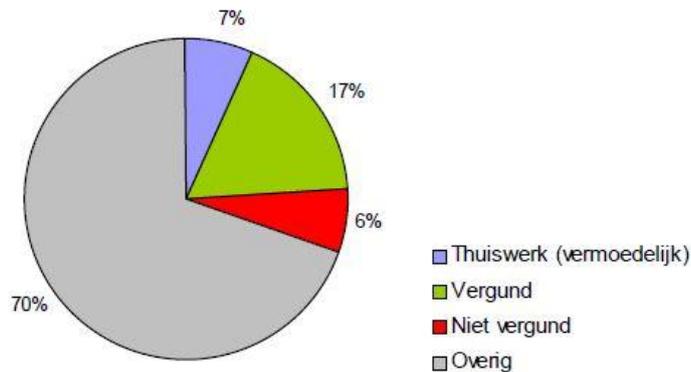
like previous studies, proves once more that there has been a shift from the licensed brothels to the illegal and police-check-free sector.

Resultaten

Het onderzoek heeft opgeleverd:

- 2601 advertenties
- 705 unieke advertenties
- 286 unieke adverteerders

Het analyseren van de advertenties heeft geleid tot de volgende verdeling:



Municipality of Amsterdam; Ministry of Security and Justice; WODC 2011

In May 2011 several reports were published presenting the outcomes of the Emergo project in Amsterdam. This project was active since 2007 in order to map criminal activity in postal code area 1012 in Amsterdam (that is 'The Quays' or '*De Wallen*'; the red light district). One of the reports published in this project was by the WODC²³ and looked into police investigations into sex trafficking in the licensed brothels. It concluded that trafficking was not uncommon in licensed brothels; licensing and police checks are no guarantees to creating a clean sector.

The overarching report of the EMERGO projectgroup²⁴ examines, besides the sex industry, also the coffeeshops (marihuana) and the cheap hotel (1-3 star) sector. Conclusion was that organised crime is strongly rooted in the Amsterdam Wallen-area. Half of the permit-required businesses on the Wallen has one or more managers with a criminal record²⁵. Several criminal investigations were launched.

Lodewijk Asscher, then Alderman in Amsterdam – current Minister of Social Affairs, responded to the reports stating that the government has been 'laakbaar naïef': 'criminally / liable naive' when legalising prostitution in the Netherlands at a time when borders in Europe opened²⁶.

²³ Verhoeven, M.A., Van Gestel, B. en De Jong, D. (2011). *Mensenhandel in de Amsterdamse Raamprostitutie. Een onderzoek naar de aard en opspring van mensenhandel*. Den Haag: Boom Juridische Uitgevers / WODC.

²⁴ Gemeente Amsterdam, Ministerie van Veiligheid en Justitie; Projectgroep Emergo (2011). *Emergo – De gezamenlijke aanpak van de zware (georganiseerde) misdaad in het hart van Amsterdam. Achtergronden, ontwikkelingen, perspectieven*. Amsterdam: Boom Juridische Uitgevers.

²⁵ *ibid.* p. 236, 237.

²⁶ NRC Handelsblad, 26 mei 2011. *Helpt van uitbaters op de Wallen heeft crimineel verleden*.

4. Law proposal ('Wet regulering prostitutie en bestrijding misstanden seksbranche')

In 2008 the government announced a review of the existing prostitution legislation. Grounds for the review were primarily the evaluation by the WODC in 2007 and the report on prostitution in Rotterdam in 2006²⁷. There is a new consensus on the thought that the legalisation of prostitution, in its current shape, was a mistake.

The main points under the new proposal were the following²⁸:

- All types of prostitution (i.e. not only brothels) would require permits;
- All prostitutes would be obliged to register; unregistered women are criminalised;
- Buyers of illegally working prostitutes would be criminalised;
- Municipalities would have the choice for a 'zero-option'; zero brothels on their grounds

Furthermore, Parliament, police and municipalities requested to include the following:

- Raise the minimum age in prostitution from 18 to 21 years old;
- Create the possibility to register a suspicion of trafficking in the prostitution register.

In practise it would be as following: the prostitute will need to visit the municipal health service for a job interview with a social worker. Following this she will be registered in the national prostitute register and receive a special number/card. This number is her stamp of approval, she will have to show it to her costumers, her pimp and at police checks, so that these parties can determine whether she is working legally. She can only advertise on internet and in newspapers with her registration number. Working or advertising without a number are criminalised as economic offences. Same applies for the costumer; he is committing an economic offence when 'purchasing her services'. Costumers are required to make a call to a national government phone number to check her card number before purchase.

Current situation

The bill was adopted by Parliament on 29 March 2011²⁹. The registration of prostitutes was controversial; as was the obligation for buyers to check whether a woman is registered or if she is a possible trafficking victim.

On 9 July 2013 the Senate voted on the bill³⁰. The registration of prostitutes and responsibility for buyers faced strong resistance for privacy reasons and implementation difficulties in practise. Again: a debate on pragmatism, not morals.

²⁷ Letter (16 May 2008) from Ministers of Justice, Foreign and Social Affairs to the President of the Dutch Parliament on a Change in the Dutch Penal Code (Lifting of the Ban on Brothels). KST. 25 437. Nr. 56.

²⁸ Ibid. and: Wetsvoorstel. Wet regulering prostitutie en bestrijding misstanden seksbranche. KST. 32 221, nr. 2.; Memoire van Toelichting. KST. 32 211, nr. 3.; Naderrapport. KST. 32 211, nr. 4; Gewijzigd Voorstel van Wet (29 maart 2011). KST. 32 211 A.

²⁹ Tweede Kamer, 30 maart 2011. Overzicht van stemming in de Tweede Kamer, betreffende wetsvoorstel 32211.

³⁰ Handelingen Eerste Kamer 2012/2013, nr. 35, item 14., blz. 62. [Hansard].

The Senate has no right to amend law proposals. The Ministry wrote a novelle³¹ on the bill which has been presented to Parliament on 1st of March 2014.

On 21 October 2015 a member of Parliament tabled an amendment to the changed law proposal, proposing to include a bann on pimping³².

To date (6 June 2016) there have been no new developments with regards to the amended law proposal.

Private members bill – sex buyers

However, members of parliament tabled an initiative law proposal, to punish prostitution buyers, who know or reasonably can be expected to know, to be purchasing sexual services from a trafficking victim or a victim of ‘forced prostitution’³³. This cross party initiative law proposal was voted and adopted by Parliament on 31 May 2016³⁴. It is now awaiting discussion in the Senate; it is unclear if there is a political majority needed to turn the proposal into law in the Senate³⁵.

Local authorities – tightening policies and closing brothels

In 2011 Utrecht started the registration of women. In July 2013 all 120 window brothels in Utrecht have been closed down following a direct order from the Mayor. Police reports linked monopoly owner Wegra to trafficking cases. The police received around 350 signals annually on trafficking in the Utrecht brothels. Currently they are still closed. However, the Mayor stated it would not be the end of prostitution in Utrecht: ‘We are a liberal city and prostitution is a normal profession’. There are proposals for a ‘cooperative sex worker’ brothel in Utrecht.

Amsterdam has been working to close around 239 windows since 2008; about half of the total number of windows. In 2013 Amsterdam introduced a stricter local by-law which includes registration of women. In The Hague there are discussions on concentrating prostitution in an Eroscentre. Arnhem closed all 150 windows in the city in 2006 for nuisance reasons. The mayor of Alkmaar closed about two thirds of the windows since 2008 (about 100). Groningen has closed down all window prostitution recently (2016).

³¹ Wetvoorstel: Wijziging van de Wet regulering prostitutie en bestrijding misstanden seksbranche. [Law proposal 33 885: Amending the Law ‘Regulating prostitution and fighting abuses in the sex branche’.] KST 33 885, nr. 2.

³² Wetvoorstel: Wijziging van de Wet regulering prostitutie en bestrijding misstanden seksbranche. KST 33 885, nr. 9 & 10.

³³ Voorstel van wet van de leden Segers, Rebel-Volp en Kooiman tot wijziging van het Wetboek van Strafrecht en het Wetboek van Strafrecht BES, houdende de invoering van de strafbaarstelling van misbruik van prostitué(e)s die slachtoffer van mensenhandel zijn (strafbaarstelling misbruik prostitué(e)s die slachtoffer zijn van mensenhandel). KST 34 091, nr. 2.

³⁴ Tweede Kamer, 31 mei 2016. Overzicht van stemming in de Tweede Kamer, betreffende wetsvoorstel 34091.

³⁵ Personal correspondence; email from MP Gert-Jan Segers, 17 May 2016.

The Association of Dutch Municipalities published a model by-law for municipalities to tighten their grip on prostitution. It has been modelled on the pending law proposal. Also because it is unclear when the national government will take further steps to regulate prostitution or change the current law. Policy makers are keen on more tools to fight prostitution and its 'side effects' and to tighten their grip on prostitution.

Daalder 2015³⁶

The 2015 report is an overarching research report. Three separate pieces of research have been carried out; one into prostitution and municipal regulations; one about the 'social position of sex workers' and one about the illegal (i.e. unregulated) prostitution sector. The research has been commissioned by the Ministry of Justice to serve as a benchmark (in Dutch: 'nulmeting'), like the 1999 research. It is designed to form the benchmark against which an evaluation would take place in the future, once the new amended law proposal has been adopted. Second goal is to provide factual information so the new law can be implemented properly.

Main questions³⁷:

1. "How have municipal policy, the supervision and enforcement in the prostitution sector been arranged, and with what results?"
2. What is the size of the licensed prostitution sector?"
3. What is the situation regarding non-legal prostitution, and what forms does this take? Where and in what forms do exploitation, underage prostitution and illegality occur, and do we have any idea of the size of this sector?"
4. How do prostitutes in the various sub-sectors of prostitution perceive their social position, with respect to labour relations, rights and duties, income, mobility, welfare and health and social status?"

Bureau Beke, 2014: prostitution in the Dutch municipalities³⁸:

Methods:

- Mixed methods were used, including interviews, desk research (including of police reports and case studies of certain municipalities) and a municipal survey sent to all Dutch municipalities. The research reach a response rate of 83%.

Results:

- Scale / size: 'Sex businesses' present in about 40% municipalities. In 2014 there were 833 licenced sex businesses in the Netherlands. The number of licenced businesses decreased considerably compared to 2006, especially among window prostitution, brothels and private clubs. Other forms of prostitution, especially escort and 'home prostitution'³⁹ increased. Municipalities estimate that two thirds of prostitutes work in the licenced sector and about one third in the unregulated / illegal sector.
- Policies: 75% of the municipalities have a prostitution policy. 24% of the municipalities effectively have a policy that does not allow prostitution on their territory ('zero [brothels] policy'). Of those with a policy, 33% does not have a policy for escort businesses and 43% does not have a policy for 'home prostitution'.

³⁶ Daalder, A. L. (2015). Prostitutie in Nederland anno 2014. The Hague: WODC / Boom Juridische Uitgevers.

³⁷ Daalder, A. L. (2015). Prostitution in the Netherlands in 2014 [English version]. The Hague: WODC / Boom Juridische Uitgevers.

³⁸ Van Wijk, et al. (2014). Prostitutie in de Nederlandse gemeenten. Arnhem: Bureau Beke.

³⁹ 'Home prostitution': prostitution where the prostitute works / receives clients in their private home.

- Surveillance and enforcement: enforcement in the legal / permitted sector takes place through police checks at fixed moments. These types of checks find few abuses or violations of policy. Enforcement in the illegal sector is a responsibility of the local police, if they are mandated to do so. In about 50% of municipalities, the police is not mandated. The checks in the illegal sector are very labour intensive. Primary goal of these checks are to establish if there are minors in prostitution or if there is forced prostitution. In practice however, the police mainly checks if there is a licence of 'home prostitution'. Human trafficking is rarely encountered in these checks:

“With regard to the tackling of illegal prostitution, the efficiency and effectiveness of the administrative inspections and reports can be considered problematic [emphasis added]. Those cases where measures are taken, concern usually a caution directed at the illegally working prostitute. Currently, facilitators remain (practically) out of sight in the enforcement practice. Prostitutes who have been cautioned can continue their illegal activities in another municipality, and without consequences, since the sanction (caution) is not transferable between municipalities at the moment. When a penal sum is imposed, its collecting often causes problems with foreign prostitutes who are not registered in the Netherlands. Nevertheless, the majority of the municipalities (87%) state that the administrative possibilities are adequate in practice”⁴⁰.

Intraval, 2014: the illegal prostitution sector⁴¹:

Methods:

- The researchers used mixed methods. Desk analysis of reports and documents, scans and analysis of prostitution ads on websites, social media and apps and visiting online fora of prostitution clients. Interviews have taken place with authorities, NGOs, sex worker unions, experts, persons in prostitution, 'clients' and brothel owners.
- The research exits of a general part and case studies of for regions where in-dept research took place.

Results:

- The research distinguishes four types of illegal prostitution:
 - “non-licensed” prostitution – “Non-licensed prostitution occurs when companies or individuals exploit prostitution for which no municipal permit has been issued, while local policies do require it”⁴²: the research finds that this does take place, for example in street prostitution, in hotels and swingers clubs. It could not be established on what scale this takes place. But of the four types, this is the most common form of illegal prostitution.
 - “non-legal employment” – “Non-legal employment occurs when a prostitute working in the Netherlands comes from outside the European Economic Area (EEA) and does not have a valid residence permit that

⁴⁰ Ibid. p. 18.

⁴¹ Nijkamp et al. (September 2014). Verboden rood in beeld. Onderzoek aard en omvang niet-legale prostitutie in 2014. Groningen – Rotterdam: Intraval.

⁴² Ibid., p. V.

allows work in the Netherlands"⁴³. The researchers mentioned for example cases of incomplete documents, falsified documents, look-a-likes or persons working on a tourist visa. In the licensed sector there is very little 'non-legal employment'.

- minors in prostitution: In the licensed sector there are few cases of minors in prostitution. From interviews it showed some women had experienced 'working' in the illegal escort sector while they were minors.
- sexual exploitation: the research shows that the "prostitution sector is vulnerable to sexual exploitation". Of these 4 forms of illegal prostitution, cases of sexual exploitation are the most difficult to establish.
- It was not possible to make an estimation of its scale, due to the hidden nature of the business. The report supports the law proposal (to introduce a permit system for all forms of prostitution) and stresses the importance of its implementation.

Regioplan, 2014: the social position of sex workers in The Netherlands⁴⁴:

Methods:

- Interviews among around 360 'sex workers' from different sectors of the sex industry.

Results:

- The overwhelming majority are woman (93%); 5% are male and 2% transgender.
- Interviews were conducted in Dutch, Spanish, English, Thai, Romanian, Hungarian and Bulgarian.
- 47% of the 'sex workers' were born in The Netherlands; 21% is originally from Eastern Europe, 15% from Central or South America and 11% from Asia.
- One fifth disclosed to have entered in prostitution as a minor, the youngest at age 14.
- Motivation: respondents reported to have entered prostitution in order to support themselves or their families, because of financial difficulties (debts) for lack of other work or because another person forced them into it.
- Exit: more than 50% left prostitution at least once. One in three restarted within 6 months, mostly because of financial difficulties. Half of the persons in prostitution is considering to quit.
- Employment relationship, nature work: the majority of interviewees were satisfied about their employment relationship and about the nature of the work.
- Contract: respondents valued being able to choose which clients they would like to receive, and to be free to set the price for sexual services. "Although certain sex works view themselves as independant, in practice they are not always free to determine which price they ask or what their working hours are"⁴⁵.
- Support: respondents indicated to know where to turn for medical support. However in the case of conflicts with employers or brothel owners they did not

⁴³ Ibid., p. VI.

⁴⁴ Bleeker et al. (Oct. 2014). *Sekswerkers aan het woord. De sociale positie van sekswerkers in Nederland in 2014*. Amsterdam: Regioplan.

⁴⁵ Ibid., p. IV.

know where to turn; equally, they indicated to need support to find exit programmes.

- Health issues: the health of 'sex workers' was generally worse than that of the average population. Most common health issues: feeling tense, anger/rage, depression and loneliness. More than a third of respondents reported having experienced "harrowing events", which lead to disturbing thoughts or memories or trouble sleeping. Almost half of the respondents indicated finding the 'work' to be emotionally demanding.
- Two out of three 'sex workers' agreed that the majority of sex workers, work voluntarily.
- Overall conclusion of this research is that most 'sex workers' were satisfied about their employment status, the nature of their work and their relationship with their employers and that there hardly were situations of abuse or 'forced' prostitution among the respondents.

5. Normalisation

What does legal prostitution mean in practise? Women are stereotyped and for sale; the buying of sex is normalised – into the absurd sometimes.

Because prostitution became normalised and has been accepted, it is more difficult to see what is wrong with it. Some examples of what is happening in The Netherlands and in terms of a public debate in the last couple of years:

- the organisation of united brothel owners proposes self-regulation⁴⁶; brothel owners offer their expertise to assist the fight on human trafficking⁴⁷; are invited to partake in policy making on prostitution⁴⁸ and on international women's day propose a code of conduct⁴⁹;
- Amsterdam city council only took down tourist promotion of the red light district on their website⁵⁰, after public outrage and newspapers articles in 2011⁵¹.
- city councils⁵² and scholars⁵³ propose a quality label / fair trade label for the sex industry;
- two 70 years old identical twins who have been in prostitution in Amsterdam for decades become famous examples of the charm of prostitution⁵⁴ and give sex education on public (government financed) broadcasting channel⁵⁵;
- prostitution buyers are presented as part of a solution to fight human trafficking⁵⁶, rather than part of the problem of human trafficking;
- a musical on successful entrepreneur or brothelowner Theo Heuft is celebrating his career⁵⁷
- there are open days in the red light district⁵⁸
- foreign students are introduced to the country via a lecture praising prostitution as an example of Dutch culture of pragmatism⁵⁹

⁴⁶ Algemeen Dagblad, 10 maart 2012. Bordeelhouders Wallen stellen gedragscode op. Also see: Parool, 8 maart 2012. Toezicht door bordelen zelf. Telegraaf, 8 maart 2012. Bordeel doet zelf aangifte van misstand.

⁴⁷ Parool, 3 december 2012, Wallenbaas wil actie tegen vrouwenhandel.

⁴⁸ For example on an informal policy debate in Parliament on 15 December 2009.

⁴⁹ Algemeen Dagblad, 10 maart 2012. Bordeelhouders Wallen stellen gedragscode op. Also see: Parool, 8 maart 2012. Toezicht door bordelen zelf. Telegraaf, 8 maart 2012. Bordeel doet zelf aangifte van misstand.

⁵⁰ Trouw, 5 november 2011, Amsterdam past promotie-teksten over de Wallen aan.

⁵¹ Trouw, 5 november 2011, Amsterdam past promotie-teksten over de Wallen aan.

⁵² Blik op het Nieuws, 19 september 2007, Arnhem voor invoering kwaliteitslabel prostitutie.

⁵³ Conny Rijken, Linda van Krimpen (2008). The introduction of quality labels in the prostitution sector as a

means to combat trafficking in human beings. *European Journal of Crime, Criminal Law and Criminal Justice* 16 (2008) 59-88.

⁵⁴ Parool, 29 november 2011, Documentaire Ouwehoeren een internationaal succes.

⁵⁵ Algemeen Dagblad, 25 September 2012, Ouwehoeren vast onderdeel Spuiten en Slikken.

⁵⁶ NOS (23 May 2013). Meer meldingen van mensenhandel.

⁵⁷ Algemeen Dagblad, 8 augustus 2012. Oud-bordeelbaas Yab Yum: 'musical is bekroning op mijn werk'.

⁵⁸ Het Parool, 31 maart 2007. Het is weer Open Wallendag. Also see: NRC Next, 2 april 2007. Een werkkamer op de Wallen.

⁵⁹ Tilburg University, 19 August 2013. Opening conference Liberal Arts Students.

Some numbers on the prostitution buying in The Netherlands:

hookers.nl is a buyers website, owned by Midhold Ltd. According to its advertorial the website discusses and rates more than 25,000 prostituted women in over 150,000 buyer reviews. The website attracts 650,000 unique visitors and 10 million page views, making it the largest 'consumer' website in The Netherlands⁶⁰.

1 in 4 men

according to the NGO Soa Aids Nederland, one in four men in the Netherlands have bought prostitution at least once⁶¹.

Schijn bedriegt

In June 2012 the government launched a campaign titled Deception: '*Schijn bedriegt*'. The campaign, a re-introduction of similar campaigns in 2006 and 2008, calls upon sex buyers to anonymously report suspicions of forced prostitution or trafficking. The government advertises the campaign on sex buyers websites. 'The support of costumers of prostitutes is indispensable to fight human trafficking', according to Minister of Justice Opstelten⁶².

On 23 May 2013 the national news agency announced an increase of 76% in the number of reports of trafficking by prostitution buyers⁶³. Upon closer analysis there is an absolute increase of 71 reports in 2011 to 115 in 2012⁶⁴. 115 reports from a total of 77.000 men who visited the campaign website via sex websites, plus 30.000 men who participated via other weblinks⁶⁵. In other words: 115 of the total of 107.000 men reported a suspicion: that is 0.1% of the buyers. Or, put differently: 99,9% did not report anything. But that was not the newspaper headline.

Buyers panel

A group of some 40 regular prostitution buyers was advising the Amsterdam city council in matters of fighting trafficking in women and 'other wrongs in prostitution' in 2009 - 2010⁶⁶.

The panel was formed following a recommendation to do so in a study on buyers commissioned by the municipality⁶⁷. The study was intended to gain more insight into the demand for prostitution in order to formulate appropriate policy response.

The study estimated that there are about 200.000 unique buyers in Amsterdam per year. The characteristics of the buyer do not differ from that of an average man: aged

⁶⁰ Adverteren op hookers.nl, Midhold BV. <http://www.midholdmedia.nl/adverteren-op-hookers-nl/>, accessed 21 April 2014.

⁶¹ www.prostitutie.nl FAQs, accessed 13 September 2013.

⁶² Rijksoverheid, Nieuwsbericht, 13 juni 2012. Internetcampagne tegen mensenhandel gelanceerd.

⁶³ NOS, 23 May 2013, Meer meldingen mensenhandel.

⁶⁴ NU (23 mei 2013). Meer tips over gedwongen prostitutie.

⁶⁵ Meld Misdaad Anoniem Nieuwsbericht (23 May 2013).

⁶⁶ NOS, 21 November 2009, Panel prostitueeklanten Amsterdam. Also: Parool, 21 November 2009, Amsterdam richt panel van hoerenlopers op.

⁶⁷ Sander Flight, Paul Hulshof (2009). Klanten van raamprostitutie. De vraag naar raamprostitutie in Amsterdam. DSP Groep.

mostly between 25-45 years old; from all layers of society and walks of life, whereby ranges of income, education and professional participation do not differ from average. The reason for buying sex was a strong internal need to do so. The buyers unanimously rejected prostitution by minors as something that is wrong. When asked about forced prostitution the responses were less unambiguous: most buyers recognised that forced prostitution exists, but said they never had encountered a sign of it. When and if they had encountered it, buyers generally did not take any actions upon it. When asked about a possible closure of the window brothels in Amsterdam, buyers reported to not stop buying. They would buy sex elsewhere.

6. Conclusion

A quote in a letter from the Council of Chiefs of Police to the Minister of Justice in 2009 during the consultation period for the new law, expresses their concerns:

“In conclusion, it is concerning the Council that the picture that exists with national and local authorities about how the dynamic prostitution industry operates in actual fact is still evolving, incomplete or even missing. Therefore policy responses of the authorities will mainly exist of reactive policies and the ‘chasing’ of the industry, there, where in my opinion, a proactive and preventive policy is required”⁶⁸.

The new law is an amendment to the existing legislation: it is a municipal framework law titled ‘wet bestrijding misstanden in de seksbranche’: ‘law to fight the wrongs in the sex industry’, which would guarantee more uniform municipal legislation. The new legislation is still based on the same principles and goals and underlying the current one, which has been proved ineffective. That is why it is time to seriously consider punishing prostitution buyers. Prostitution is a serious form of violence against women.

The goals of the Dutch law are based on a twofold understanding. First, there was the assumption that one could separate voluntary prostitution from forced prostitution by imposing a system of regulations and create State control on prostitution. ‘Disentanglement’ of these two types of prostitution, however, is impossible for violence is an integrate part of prostitution; prostitution is hardly a positive choice.

Prostitution and violence, prostitution and exploitation, prostitution and trafficking cannot be ‘disentangled’. If there is one outcome that is common to all research in The Netherlands in the past fourteen years, then it is this. One cannot create a ‘clean’ sector: prostitution is not clean. According to the national police 50-90% of the women are in prostitution involuntarily. Why then make policies that facilitate and sanction this? Why then allow women to be abused? Why then grant prostitution permits to women in the knowledge that she is being abused? Does that not make the State an accomplice to abuse?

The second reason to legalise, was the notion that the social position of women would be improved by it. Recognise sex as work. Labour rights, employment conditions. But let’s be real: the vast majority of the women never entered the social welfare system⁶⁹.

Rights for sex workers, the right to sex work: prostitution is not a right. A right is it to be free from prostitution. The only legal position that improved with legalisation, was that of the pimp, that of the trafficker, that of the buyer, who doesn’t have to be ashamed to visit a brothel anymore for men are entitled to buy.

This policy was a pragmatic approach: not a moral position. Because ‘prostitution always existed and always will be’. This Dutch ‘pragmatic’ stance is, in my opinion, a defeatist and little progressive attitude. Progressive would be to be brave, and to dare

⁶⁸ Letter (15 January 2009). Raad van Hoofddcommissarissen Politie aan de Minister van Binnenlands Zaken en Koninkrijksrelaties met betrekking tot het Wetsvoorstel regulering prostitutie.

⁶⁹ Daalder, A. L. (2007). Prostitution in The Netherlands since the lifting of the brothel ban [English version]. The Hague: WODC / Boom Juridische Uitgevers.

say that this can no longer be allowed, this is no way to treat women. Progressive would be to say, we don't accept this, we women demand this abuse to stop. Progressive would be to strive for prevention of prostitution. Prevention, changing attitudes, strive for a different type of society. Progressive would be to say: Enough! We ban the buying of women. We stop prostitution. And we take down that hopeless statue⁷⁰. For prostitution is not a women's right, it is a right to be free from prostitution.

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⁷⁰ Statue titled 'Belle', in Amsterdam, with the inscription 'respect sex workers all over the world'.