

National Prostitution Legislation and its Impact on the Fight against Trafficking in Women for Sexual Purposes in the European Union

A comparative case study of regulation implementation in the
Netherlands and Sweden

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ABSTRACT

This qualitative desk research displays how two totally different national regulative approaches to prostitution, namely legalisation through a licensing system in the Netherlands and criminalisation of the client purchasing sexual services in Sweden, intend to curb trafficking in women for sexual purposes. By evaluating how well the regulations are implemented and how they contribute to the attractiveness of the country for trafficking networks, conclusions on the actual influence of national prostitution legislation on trafficking for sexual purposes can be drawn. It will appear that both legislative systems struggle in getting hold of the trafficking business, but that structures in the Netherlands are more attractive for the trafficking business than in Sweden. In the long term trafficking for sexual purposes can only be eradicated by giving perspectives to women in the origin countries and through handling less protective immigration policies. In the short term national markets need to be rendered less attractive by pursuing and punishing perpetrators consequently, while strengthening the position of women providing sexual services in the prostitution sector and society. The sex business is a world hard to understand for outsiders and swarming with moral stances of authorities believing in their regulative approaches. In order to deal correctly with the sector and tackle its serious problems, sex workers, the real stakeholders, need to get a voice to take the lead and participate in policy-making.

Abbreviations

CS	Career Switch program of Shop
EU	European Union
GGD	Public Health Service in the Netherlands
ICMPD	International Centre for Migration Policy Development
IND	Immigration and Naturalisation Service in the Netherlands
IOM	International Organisation for Migration
IUSW	International Union of Sex Workers
MIJ	Ministry of Integration and Gender Equality in Sweden
MS	Member State
NCID	National Crime Investigation Department
OM	Openbaar Ministerie (Dutch Public Prosecution Service)
RUPS	Regeling Uitstapprogramma's Prostituees (Dutch exit programs arrangement)
SEK	Swedish Krona (currency in Sweden)
THB	Trafficking in Human Beings
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNODC	UN Office on Drugs and Crime
VER	Vereniging Exploitanten Relaxbedrijven (Organisation for operators of relaxation businesses)
WHO	World Health Organisation
WRP	Wet Reguleren Prostitutie (Dutch prostitution law, to be approved yet)

1. INTRODUCTION

October 2010, The Hague. On the central square, het Plein, several shipping containers attracted the curiosity of passers-by. When entering the containers the public discovered an experiential art installation designed by international artists inspired by the story of Elena, a young woman who was trafficked from Moldova to the United Kingdom for the purposes of sexual exploitation¹.

One container displayed Elena's working place, a simple, sordid and repugnantly bouncing bed in a disgusting room with the unforgettable smell of sweat, alcohol and filthiness. In another container one could hear her calm voice telling about her abhorrent experience.

The visit of the exhibition was the beginning of the idea to write a master thesis in the field of human trafficking, to be precise the trafficking of women for sexual purposes in Europe.

How come that this phenomenon is still so common in Europe? How do girls and women end up in the hands of traffickers and why is there a market for coerced prostitution? Who are the consumers, the profiteers and how is prostitution looked at in the Member States of the EU? What is being done about trafficking in women in the EU?

Prostitution legislation in Sweden and the Netherlands will be the central focus of this research. Both countries are known for their progressivity and are commonly seen as leading countries when it comes to gender equality. But more or less at the same time, they introduced totally opposing legislation on prostitution in order to fight trafficking in women for sexual purposes.

The Netherlands legalised prostitution to curb trafficking in women and Sweden, following the same goal, prohibited prostitution and took the unique approach of criminalising the sex buyer. Data on human trafficking indicate that the Netherlands are a top destination for trafficking in women for sexual purposes whereas Sweden is not. How come?

In the EU prostitution policy is a national matter with many different approaches but rules against trafficking in human beings, addressing demand, have recently been passed.

This research wants to analyse whether national prostitution policy *de facto* influences the flow of trafficking in women for sexual purposes and furthermore it aims at finding out which type of regulation contributes the most to the prevention of it.

The paper will therefore put prostitution and legislation of prostitution, as well as trafficking in human beings for sexual purposes and its dynamics into a theoretical context. Several regulation implementation analysis criteria from policy analysis theory and sociological analysis criteria will help to thoroughly evaluate the prostitution policies of Sweden and the Netherlands in order to find out which policy has the most preventive effect on trafficking in human beings for sexual purposes and why.

¹ <http://www.journeydenhaag.nl/?hoofdpagina=88>, retrieved on the 2nd of April 2011.

Film on Journey:

<http://player.vimeo.com/video/18871146>, retrieved on the 4th of May 2011.

The literature on prostitution and trafficking in women for sexual purposes is highly influenced and divided by terminology. The terms “sex worker” and “prostitute” are words loaded with ideology and political beliefs. At this point of the research it is impossible to take a stance on which term to make use of. Therefore this paper will use these words interchangeably until the conclusion of the research. The insights flowing out of this study might make the endorsement of either of the terms possible.

1.1 Problem statement, research question and hypothesis

Throughout the readings it soon appeared that two countries, the Netherlands and Sweden, had developed interesting, but contrasting models of regulation of prostitution in order to monitor prostitution, assert the rights of prostitutes and especially to fight forced prostitution. Both countries are commonly known to be very progressive countries since they are not only frontrunners in areas such as technology and health but also in social domains, when it comes for example to worker's rights or gender equality. They also excel in heading for new, different legislative approaches in the problematic and highly controversial field of prostitution. Sweden became the first country to allow for the prosecution of clients of prostitutes, whereas the Netherlands legalised prostitution considering it legitimate work on condition that women engage in it voluntarily (Outshoorn, 2001). Despite these very different regulatory measures and their consequences each country claims that its policies are in line with feminism (Outshoorn, 2001).

Curiously enough the Netherlands are considered as one of the top destinations for trafficking of women for sexual purposes by the UN Office on Drugs and Crime (UNODC) whereas Sweden reports much smaller numbers of human trafficking victims and convictions². The European Women's lobby denounces *“that the tolerance of the EU and its Member States for the system of prostitution allows for men's use of and control over women's bodies and sexuality, and fuels trafficking in women for sexual exploitation”*³.

Does prohibition combined with criminalisation of the buyer affect the market for women trafficked for sexual purposes negatively, whereas legalisation makes it flourish? How influential is prostitution legislation at all with regard to trafficking for sexual purposes?

Each member state handles another prostitution policy, there are no real benchmarks or outstanding best practices. But several research projects postulate that the legal framework of a country can play a major role when it comes to attractiveness and cost-effectiveness for traffickers (Bindel & Kelly, 2003; Di Nicola et al, 2005; European Parliament, 2000; Kelly et al, 2009). The scholars state that the more prostitution is tolerated, the more profitable and easy trafficking in women appears to be.

By some authors legalisation is therefore seen as a pull-factor for traffickers and as encouraging for sex tourism whereas criminalising the purchase of sex apparently has deterred traffickers (Bindel & Kelly, 2003). Furthermore legalisation and visibility of prostitution (e.g. in windows) are said to affect demand because both factors increase the likelihood that men will purchase sex (Kelly et al, 2009). The influence of radical feminism can clearly be felt in some of these academic papers and therefore this research wants to seize the problem and find out about the real effect of prostitution legislation on trafficking in women for sexual purposes.

², http://www.unodc.org/pdf/traffickinginpersons_report_2006-04.pdf, retrieved on the 17th of January 2011.

³ <http://www.womenlobby.org/spip.php?rubrique203&lang=en>, retrieved 15th of March 2011.

This research hence asks the following question:

What type of regulation of prostitution contributes to the prevention of trafficking in women for the purpose of sexual exploitation in Europe? And why?

The research question aims at finding out whether the different modes of regulation of prostitution in Sweden and the Netherlands augment or reduce trafficking flows of women for sexual purposes. Furthermore this research wants to draw attention to a forgotten subject on Europe's gender equality agenda.

The link between prostitution, its regulation and human trafficking (O'Connor & Healy, 2006) is quickly made since 79% of the trafficked people in the world are exploited for sexual purposes⁴, predominantly women and girls. And it is proven that Western European countries are main receivers of, for example, Eastern European women trafficked for sexual purposes⁵.

The descriptive and explanatory nature of the main research question is accompanied by five sub-questions asking the following:

- *How is trafficking in women for sexual purposes organised?*
- *What is known about forced prostitution in Sweden and the Netherlands?*
- *How do prostitution policies in Sweden and the Netherlands function and respond to trafficking in women for sexual purposes?*
- *Can the amount of forced prostitution in Sweden or the Netherlands be explained by the countries' respective prostitution policy?*
- *To what extent shall/can the EU be involved regarding prostitution and trafficking policies?*

These sub-questions constitute the pillars enabling the formulation of an answer to the main research question as well as recommendations.

The probabilistic hypothesis of this research can be read as follows:

“If a country prohibits prostitution and criminalises the buyer, than the likelihood of humans being trafficked for sexual purposes to that country is reduced (prohibition vs. legalisation)”.

The independent variable shall be the type of regulation and the dependent variable shall be the flow of human trafficking for sexual purposes. The unit of analysis shall be legislation on prostitution, as well as human trafficking records and data, such as the number of prosecutions. The general goal of the research is therefore to test whether the above standing hypothesis is confirmed by the case studies.

This will be done by analysing the implementation of prostitution policy in Sweden and the Netherlands, as well as the effect implementation has on trafficking.

⁴ <http://www.unodc.org/unodc/en/human-trafficking/global-report-on-trafficking-in-persons.html>, retrieved on the 18th of January 2011.

⁵ http://www.unodc.org/documents/human-trafficking/Global_Report_on_TIP.pdf, retrieved on the 17th of January 2011.

1.2 Relevance

The Netherlands and Sweden demonstrate the most opposing ways of regulating prostitution in modern society, both explicitly aiming at curbing trafficking in women for sexual purposes through their prostitution legislation. The report will offer some theoretical and empirical understanding of how both countries have been working with their policies in the last ten years. Since these two different forms of legislation seem to have had diverse effects on trafficking in women for sexual purposes, it is imperative to take a closer look at the implementation and the social context of prostitution laws in each country. The findings of the report might give indications on how to prevent trafficking in women for sexual purposes more efficiently and they will increase the knowledge of the benefits and losses each regulative system comprehends with regard to trafficking in women.

From a societal perspective this research offers insights into a sector closer to each one of us than we want to think and in which gender equality is an unknown term in most countries of the EU.

1.3 Literature review

This section aims at giving an overview of the literature considered for this thesis. It encompasses scientific articles and government reports analysing or evaluating regulation of prostitution and its impact on trafficking in women for sexual purposes in Sweden and the Netherlands.

Definitions and categorisations of regulatory systems of prostitution are far from congruent (ESF report, 2010; Outshoorn, 2004) but mainly have been classed under the terms of prohibitionism, abolitionism (both belong to regulation by criminalisation of actors involved in prostitution) and regulationism (comprehending legalisation) (Bindel & Kelly, 2003; Della Giusta, 2010; Hubbard, Matthews & Scoular, 2008; Jacobsson & Kotsadam, 2010, Nationaal Rapporteur Mensenhandel, 2009; Outshoorn, 2004; Scoular, 2010; West, 2000). The diverse definitions of regulation of prostitution are combined with a strong bias on street prostitution and female workers in the literature (Weitzer, 2005) leaving aside indoor prostitution, transgender and male workers, and most importantly costumers (Raymond, 2004).

Literature on Swedish prostitution policy is characterised by advocates of the law criminalising the purchase of sexual services and the law's ability to curb human trafficking in Sweden (Ekberg, 2004; Swedish Government Report SOU, 2010) by making the country economically less attractive to traffickers (Jacobsson & Kotsadam, 2010). Despite the lack of evidence in research in the field, Bindel and Kelly (2003) argue that the Swedish model is the most efficient regulation mode to fight trafficking in women for sexual purposes.

Agustin (2008) values the normative effect of the Swedish law but finds that it is not ending the exploitation of women in the sex industry, whereas Gould (2001) and Kulick (2003) challenge the idea that Sweden introduced the law purely out of gender equality interests.

The Netherlands wanted to counteract trafficking in women by legalising prostitution in order to get a hold of the sector through licences and taxes. The distinction between forced and voluntary prostitution is seen as a realistic approach (Outshoorn, 2001) in order to enable prostitutes to acquire social rights and destigmatise the sector, but consecutive research revealed that licences are not a guarantee against trafficking and that the stigma has not been removed since legalisation. It still is not regarded as a desirable occupation (Bindel & Kelly, 2003; ESF Report, 2010; Nationaal Rapporteur Mensenhandel, 2009, 2010). Some research suggests that legalisation is not as effective as it presents itself (Bindel & Kelly, 2003; Prins, 2008; Verhoeven et al., 2011). Advocates of legalisation claim that the legal sector is under control and that the authorities have contacts within the sector and can supervise it (Daalder, 2007). Furthermore the Netherlands appear to be the only country “*where systematic and ongoing monitoring, as opposed to evaluation exists*” (Kelly, Coy & Davenport, 2009)

The academic world greatly diverges on the question which prostitution policy prevents human trafficking effectively. Additionally it struggles with a very serious lack of data to empirically confirm or reject the different speculations.

This thesis hopes to contribute to the debate by not only carefully analysing literature and reports, but also by integrating the view of sex workers in the debate and by considering perspectives stating that regulation of prostitution systems might be irrelevant to the functioning of the (illegal) sex industry, except for their symbolic value (Scoular, 2010).

1.4 Structure

The next chapter details how the comparative case study between Sweden and the Netherlands will be conducted and empirically supported by interviews with relevant stakeholders.

Chapter three sets the theoretical framework by introducing definitions and putting regulation of prostitution and trafficking of women for sexual purposes into context. The criteria to analyse implementation of prostitution legislation in Sweden and the Netherlands from a regulative and sociological perspective emerge out of the theoretical background.

Chapter four offers an overview of prostitution legislation and human trafficking data in Europe.

In chapter five and six, the case studies of the regulative system of the Netherlands and Sweden with regard to implementation of prostitution legislation and trafficking in women will be conducted according to the regulation and sociological analysis criteria.

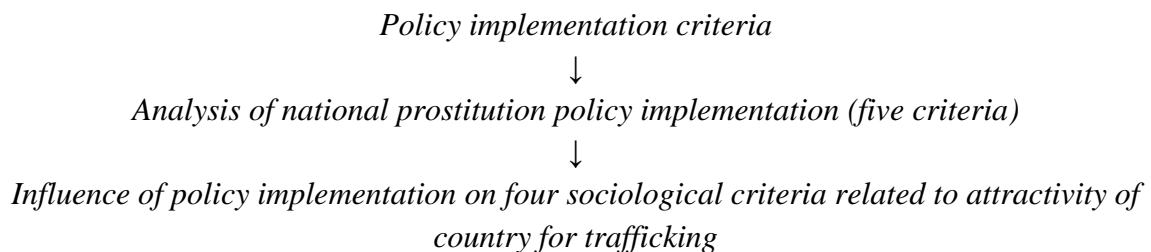
Chapter seven will briefly elaborate on the advantages and disadvantages of each regulative system.

Finally, the conclusion will display the outcome of the regulation implementation and the sociological analysis. The conclusion will be followed by recommendations, a reflexion on this research and in the attachment interviews with stakeholders from Sweden and the Netherlands can be read.

2. METHODOLOGY

How can the research question be answered and the hypothesis confirmed or contradicted? A first step, after having established the constructs and the context of this research, will be to gather and analyse national legislation and policy documents concerning prostitution in the Netherlands and in Sweden. The narrative is thus based on documentary analysis.

This research will, after having established the theoretical context, firstly analyse Dutch and Swedish prostitution regulation according to five regulation implementation criteria required for perfect implementation extracted from policy analysis theory (Hogwood & Gunn, 1984; Mazmanian & Sabatier, 1981). Secondly it will investigate the positive or negative influence of well or badly implemented national prostitution policies on four sociological criteria, gathered out of academic literature and closely related to the attractiveness of a country for the trafficking in women for sexual purposes business. This thesis thus adopts the following logic:



This research can be typed as a **comparative case study** scrutinising the causal relationship between a type of regulation of prostitution and the amount of human trafficking in the concerned country (particularly in Sweden and the Netherlands which makes this study a small-N design (Johnson&Reynolds, 2008)). This general research approach has been chosen because the most obvious strength of the comparative case study, lies in the fact that compared to a single case study, the analytical conclusions will be more powerful (Yin, 2003) due to the multiple sources considered. The research can thus be better generalised across countries and settings and bears more explanatory power. By briefly looking at other EU country contexts external validity of the findings will be stronger than results from a single case study. Additionally a comparative case study gives enough room to refine difficult concepts such as prostitution and therefore construct validity will be increased despite the difficulty to measure and operationalise prostitution (George& Bennett, 2005).

This study is a content analysis (Babbie, 2007) which will explore law on prostitution in Sweden and the Netherlands as well as these countries' human trafficking records. Hence this research will be limited to the texts and data that actually exist. Within the field of prostitution and human trafficking this will represent a serious restraint for research, validity and findings due to the dark number and vast lack of data reigning in this sector.

In order to increase reliability and especially external validity, next to Sweden and the Netherlands, other European countries shall be included in short overviews. The cases of

Sweden and Netherlands have been selected because prostitution regulation of these two progressive European countries can be said to be very antipodal, thereby maximising variation (Gerring, 2001). The opposite positions towards and definitions of prostitution endorsed by both countries of course affect domestic regulation, as well as construct validity of this research.

The research design used for the trends in human trafficking is of **longitudinal** nature since the design involves collection of data at different points of time (Babbie, 2007; Gerring, 2001) meaning the human trafficking statistics since the implementation of the Swedish law prohibiting the purchase of sexual services from 1999 and the lifting of the general ban on brothels in 2000 in the Netherlands. Unfortunately data available in both countries are relatively recent because some years ago, records of human trafficking were simply not made. Even today it is hard for recording organisations like Comensha in the Netherlands to provide consistent and reliable data.

2.1 Validity

One certainly needs to be aware of the fact that data coming from all kinds of sources have their limitations because it is no secret that data are difficult to collect due to the high number of unreported cases and because of governments obstructing research⁶. This is affecting the validity of this research heavily dependent and relying on data and statistics of the Dutch and Swedish government, as well as UNODC reports. The interviews made for this research will increase internal validity by answering to questions on the causal relation between the variables.

Regulation of prostitution and human trafficking (the variables of this research) become concrete through indicators like, for example, laws prohibiting or authorising prostitution or the number of prosecuted traffickers. The difficulty with these indicators starts with their definition. In the case of prostitution one needs to ask whether there is a distinction to be made between forced and voluntary prostitution. What does prostitution actually mean as a concept? Are we talking about business or slavery? What exactly does regulation stand for? A clear definition of the concepts used is required in order to guarantee construct validity (Shadish, Cook & Campbell, 2002) but in the field of prostitution there are still major definition lacunae.

In the case of human trafficking the lack of data and the dark number obscure the indicators and obstruct research dependent on them. This can lead to antithetic results and findings (Nationaal Rapporteur Mensenhandel, 2009). It needs to be mentioned too that research on prostitution and human trafficking in general has methodological limitations, amongst others because of the difficulty of accessing the sector and its essential focus on female workers and street prostitution (Weitzer, 2005) leaving costumers and pimps aside. It is extremely challenging to collect data on clients and providers because they are from hidden populations

⁶<http://www.unodc.org/unodc/en/human-trafficking/global-report-on-trafficking-in-persons.html>, retrieved on the 22nd of January 2010.

(Moffat, 2005). Nevertheless thanks to websites such as Punternet.com, the behaviour of clients and their preferences become more accessible.

The above mentioned problems show the difficulty of researching on prostitution because of low statistical power (Shadish, Cook & Campbell, 2002), meaning that the sample size for research is often small and hard to access. This greatly affects statistical conclusion validity of this research too.

Furthermore international cooperation in the trafficking area is on the way but far away from harmonisation. This affects the way of collecting data and therefore might limit external validity of the study, since different sources will be compared from different countries. Many documents used rely on data administered by the individual states and are not provided by independent organisations.

2.2 Reliability

How reliable are documents used for this study and this study itself? The method of using a comparative case study to analyse implementation of prostitution policy and its effect on the trafficking in women business with regulation implementation criteria and sociological criteria is a measurement giving consistent results. If executed again the same results would be achieved with this method. But as explained above indicators to analyse prostitution and trafficking in women are obstructed by lack of definition and ignorance of what is happening in the sector. Therefore validity for this study is less guaranteed than reliability.

2.3 Interviews

It is not enough to simply rely on UNODC trafficking data or national reports. That is why in order to make this research more sound, research papers that have already been published on the influence of regulation of prostitution on human trafficking will be analysed (e.g. Daalder, 2007; Kelly et al, 2009; Jacobsson & Kotsadam, 2010; Swedish Government Report SOU 49, 2010; Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

Furthermore several stakeholders for prostitution policy and experts in the trafficking in women field, as well as sex workers and sex establishment operators have been contacted and interviewed in the Netherlands and Sweden (cf. attachment 1, 2). The aim of the interviews is to deepen the insights obtained through literature sources and to answer the main research question as well as the sub-questions. That is why the criteria used for the regulation implementation and sociological analysis have served as guidelines for and can be traced in the questions. But the interviews were also very valuable when literature did simply not provide certain background information needed for the analysis.

Independent stakeholders have been approached to compensate national bias (cf. attachment 3):

The Netherlands

- Hannes Snijder, Senior researcher of the Bureau National Rapporteur on Trafficking in Human Beings (BNRM, The Hague)
- Floris van Dijk, Senior policy advisor human trafficking of the Ministry for Social Affairs and Employment (MINSZW) in the Netherlands
- Marjan Wijers, Consultant for human rights and human trafficking
- Carla Aaarsen, Senior policy-maker of the Public Prosecution Service (OM) in the Netherlands.
- Nynke de Vries, Director of assistance and shelter centre Shop, The Hague.
- Metje Blaak, Former sex worker and Press officer of the interest organisation Red Thread and the union for prostitutes (Vakbondvakwerk).
- André van Dorst, Director of the association for entrepreneurs of relaxation businesses (Vereniging Exploitanten Relaxbedrijven (V.E.R.)) in the Netherlands.

Sweden

- Emma Stenberg Ribeiro, County Administrative Board of Stockholm.
- Gudrun Norborg, Crime Victim and Compensation Authority in Sweden.
- Henrik Sjolinder, Deputy Director at the Ministry of Justice in Sweden.
- Sofi Linde and Eva Göransson, women's halfway house "Skogsbo".

Independent stakeholders

- David Ellero, Project manager of the Analytical Workfile Phoenix, dedicated to the subject of human trafficking at Europol in The Hague.
- Jenny Andersson from the International Centre for Migration Policy Development in Vienna.

The answers of the stakeholders have to be interpreted as the personal view of the interviewee on prostitution policy and its effect on human trafficking. The questions were either asked in a face to face interview (3), that was recorded, by phone (1) or have been provided through email exchange (9). The interviewees were left entirely free with regard to choices of form and format of their answers.

The interview partners have been selected among a the big group of potential interviewees existing for this subject but the scope of this research made it necessary to mainly focus on policy-makers combined with available stakeholders like shelters and prostitutes. Interview questions were slightly adapted to the field of expertise of the interviewee. It was strived to obtain an overall picture of opinions on the effectiveness of prostitution policy on preventing trafficking in human beings for sexual purposes.

The interviews represent the empirical part of this research and deepen the literature and legislation analysis, because they will offer another type of source of information from persons actively involved in the field of prostitution policy-making and trafficking in women.

Attention has been paid at selecting similar stakeholders from both analysed countries and also independent analysts equipped with knowledge on the subject.

Unfortunately not all desired interview partners were willing to respond to the questions important for this research. Some interviewees accepted the questions but never returned them (attrition).

Lacking interviews, especially for Swedish stakeholders, were compensated by material available on YouTube (Interview with Swedish sex worker Pye Jacobsson, (Jacobsson, 2009)) and knowledge of the other interviewees about Sweden and its policies.

Dutch interviews have been translated by the author of this thesis into English, as close as possible to the original versions (some having been in very formal, others in more colloquial language). The Dutch original versions are available on request.

3. THEORETICAL FRAMEWORK

This part of the thesis aims at elucidating the theoretical components of prostitution and trafficking in women for sexual purposes, while also providing the reader with a concrete as possible definition of the terms and the contexts they are placed in.

This theoretical framework is separated into a part on prostitution and ways of regulating it, as well as a part on trafficking in human beings and its dynamics. At the end of both parts the criteria for the analysis of two cases (the Netherlands and Sweden) are established.

3.1 Prostitution

3.1.1 How is prostitution defined?

Prostitution is said to be the oldest profession in the world. To a large extent, it is a welcomed phenomenon because common opinion holds that without it more women would get raped on the streets. It is the third industry in the world after the arms and drugs industry (Ekberg, 2004) and it achieves a total global income of more than 20 billion dollars a year (Moffat, 2005) as one of the “*most lucrative informal economies widely available worldwide to both workers and entrepreneurs*” (Agustin, 2008).

It is estimated that around six million persons work in prostitution today (Moffat, 2005). A vast majority of whom are women and children.

Prostitution is generally defined as the “*exchange of sexual access to one’s body for something of value, most frequently money or drugs*” (Monto, 2004). The World Health Organisation (WHO) outlined prostitution as being a “*dynamic and adaptive process that involves a transaction between a buyer and a seller of a sexual service*” (Farley, 2004).

“The essence of the prostitution contract is that the prostitute agrees, in exchange for money or other benefit, not to use her personal desire or erotic interest as the determining criteria for the sexual interaction” (O’Connell Davidson, 2002).

But the word prostitution is “*neither a precise job description nor the designation of unequivocal or definite acts but rather an idea loaded with ambiguities and moral judgments*” (Agustin, 2008).

There is no agreement on an exact definition of the term prostitution because as will be seen it relates to different world views (Agustin, 2008). What counts for all prostitutes no matter the society they live in, is that they are marginalised, i.e. considered as a legally and socially different class of persons (O’Connell Davidson, 2002), expelled from “*exercising capacities in socially defined and recognised ways*” (Cudd & Andreasen, 2005). This makes marginalisation a very and perhaps the most dangerous form of oppression (Cudd & Andreasen, 2005).

3.1.2 What does the prostitution/sex industry stand for?

The International Union of Sex Workers (IUSW) unites all kind of people related to the sex industry. The interest of this research though will remain on the prostitution industry, a branch

of the sex industry. In this concept shall be included: “*brothels, sex-, night and striptease clubs, street prostitution, escort services, Internet marketers of prostituted women and children, mail-order-bride agencies, phone sex operations, sex tourism agencies, as well as the creators and distributors of pornography.*” (Ekberg, 2004). Furthermore third party beneficiaries like travel agencies, hotels and air companies that profit from the prostitution of women and children in the tourism industry are also integrated into the definition of the concept of prostitution (Ekberg, 2004).

Prostitution is a widely spread phenomenon and reachable for everyone around the corner in the entire world. Different forms of prostitution have been developed according to the location where it takes place:

- Street prostitution
- Brothels
- Escort services
- Massage parlour, barber shop, hairdresser, bars, hotels
- Sex tourism

Outdoor prostitution has been limited to restricted zones in most European countries, but indoor prostitution for example in hotels⁷ is flourishing in legality but mostly illegally (Nationaal Rapporteur Mensenhandel, 2009).

The prostitution industry profits from the proximity of military bases (Ekberg, 2004; Raymond, 2004) which are seen as potential markets, since sexual access to women and girls is taken for granted by men, also UN soldiers, who serve in the military (Ekberg, 2004).

Alcohol and drugs play a big role in this milieu because these illicit substances can function as a survival technique (Raymond, 2004).

3.1.3 What does theory say about prostitution?

This section of the research will not address history of prostitution, how interesting such an exploration might be, but it will focus on today’s view of and polemic around this branch of the sex industry.

To start with, it must be mentioned that there is a deep division among feminists, the theorists that play an “*increasingly critical role in marking out prostitution as an area requiring special attention*” (Scoular, 2010), on what prostitution actually is (Outshoorn, 2004). Theory relies on “the” major dichotomy inherent to prostitution, namely the distinction between forced and voluntary prostitution (Doezema, 1998).

The **radical feminist discourse**, also called sexual domination discourse sees women in prostitution as victims of sexual slavery (Outshoorn, 2004). For adepts of this stream “*prostitution is forced by definition*” (Outshoorn, 2004) and fundamentally wrong (O’Connell Davidson, 2002). No women would prostitute herself by choice or out of free will (Outshoorn, 2004) and therefore the “*concept of forced prostitution is a pleonasm*” (Outshoorn, 2004).

⁷ Van Dongen, M. (2011, February 24). In actie tegen hotelprostitutie. *De Volkskrant*, p. 9.

Radical feminist theory of sexuality and the state displays prostitution not simply as an example of women's oppression, but as a "*foundational idea that predetermines women's social, sexual and economic subordination*" (Scoular, 2010).

Because of her status as a victim, the prostitute should not be penalised for her acts, all others profiting from prostitution however should be punished.

The other discourse, called liberal discourse (Prins, 2008) or **sex work discourse**, distinguishes between forced and voluntary prostitution and came up because years of abolitionism (cf. chapter 3.1.6) never really achieved any results in combating and regulating prostitution (Outshoorn, 2001).

It does not see women as prostitutes but as "sex workers", since prostitution represents an option or a survival strategy for women and this should be respected (Outshoorn, 2004). Some affirm that selling sex is a form of resistance to inequalities and that prostitution has an intrinsic social value (O'Connell Davidson, 2002). A side stream within the sex work discourse, the sex radical feminists claim that prostitution contributes to erotic diversity, has socially valuable ends and that workers are healers and teachers (O'Connell Davidson, 2002).

The sex work discourse comes down to the fact that women have the right to sexual self-determination and to work as a prostitute as long as decent labour conditions are provided (Outshoorn, 2004). This feminist frame embraces legalisation which should remove prohibitionist articles in criminal codes, guarantee workers rights and normalise prostitution through labour regulations (Outshoorn, 2004).

Within the sex work discourse prostitution is not a problem in itself, rather it is the context "*within which women engage in prostitution – such as forced prostitution and trafficking, as well as the often bad conditions under which the work is done*" (Outshoorn, 2004) that appears to be problematic. Advocates of the sex work discourse fight against forced prostitution and for the improvement of working conditions, but the major weakness of the discourse lies in the fact that it is mostly very "*hard to draw a line between forced prostitution and sex work as a choice*" (Outshoorn, 2004).

3.1.4 Is prostitution a normal job?

The sex work discourse is accused of "*degendering*" the issue (Outshoorn, 2004 and 2001) because it turns prostitution into a story of supply and demand making pimps business entrepreneurs and men who buy women normal consumers (Raymond, 2004). Another point of critique towards the stance that prostitution has to be considered normal work is that violence is deeply linked with and for some even "*intrinsic to prostitution*" (Raymond, 2004).

Simultaneously prostitution is seen as an economic development strategy for poor, marginalised women (Farley, 2004; Raymond, 2004, p. 1163) wanting to improve their lives. While watching the documentary *Louis Theroux and the Brothel* (Mortimer & O'Connor, 2003) where the famous presenter visits and lives in a legal brothel in Nevada (USA), one realises that even though the women are from difficult backgrounds and in need of money, the term victim is not necessarily the first thought coming up in one's mind.

Some women totally consent to what they are doing and even see it as a better job than being a waitress or nurse because it earns more with less effort (Mortimer & O'Connor, 2003). In this context one can ask why sex work academies and school have not been developed to teach required skills (related to work but also administration) and safety?

Apparent consent to sex work has to be put in the context of the mental and physical abuse the women are exposed to, argues Farley (2004), since a primary function of dissociation (term also used for victims of torture) is to endure and manage the fear and pain experienced in prostitution by splitting it off from the rest of the self.

“*You give a part of your soul*” (Mortimer & O'Connor, 2003) says brothel owner Susan in the documentary and some authors believe that that is the reason why prostitutes are able to say, and actually believe that they love servicing their clients (Farley, 2004). At this point mental and physical health of prostitutes should be studied because it is of great importance for the working conditions in the sector and for answering the question whether prostitution can be normal work. But due to the scope of this research, it cannot be afforded to dwell upon this subject (for more information on health in the prostitution sector please read Farley (2004) and Raymond (2004) or Interview Nynke de Vries, question 3; Interview Emma Stenberg Ribeiro, question 7; Interview Gudrun Nordborg, question 8)).

And what about the prostitutes themselves? Are their voices heard? Mossman (2007) and Outshoorn (2004) affirm that collectives and prostitutes interest groups made them become more visible and gave them the possibility to articulate their voice and claim their rights⁸. On the other hand, Farley (2004) claims that for example prostitutes in Germany avoid to unionise and prefer to stay in illegality and to be marginalised (Agustin, 2008) despite the incentive to be part of the normal world legalisation created for them. Kelly et al. (2009, p. 46) describe the impediments encountered by trying to integrate prostitution into employment law in Germany. Developing employment contracts which cover both the services to be provided and that women who sell sex are not forced into sexual practices or having sex with buyers they do not want to represents considerable difficulties (Kelly et al., 2009, p. 46). Additionally sex workers resist official documentation because it makes them lose their anonymity and sex business owners refuse to bear the responsibilities of an employer (Kelly et al., 2009, p. 47).

When prostitution goes hand in hand with trafficking, Anderson & O'Connell Davidson (2003) state that prostitutes should be put in a position to organise themselves in order to end the asymmetric, exploiting relationship lots of them are subject of. But how is self-regulation possible in an industry where brutality reigns?

Is prostitution hence legitimate work or slavery? If a country's answer tends to be work, legalisation of the sector like practiced in the Netherlands or Germany will be the consequence for policy-making.

⁸ Examples of trade unions and sex workers' interest groups are: Ver.di in Germany, Comisiones Obreras in Spain, the International Union of Sex Workers (IUSW) in the United Kingdom and De Rode Draad in the Netherlands (Agustin, 2008).

If the answer is slavery, policy-making in line with criminalisation of prostitution and prohibitionism will follow.

3.1.5 What is regulation of prostitution?

The literature on regulation of prostitution comprehends a quite confusing and even contradicting amount of categorisations of the different modes of regulation, but basically in the EU, they all turn around **criminalisation and regulationism**.

Mossman (2007) subdivides criminalisation, which makes prostitution illegal, into **prohibitionist and abolitionist regimes**. The former describes a regulative regime where “*all forms of prostitution are unacceptable*” whereas the latter “*allows the sale of sex, but bans all related activities, such as brothel keeping, soliciting and procurement*” (Mossman, 2007). The abolitionist approach aims essentially at reducing and eliminating the negative impacts of prostitution (Mossman, 2007).

Scoular (2010) adds on to the distinction that prohibitionist countries prohibit prostitution and penalise prostitutes, pimps and sometimes, but not necessarily always, even clients. Abolitionist systems seek to abolish prostitution by penalising pimps and profiteers but not prostitutes (Agustin, 2008; Hubbard, Matthews & Scoular, 2008; Scoular, 2010).

It is highly important to keep in mind that these categories bear lots of variances and nuances according to national characteristics and interests. Sweden for example is considered a prohibitionist country (Hubbard, Matthews & Scoular, 2008) by most authors, but it does not forbid the sale of sex (thus does not penalise prostitutes) but its purchase (Mossman, 2007). Since the prostitute is not criminalised some authors place Sweden in the abolitionist category (Nationaal Rapporteur Mensenhandel, 2009).

Regulationism (Agustin, 2008; Scoular, 2010) is characterised by strong state regulation and control. Prostitution is even totally legalised, thus decriminalised, under certain state-specified conditions. In this regulative mode prostitution is seen as necessary or unavoidable but needs to be “*subject to controls to protect public order and health*” (Mossman, 2007) through licensing, registration or compulsory health checks (West, 2000).

But legalisation does not mean that nothing is done about the possible negative and problematic aspects of prostitution like it will be explained in the chapter on the Netherlands (chap. 5). The dynamic behind regulationism is that by legalising prostitution it is lifted out of the dark, it becomes possible to manage abusive practices and get control of the sector.

One needs to acknowledge that prostitution regulation is a national matter, which explains the big variety of policies and laws among European countries. Sometimes legalisation and decriminalisation are put as synonyms (Farley, 2004; Raymond, 2004) and mostly legalisation is defined as the contrary of prohibitionism (to put it differently the Swedish vs. the Dutch model). The differences between various forms of regulation are therefore sometimes not as marked as one might initially think (Scoular, 2010). Most countries do in fact work with amalgams of at least two approaches, what implicates that “pure” prostitution regimes do not exist (Kelly et al, 2009). How prostitution policy is set up and handled in a country depends

on the attitude the country displays towards the sector, but also on the country's position towards strategies that might improve the situation of prostitutes.

Because of the confusion around regulative approaches, it will be necessary to focus on prostitution-related laws that make clear who is legally sanctioned or aimed at. These laws include (Mossman, 2007):

- laws aimed at the prostitute,
- laws aimed at third parties involved in the management, exploitation or the organisation of prostitution
- laws aimed at those who purchase commercial sex.

Brothel keeping and soliciting in public represent the most significant criminal prohibitions (Mossman, 2007). Even if these regulative measures would be strictly enforced, it must be admitted that the prostitution sector has features that make it “*very difficult and expensive to regulate effectively*” (Anderson & O’Connell Davidson, 2003) because of the “*small units of employment, low start-up costs, rapid turnover of labour and of business establishments and geographic fluidity*” (Anderson & O’Connell Davidson, 2003).

Prostitution is hard to handle because it “*spans a multitude of state bureaucracies and because it has such a symbolic significance*” (Hancock, 1991) that is combined with ignorance, fear and lack of communication.

Kelly et al. (2009) claim that, to be effective, prostitution regimes need to develop holistic responses which address “*women who sell, men who buy and those who profit simultaneously*”. There is an urgent need to “*generate evidence based policy, rather than providing policy based evidence*” (Kelly et al, 2009).

3.2 Criteria for regulation implementation analysis

This qualitative desk research is essentially focusing on prostitution regulation because it wants to find out which type of regulation (prohibition or regulationism) represents the most effective measure against trafficking. In order to find an answer to this question it is important to know how well or badly prostitution law is implemented in each country and what structures regulation creates. Furthermore it needs to be excluded that differences (more trafficking in the Netherlands than in Sweden) are related or may be created by good or bad implementation of prostitution regulation.

The term regulation will be used to refer to a “*specific form of government action, i.e. the supervision and control of market actors and behaviour*” (Eberlein&Grande, 2005). Eberlein and Grande (2005) deepen the definition by naming the work of Philip Selznick defining regulation as external, lasting, case-related supervision of markets by governmental actors who lay down and apply rules “*in the public interest*” in a formal procedure (Eberlein&Grande, 2005). What is “public interest” when considering the prostitution sector? In order to seize the dimensions and challenges of regulation of prostitution a closer look will be taken at the regulators, i.e., the government and the regulatees which might be the prostitutes, the punters or the pimps depending on the country. The question will be how and by whom regulation is enforced on them and whether it is done efficiently.

The analysis of the regulation models from Sweden and the Netherlands will therefore focus on **policy implementation**, i.e. the “*process by which policies enacted by government are put into effect by the relevant agencies*” (Birkland, 2011).

For this purpose Hogwood and Gunn (1984) developed a ten step implementation model that describes the preconditions which would have to be satisfied if perfect implementation was to be achieved.

This model will serve as a base for the theoretical framework of this research in order to analyse the Dutch and the Swedish prostitution acts and to point out what has been done well and what has been done badly in implementation practice.

The criteria Hogwood and Gunn (1984) put forward can be traced as well in other theoretical work such as in the work of Mazmanian and Sabatier (1981) who developed seven, quite similar criteria to analyse whether legislation objectives can be successfully achieved.

The work of Hogwood and Gunn (1984) and Mazmanian and Sabatier (1981) are both top down approaches, i.e. an executive entity makes a decision and disseminates it to lower levels in the hierarchy (Hogwood & Gunn, 1984). The opposite, bottom up approaches, are originated from the grassroots, e.g. students, activists etc. who work together and cause a decision to arise. Prostitution regulation is a clear top down mechanism.

Both above cited works on implementation show similar basic requirements for good implementation and that is why the above standing conditions are now synthesised into five criteria for effective policy implementation in the field of prostitution regulation aiming at curbing the trafficking of women for sexual exploitation, namely:

- 1) Clear policy objectives and task attribution for all concerned (prostitutes, punters, police, pimps, municipalities)**
- 2) Sufficient resources (staff, money, time)**
- 3) Correct underlying theory of cause and effect**
- 4) Compliance to policy goals of all actors involved**
- 5) Policy beneficiaries and target groups feedback**

These criteria extracted from public policy analysis theory (Hogwood & Gunn, 1984; Mazmanian & Sabatier, 1981) will constitute the theoretical framework for the regulation analysis. The original indicators for good policy implementation have been synthesised and adjusted to the field of prostitution policy aiming at curbing trafficking in women for sexual purposes.

The above standing indicators for good policy implementation provide the pillars for an analysis of national prostitution regulation which intends to reduce the trafficking of women for sexual purposes.

3.3 Trafficking of human beings for sexual purposes

3.3.1 How is human trafficking defined?

The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children of 2000, part of the UN Convention Against Organized Transnational Crime (Palermo Protocol) defines trafficking in persons as “*the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat, or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs*”⁹.

It is the first international instrument that mentions a part of trafficking that is so often forgotten but essential for the “deal”, namely demand (Ekberg, 2004).

The adoption of the protocol was certainly desirable, but countries see themselves confronted with a lack of clarity on the constituent elements of “*trafficking*” (Anderson & O’Connell Davidson, 2003). Terms like “*sexual exploitation*” and “*exploitation of the prostitution of others*” have not been elucidated which makes it impossible to specify who has or has not been trafficked into commercial sex “*without becoming embroiled in the more general debate about the rights and wrongs of prostitution- a debate which is both highly polarized and hugely emotive*” (Anderson & O’Connell Davidson, 2003).

The lack of definition of, and the ensuing confusion around the term trafficking are increased by the often rather blurred boundaries between trafficking, migration and smuggling (Kligman & Limoncelli, 2005, Salt, 2000).

Outshoorn (2004) claims that trafficking is best explained by theory of migration because it uses an economic perspective to analyse the flow of human migration in terms of demand-pull factors (e.g. level of prosperity, access, employment perspectives).

Outshoorn (2004) explains “*Demand for sex led to a proliferation of new forms of sexual services, such as escort services, telephone sex, and peep shows, as well as the expansion of more traditional types of prostitution, such as street-walking and room renting in cheap hotels*” and continues “*Supply-push factors in the countries of origin are bad economic conditions, instability, and social breakdown. Women bear the brunt of poverty and seek ways to migrate to the prosperous countries where they have become a major source of typical female labour in such sectors as domestic services, care work and sexual services. This makes the migration market a highly gendered affair. Many networks operate in between, transferring migrants from one region to the other, which include women who are being trafficked for the sex industry.*”

The sad truth is that as long as the gap between rich and poor countries remains, and as long as there is no work, the breeding ground for human trafficking in general is extremely fertile (Nationaal Rapporteur Mensenhandel, 2010).

⁹ http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents/383e.pdf, retrieved on the 11th of April 2011.

A pertinent definition describes trafficking as a: “**corrupted mode of migration, that transforms very specific migratory projects, such as the desire to accumulate savings or support one’s dependents by migrating to work, the dream of securing a better future for one’s children by sending them to be raised and educated abroad, the desire to transform one’s life by marrying “well”, and so on, into nightmares**” (Anderson & O’Connell Davidson, 2003).

Furthermore there is no simple distinction between legal and illegal migration because legal migration often possesses illegal elements and “trafficked” persons often even enter the state legally (Anderson & O’Connell Davidson, 2003). Women may for example enter a state legally as wives or artists and then be subjected to forced labour or prostitution.

Trafficking is tightly linked to exploitation which happens in kitchens¹⁰, greenhouses or living rooms. This paper does not dig deeper into labour exploitation¹¹ but will, again, essentially focus on trafficking in women for the purpose of sexual exploitation.

3.3.2 Reasons for trafficking and dynamics

Next to policy analysis, this theoretical framework outlines as well the dynamics of trafficking in women in order to understand how and if policies respond to or influence trafficking.

The International Organisation for Migration (IOM) estimates that 500’000 women come to one of the EU member states each year as victims of human trafficking (Swedish Government Report SOU 49, 2010). Migrants represent the majority of those selling sex in Europe and white women from Eastern Europe are one of the largest groups of migrants selling sex (Agustin, 2005).

Before 1989 most of the prostitutes in western Europe were recruited from Asia, South America and Africa (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004). But since the fall of the Wall Eastern European countries have become the major suppliers of prostitutes (Jacobsson & Kotsadam, 2010). Sex industries in the West continue to expand and while being less able to recruit nationals to work for them, create a strong market for both migrants and trafficked women (Kelly, 2005).

What drives Eastern European women into the sex selling business and in the arms of traffickers?

The motivation for people to migrate in general and women in particular is of economic nature. With the fall of the Berlin Wall and the conversion to free markets, as well as because political liberalisation Eastern European countries and their inhabitants had to face severe economic problems.

Especially women suffered from the transition to capitalism introducing patriarchal norms and values because women account for between 70% and 95% of official unemployment figures (European Parliament, 2000). The **feminisation of poverty** and the inherent marginalisation forces them to seek for a better live in Western Europe.

¹⁰ http://vorige.nrc.nl/binnenland/article2537731.ece/Hoge_straf_voor_uitbuiting_kroepoekbakkers, retrieved on the 13th of April 2011.

¹¹ To read more on trafficked domestic workers, please consider the highly interesting work of Anderson & O’Connell Davidson (2003).

These young women living in poverty want to help their families by moving to the West and are therefore potential victims of trafficking. With the plan of making good money and then returning home, the women get recruited on the internet, in newspapers or through informal channels like on the market or in cafés, as waitresses, translators, domestic workers, dancers or artists but end up in brothels¹².

There are also women who know that they are being recruited for prostitution, but enter the deal with the idea that it cannot be that bad and that it is only temporary. Aware or unaware, in both cases they are forced to work against their will and are deprived of their earnings, making it difficult to escape their situation of slavery (European Parliament, 2000).

Huge profits generated by the business (European Parliament, 2000) are another reason for trafficking in women from the East. According to a 2007 Europol report¹³, the global profits from trafficking were 31,6 billion US dollars, and profits made from victims of sexual exploitation were 27,8 billion US dollars. Trafficking and the exploitation of human beings require minimal financial resources or other investment and produce big profit. Victims are recruited through outright violence, but also deceit, emotional or psychological coercion and debt bondage. These methods are low cost or cost-free in terms of money, but also in terms of time¹⁴.

It is **less expensive and easier** to import women from Eastern Europe because their physical appearance makes them less recognisable as illegal migrants at the borders and on the streets. The absence of regulation of prostitution in the Czech Republic fostered the growth of a huge sex market along the border with Germany, called “brothel belt”. The same phenomenon has been observed with Estonia and Scandinavia (Kelly, 2005).

The **relaxation of visa requirements** represents another factor facilitating the trafficking in women because visas are not required anymore. Most women arrive in the West with temporary working permits for e.g. “artists”. Once their visas or permits expire, they are moved to another Western EU country on another short-term permit to ensure that they do not stay illegally in any country and to keep them out of the reach of police controls (European Parliament, 2000). A very mobile existence is characteristic for prostitutes because clients ask for “fresh” faces (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

Finally, **permissive legislation** pushes criminal groups into trafficking of migrants because the risks and penalties are lower than for other crimes (European Parliament, 2000). Drug trafficking sentences range from ten to twelve years of prison, while for trafficking in women penalties have just recently been fixed in EU legislation¹⁵ at a five-year minimum rate and a ten year sentence in more severe cases.

¹² For examples of women having experienced trafficking see European Parliament (2000) and for more general information on nationality, educational skills and background of the trafficked persons see Salt (2000).

¹³ Europol, *Trafficking Human Beings in the European Union: a Europol Perspective* (2007), p. 4.

¹⁴ <http://www.womenlobby.org/spip.php?rubrique203&lang=en>, retrieved on the 25th of June 2011.

¹⁵ Cf. EU directive 2011/36/EU on prevention and combating trafficking in human beings and protecting its victims.

Prostitution policy can of course not respond to all the interplaying factors cited above, but it can or cannot contribute to the attractiveness, with regard to costs and benefits, of a country for the trafficking business (Kelly et al, 2009; Jacobsson & Kotsadam, 2010).

3.3.3 Organisation of trafficking and patterns

How is trafficking in women organised? The procedure and patterns depend on the scale of the trafficking network involved in the trade.

The trafficking process can be divided into three consecutive stages (Salt, 2000):

- the process of mobilisation in which migrants are recruited in origin countries.
- the requirements *en route* as migrants are transported from the origin to the destination country.
- the processes by which migrants are inserted and integrated into destination countries.

Each of the stages is characterised by a set of trafficker roles ranging from executive units left in the dark to car drivers.

There are large-scale, medium and small-scale networks (European Parliament, 2000).

Large-scale networks have political and economic contacts in the countries of origin and destination. They have access to fraudulent documents, are very flexible and possess a considerable infrastructure in the origin and destination countries.

The main difference between a large-scale and a medium network is that medium groups do not sell the women they recruit to other groups (European Parliament, 2000). Medium groups keep the women under their control and place them in their own clubs and brothels. Medium networks specialise in trafficking women from one specific country (European Parliament, 2000).

Small-scale networks traffic one or two women at the time whenever a club or brothel places an order through contact persons. These contacts recruit the women, accompany her to the country of destination to then deliver her to the club owner.

The structure of the networks is flexible. *“The trafficking organisation as a whole is more likely to consist of several loosely interconnected and competitive networks where the market is continuously being re-shared than to be a single core”* (Salt, 2000).²

The business of these networks, meaning trafficking, needs to be seen and treated as a *“dynamic, moving target, connected to local circumstances while adapting rapidly to global shifts in opportunities and enforcement”* (Kelly, 2005).

In the past, the sex business was in the hands of nationals with a foreign link to suppliers of women and the organisations involved with trafficking in women restricted themselves to that area. Analyses of the UN show that criminal organisations now tend to control the whole sex business (also the voluntary prostitution market) in order to increase volume and profits (European Parliament, 2000). The business of trafficking women is also increasingly controlled by Eastern European networks which operate in the recruitment and in the destination countries (European Parliament, 2000). Surprisingly, women play a more and

more important role in the trafficking business¹⁶. As the networks grow their composition of personnel becomes increasingly ethnically diverse (Salt, 2000).

The networks can be extremely violent, are well organised and use the profits of prostitution to run other criminal activities like drug smuggling. This constitutes a danger for law and order and national security, as take over can end in gang warfare (European Parliament, 2000).

Scholars also distinguish between a *Balkan, violent entrepreneurs or Albanese model* (Nationaal Rapporteur Mensenhandel, 2009, p. 381) which is characterised by strong family ties and extreme brutality, and a *post soviet-model or natural resource model*, where traffickers only recruit and sell the women for short term profits (Nationaal Rapporteur Mensenhandel, 2009, p. 382). There are also Chinese and Nigerian models for human trafficking (Nationaal Rapporteur Mensenhandel, 2009, p. 383).

The networks can be identified as “*multi-product organisations*” (Salt, 2000) which deal in a range of “*goods and activities, namely drugs, stolen vehicles, transport of illegal aliens, organised prostitution and gambling, together with legitimate enterprises*” (Salt, 2000).

The scale of human trafficking requires highly paid facilitators in destination countries and costumers as well as employers ready to use the exploited persons (Kelly, 2005).

3.3.4 Strategies against human trafficking

The adoption of the *Protocol to Prevent, Suppress and Punish Trafficking In Persons, Especially Women and Children* in 2000 by the United Nations General Assembly marked a significant milestone in international efforts to stop the trade in people. To date, more than 110 States have signed and ratified the Protocol. But translating it into reality remains problematic. Very few criminals are convicted and most victims are probably never identified or assisted¹⁷.

Anti-trafficking measures have until recently not been a big priority for the European member states (European Parliament, 2000). Only in 2010, directive 2011/36/EU has been issued by the Council of the European Union pushing member states to set up minimum standards and sanctions for human trafficking¹⁸. Important provisions like the investigation and prosecution of “*offences committed (...) by one of its nationals, even outside its territory*” or the non-criminalisation of trafficked persons are left to the discretion of the member state¹⁹ which additionally all operate different prostitution regulations. This hinders a coherent and united implementation that is required to fight the transnational crime of human trafficking. The

¹⁶ <http://www.unodc.org/unodc/en/human-trafficking/global-report-on-trafficking-in-persons.html>, retrieved on the 11th of May 2011.

¹⁷ http://www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html?ref=menu#UNODC%27s_Response, retrieved June 7th 2011.

¹⁸ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/117996.pdf, retrieved June 6th 2011.

¹⁹ <http://www.ocmc.eu/english/news/directive-on-preventing-and-combating-trafficking-in-human-beings/>, retrieved June 6th 2011.

appointment of the EU anti-trafficking coordinator Ms. Myria Vassiliadou is a first step towards a more coordinated approach among European member states though²⁰.

Human trafficking has been criminalised in the Netherlands since 1911 (UNODC, 2009) Following international standards, individual member states like the Netherlands (Ministerie van Justitie, 2004) have developed their own national action plans to counteract human trafficking by increasing prevention, support facilities, cooperation between countries and institutions, etc.

But initiatives to penalise and pursue human trafficking for sexual purposes are very recent. Legislation establishing criminal liability for trafficking in human beings for sexual purposes entered into force in Sweden in 2002 (UNODC, 2009).

In Sweden the Action Plan against Prostitution and Human Trafficking for Sexual Purposes²¹ of 2008 with its 36 measures demonstratively juxtaposes prostitution, a phenomenon that needs to be repressed, to human trafficking because both are inherently linked through demand.

The enormous interest and concern for trafficking and human smuggling in governmental, inter-government and also non-governmental organisations, in the media and popular opinion, is running far ahead of theoretical understanding and factual evidence!

This has implications for policy instruments designed to fight trafficking and human smuggling, and entails that they may not work or have unintended side effects (Salt, 2000).

3.4 Criteria for the sociological analysis

From the above section will emerge four criteria to complete the regulation analysis from a sociological point of view. Simply analysing the regulative system of a country would make this research too biased towards legislation and the description of it. But trafficking in women for sexual purposes is a phenomenon deeply linked to norms and values of a society and therefore factors linking the policy analysis to a sociological context need to be introduced in order to see the positive or negative influence of national prostitution policy on them.

Several research projects demonstrate that the legal framework of a country plays a major role when it comes to attractiveness and cost-effectiveness for traffickers. **Cost and benefit** reflections determine the behaviour of criminal networks (Ekberg, 2004; European Parliament, 2000). Sweden, because of its law prohibiting the purchase of sexual services appears to some researchers to be an “*unfriendly country to operate in*” (Bindel & Kelly, 2003). As it has been testified by trafficked women, traffickers are inclined to take the women elsewhere, for example to the Netherlands, because there the traffickers can operate with impunity (Bindel & Kelly, 2003; Ekberg, 2004).

²⁰ <http://ec.europa.eu/anti-trafficking/entity.action?id=e72b38b6-2724-40c5-810a-f444fdc8849a>, retrieved 20th May 2011.

²¹ http://www.ungift.org/doc/knowledgehub/resource-centre/Governments/Sweden_Infosheet_National_Action_Plan_Against_Human_Trafficking_en.pdf, retrieved June 7th 2010.

The profitability for women to consider going abroad to prostitute themselves (knowingly or unknowingly) cannot be neglected either. For many women the perspectives for themselves and their families in their own country are so little that everything else appears to be better and worth a try. Even when arrived in Europe and having to give away a big part of their income, the small income that might be left over and sent back to the family can give the impression of making a difference.

Furthermore it has been stated that legalisation and **visibility** affect demand because both factors can increase the likelihood that men will purchase sex (Kelly et al, 2009). The visibility factor plays a dichotomous role in prostitution policy making because it is related to the cultural perception of prostitution in general. That is why **social acceptance** of prostitution in Sweden and the Netherlands needs to be inspected because it is deeply linked to morals and normative thinking of a country. The latter factors shape policy-making and political priorities.

In the Netherlands for example visibility of prostitution is connected with control and management of the sector. But in Sweden visible prostitution on the streets symbolises the subjugation of women in society. By putting considerable effort into making the clients of prostitutes visible, Sweden hopes to decline demand and hence eliminate prostitution.

The relaxation of visa requirements and permissive legislation when it comes to sanctions for human trafficking (European Parliament, 2000) also have a part to play in the equations of trafficking networks. The freedom of movement of people in the Schengen area makes it possible for all European citizens to move freely across borders. This makes trafficking of women from Czech Republic, Hungary or Poland less risky since these women can move with temporary working permits from one Western European country to the other (European Parliament, 2000). Trafficking in women for sexual purposes is a transnational phenomenon embedded into local structures. Fighting trafficking in women for sexual purposes therefore requires a “glocal” approach and the **permeability of national borders** needs to be investigated.

But as open as the borders are within European Union for citizens of the member states, as closed they are for female migrants coming from for example Moldova, Ukraine or Albania. Entering the EU in order to work and search for a better life is impossible for women from these countries without the help of suspicious and corrupt facilitators. Simultaneously the borders are totally permeable when it comes to throwing out women involved in an investigation concerning human trafficking wherein evidence is hard to prove. Victims of human trafficking then rapidly turn into illegal migrants EU member states want to and do get rid off as fast as possible²².

Since trafficking is a problem present in all European countries, the member states have to provide **structures for women to exit forced prostitution**. If these structures are known and accessible women can more easily escape and find a safe shelter. This can decrease the attractivity of a country for trafficking networks.

²² The case of Yulia from Bulgaria perfectly illustrates how the Netherlands treat persons potentially considered as illegal migrants, no matter what their story is and whether they are minors or not (Hopkins, 2005).

Daalder (2007) denounced a lack of structures and organisations that enable sex workers to exit prostitution and make a new start in origin as well as in destination countries. This represents a major problem since leaving prostitution, whether forced or not is a difficult task. Reintegration is not only related to psychological help but is also connected to finding work, learning a language, explaining one's past to the family, paying debts, changing lifestyle, etc (Interview Nynke de Vries). Another problem is that most women fear the police and officials because of their illegal status. Most women do not know what their rights are in a foreign country and instead of reporting the crime prefer to stay illegal in order to avoid deportation or ending up in prison. Support for trafficked women who managed to leave their situation of exploitation is highly needed but deficient (Kelly, 2005).

On top of that the lack of employment in the origin regions remains and trafficked women, who are often repatriated from Western to Central and Eastern European states end up in a vicious circle (Hopkins, 2005; Kelly, 2005).

In order to deepen the above mentioned policy analysis criteria used to analyse the implementation of prostitution regulation, four additional criteria are deducted from the above standing chapters on trafficking and shall be applied to the national policy contexts of Sweden (criminalisation) and the Netherlands (legalisation) for a better understanding of prostitution and especially trafficking dynamics in each country.

By adding more variables into the analysis, this research wants firstly, to find out how the policy regimes perform with regard to the criteria and influence the attractiveness of the national market, secondly to further analyse whether it is really true that national prostitution policy influences the business of trafficking in women and thirdly it also wants to shed light on the question why this would be so.

The indicators displaying the potential attractiveness of a country for trafficking in human beings are:

- 1) Profitability for traffickers and prostitutes**
- 2) Visibility and social acceptance of prostitutes/clients**
- 3) Permeability of national borders**
- 4) Exit possibilities for prostitutes and buyers**

It has to be analysed how and whether prostitution policy acts on these sociological criteria influencing human trafficking. It will be investigated whether and how national prostitution policies influence profitability, visibility, permeability of borders and exit possibilities. The two latter criteria describe the support victims can expect from a country. It is assumed that support and protection strengthen the victim in front of the perpetrators.

It has to be highlighted at this point that the data on the scale and organisation of prostitution across the EU are extremely poor. Reliable sources for data collection are scarce and the paucity of data on law enforcement has of course significant implications for the claims made about the effectiveness of prostitution regimes in this research. Evidence confirming some authors claims unfortunately remains partial (Kelly et al, 2009).

The upcoming sections of this thesis will try to find out, by exploring the Dutch and the Swedish policies, which regulative measure ultimately contributes to the prevention of trafficking in women.

3.5 Essence of theoretical part

The above standing sections have revealed several essential points for the analysis of prostitution regulation with regard to trafficking in women for sexual purposes.

- 1) A range of confusing descriptive terms are used in the field of prostitution and human trafficking, clear definite concepts are lacking.
- 2) Both sectors are extremely under-researched. Despite recurrent calls of the academic community to fill the gaps, the sector stays in statistical darkness.
- 3) There is an international consensus that human trafficking, a crime against humanity, must be fought and eliminated.
- 4) There are two moral views on prostitution, namely:
 - radical feminism pleading that prostitution cannot and will never be work and hence should be abolished and
 - sex work discourse which differentiates between forced and voluntary prostitution and wants to establish prostitution as legitimate and respected work.
- 5) If a country's position towards prostitution comprehends that it can be legitimate work, abolitionism and regulationism are the consequence for policy-making
If a country's position towards prostitution contains that it cannot be legitimate work, prohibitionism is the consequence for policy-making.

Thus despite a serious lack of clear definitions and research data, two moral views on prostitution with direct consequences on policy-making have emerged. The link between a country's perspective on prostitution and its consequent policy-making will be displayed thoroughly in the chapter 5 and 6 on regulation of prostitution in the Netherlands and in Sweden. Regulation of prostitution in these two countries will furthermore be analysed with regard to their preventive effect on trafficking in women, according to the established criteria in chapter 3.2 and 3.4.

Beforehand a short outline on prostitution regulation and trafficking in human beings in EU countries will be given.

4. OVERVIEW OF PROSTITUTION REGULATION IN EU COUNTRIES

Di Nicola et al. (2005) grouped prostitution policies of 25 EU countries into four models depending on the national policies on indoor (apartments, parlour, window, pubs, saunas, hotels, etc.) and outdoor (street) prostitution. The four models are called abolitionism, new abolitionism, prohibitionism and regulationism.

By using the term **abolitionism** the authors refer to a country where outdoor and indoor prostitution are not prohibited. The State decides to tolerate prostitution and not to intervene in it. Prostitution by adults is not subject to punishment, but profiting from another person's prostitution is criminalised (Di Nicola et al, 2005).

New abolitionism refers to a development of the abolitionist model and applies to a country where outdoor and indoor prostitution are not prohibited, but the State prohibits the existence of brothels.

Prohibitionism describes a country where indoor and outdoor prostitution are prohibited. Parties involved to prostitution can be liable to penalties, including in some cases, the clients (Di Nicola et al, 2005).

Finally **regulationism** is attributed to a country where the State regulates indoor and outdoor prostitution. Prostitution is not prohibited if it is exercised according to the established rules, like registering prostitutes officially or medical controls.

The above standing four models help in getting a general picture of prostitution regulation in the EU, but it needs to be remembered that a general picture blurs the many nuances each country developed in its own policy-making. The categorisations should be seen as an orientation but should not be considered definitive since other scholars would certainly group the countries according to different criteria and regulation definitions²³.

²³ <http://prostitution.procon.org/view.resource.php?resourceID=000772#netherlands>, retrieved 29th June 2011.

The table underneath summarises the different forms of regulation in 25 European countries.

Model on Prostitution	Outdoor Prostitution	Indoor Prostitution	Member State	% on the Member States
Abolitionism	Not prohibited	Not prohibited	Czech Rep., Poland, Portugal, Slovakia, Slovenia, Spain	24%
New Abolitionism	Not prohibited	Not prohibited (prohibited in brothels)	Belgium, Cyprus, Denmark, Estonia, Finland, France, Italy, Luxemburg	32%
Prohibitionism	Prohibited	Prohibited	Ireland, Lithuania, Malta, Sweden	16%
Regulationism	Regulated and therefore not prohibited when exercised according to the regulation	Regulated and therefore not prohibited when exercised according to the regulation	Austria, Germany, Greece, Hungary, Latvia, Netherlands, United Kingdom	28%

(Di Nicola et al, 2005)

In most European countries the police play the major role when it comes to implementation of regulation of prostitution (Nationaal Rapporteur Mensenhandel, 2009). They are supposed to prevent and protect, but it is not seldom that the protector turns into an aggressor (Raymond, 2004). The enforcement of national regulation ultimately lies in the hands of the local police force which is frequently dominated by “*a male, homosocial and conservative working environment*” (Ekberg, 2004). That is why police agents need to be trained and thoroughly prepared for the world of prostitution in general and especially when it is connected to human trafficking (Nationaal Rapporteur Mensenhandel, 2009).

Next to the police, another regulator that is involved with prostitution regulation are judges. They are especially important when human trafficking is involved. Special trainings are required here as well since crimes like theft, abuse or drug smuggling might be connected to human trafficking and judges need to be able to recognize the signs. The need for training of judges has been acknowledged for example in the Netherlands, but unfortunately only few judges participate in proposed courses (Nationaal Rapporteur Mensenhandel, 2009).

4.1 Overview of human trafficking patterns in the EU

When it comes to human trafficking for labour or sexual purposes countries are often categorised as source, transit and/or destination country. It needs to be noted that a destination country can also be a transit and origin country (e.g. Poland or Latvia)²⁴. The UN categorises countries by incidence of reporting as destination, transit or origin country as very high, high, medium, low and very low.

The US department of State developed tier rankings in which countries are ranked by levels showing how much they are complying with the 2000 Trafficking Victims Protection Act (TVPA) standards and criteria²⁵. Criteria like for example prohibition of severe forms of trafficking or indicating that the percentage of victims of severe forms of trafficking in the country who are non-citizens of the country is insignificant.

A tier 1 country fully complies with the TVPA minimum standards.

Tier 2 indicates that governments do not fully comply with the TVPA minimum standards, but are making significant effort to bring themselves into compliance. The Tier 2 Watch List involves governments which are like Tier 2 countries BUT: *“a) the absolute number of victims of severe forms of trafficking is very significant or is significantly increasing; b) there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year; or, c) the determination that a country is making significant efforts to bring themselves into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year.”*

Tier 3 indicates that the concerned country government does not fully comply to the TVPA and makes no efforts to do so.

²⁴ <http://www.state.gov/g/tip/rls/tiprpt/2011/164228.htm>, retrieved on 17th August 2011, see p. 18.

²⁵ <http://www.state.gov/g/tip/rls/tiprpt/2007/86205.htm>, retrieved on the 13th of May 2011.

Examples of destination, transit and source countries in Europe

Country	Source country	Transit country	Destination country	2009 GNI Per Capita (US\$)	Tier (2010)	Tier (2011)
Moldava	x			3,010	2WL	2
Ukraine	x			6,180	2	2
Russia	x			18,330	2WL	2WL
Slovak Republic	x			22,110	2	1
Albania	x	x		8,640	2	2
Bulgaria	x	x		13,260	2	2
Romania	x	x		14,540	2	2
Czech Republic	x	x	x	23,940	1	2
Poland	x	x	x	18,290	1	1
Macedonia		x	x	10,880	2	1
Bosnia and Herzegovina			x	8,770	1	1
Hungary		x			2	2

Source: Kligman & Limoncelli, 2005. GNI data retrieved from

<http://data.worldbank.org/indicator/NY.GNP.PCAP.PP.CD> and

Tier rankings from <http://www.state.gov/g/tip/rls/tiprpt/2010/142755.htm> , May 23rd 2011.

Trafficking inflow to European countries and tier ranking (2011)²⁶

Very Low	Low	Medium	High	Very High
Georgia (1) Moldova (2) Slovakia (1)	Ireland (1) Luxembourg (1) Romania (2) Slovenia (1)	Albania (2) Bulgaria (2) Croatia (1) Estonia (2WL) Finland (1) Hungary (2) Iceland (2) Latvia (2) Lithuania (1) Macedonia (1) Norway (1) Portugal (1) Russia (2WL) Serbia (2) Montenegro (2) Sweden (1) Ukraine (2)	Austria (1) Bosnia and Herzegovina (1) Cyprus (2WL) Czech Republic (2) Denmark (1) France (1) Poland (1) Spain (1) Switzerland (2) United Kingdom (1)	Belgium (1) Germany (1) Greece (2) Italy (1) The Netherlands (1) Turkey (2)

Source: UNODC (2006) in Jacobsson & Kotsadam, 2010. And consider also UNODC (2010).

The fact is that 79% of the trafficked people in the world (4'000'000 each year according to the UNHCR (Jacobsson & Kotsadam, 2010)) are exploited for sexual purposes²⁷,

²⁶ <http://www.state.gov/g/tip/rls/tiprpt/2011/164228.htm>, retrieved on the 17th of August 2011.

predominantly women and girls. Western European countries are the main receivers of these young women²⁸. The Netherlands are considered as one of the top destinations for trafficking of women for sexual purposes by the UN Office on Drugs and Crime (UNODC) whereas Sweden reports much smaller numbers of human trafficking victims and convictions²⁹. It is the purpose of this paper to investigate whether the legitimate work approach or the demand addressing policy contribute to the prevention of the trafficking in women for sexual purposes.

Relation of prostitution regulation to human trafficking?

If modes of regulation are compared to the incidence of reporting of origin, transit and destination countries in the EU, prohibitionist Sweden has a very low incidence of reporting as a transit country and a medium incidence as a destination country, just like Estonia and Finland where new abolitionism is practiced (UNODC, 2006, p. 19).

The Netherlands display a very low incidence of reporting as origin country, a medium incidence of reporting as transit country and a very high incidence of reporting as destination country³⁰. There thus seems to be more trafficking going on in the Netherlands where regulationism is practised. But in abolitionist Poland for example, incidence of reporting as destination country is high, very high as transit country and high as source country (UNODC, 2006, p. 18).

The UNODC stresses that “*there are several reasons why the reporting of human trafficking may vary between countries, regardless of the actual severity of trafficking in persons. Levels of reporting of trafficking in persons may vary due to: geographical bias; political emphasis; the comprehensiveness of various legal definitions of human trafficking and child trafficking; the non-recognition of different forms of exploitation; the availability and quality of official statistics and reporting; the availability and quality of national structures for victim identification, referral assistance and repatriation; the extent of bi- and multi-lateral cooperation; and confusion between trafficking in persons and other forms of irregular migration (UNODC, 2006, p. 19).*”

Hence, the UN rankings can only make the EU and the world guess of what is going on.

EU measures vs. trafficking in human beings

On a European level human trafficking has only recently been approached from a legal point of view. With the case of *Siliadin v. France*, trafficking in human beings was considered by the European Court of Human Rights for the first time in 2005³¹. Trafficking in human beings is not specifically referred to in the European Convention.

In the case of *Rantsev v. Cyprus and Russia*, the applicant, a Russian national, brought a complaint against the Republic of Cyprus and Russia in the European Court of Human Rights

²⁷ <http://www.unodc.org/unodc/en/human-trafficking/global-report-on-trafficking-in-persons.html>, retrieved on the 18th of January 2011.

²⁸ http://www.unodc.org/documents/human-trafficking/Global_Report_on_TIP.pdf, retrieved on the 17th of January 2011.

²⁹ http://www.unodc.org/documents/human-trafficking/Global_Report_on_TIP.pdf, retrieved on the 17th of January 2011.

³⁰ idem

³¹ <http://ec.europa.eu/anti-trafficking/section.action?sectionId=2964dbfd-6519-4670-9cae-2ef7c71abcb3§ionType=WEIGHTED>, retrieved June 7th 2011.

because of the death of his 20 year old daughter. The European Court of Human Rights found in particular a violation of Article 4 (Prohibition of slavery and forced labour) of the European Convention. In 2010 the Court clarified the positive obligations upon States to investigate allegations of trafficking and to implement measures to prevent and protect people from human trafficking (Nationaal Rapporteur Mensenhandel, 2010). The Court unanimously found that trafficking fell within the scope of Article 4. With this judgment which confirmed that trafficking cannot be considered compatible with the values of the European Convention on Human Rights, or with a democratic society, the Court has taken this opportunity to further clarify member states' obligations to protect citizens against, as well as to investigate, trafficking (Nationaal Rapporteur Mensenhandel, 2010).

Next to case law, the EU adopted directive 2011/36/EU in 2010 which determines a broad concept of what should be considered trafficking in human beings, increases penalties and establishes the non-punishment of victims of human trafficking if they were involved in criminal activities. The directive, as well as the appointment of the European Anti-Trafficking Coordinator in 2010³² are important steps but it will take years before their potential impact can be noticed. The EU Anti-Trafficking Day is on 18 October of every year. The first Anti-Trafficking Day took place in 2007³³

The financial programmes of the European Commission are important tools for developing partnerships and policies in the Member States and with third countries. In the area of Home Affairs there are three programmes: AGIS, Prevention and fight against crime (ISEC)³⁴ and Daphne. Actions against human trafficking have been - and are - among the set priorities of these programs. Focus has been on support and training for the enactment of anti-trafficking legislation, investigation and prosecution³⁵.

The new EU Strategy on the fight against trafficking in human beings will be adopted in 2012. It will update the 2005 EU Action Plan on best practices, standards and procedures for combating and preventing trafficking in human beings³⁶.

³² http://ec.europa.eu/home-affairs/policies/crime/crime_human_trafficking_en.htm, retrieved on the 17th of August 2011.

³³ idem

³⁴ http://ec.europa.eu/home-affairs/funding/isec/funding_isec_en.htm, retrieved on the 17th of August 2011.

³⁵ <http://ec.europa.eu/anti-trafficking/section.action;jsessionid=0vj8TMJNKbCzr5pKgky2w6CBmWRbJsF4JGHYpV7f4MMGP4xpWfpc!-1845574121?sectionId=ee0a97c9-c36f-4075-9c15-823c947f4aab§ionType=TAG&page=1&breadCrumbReset=true>, retrieved on 17th of August 2011.

³⁶ http://ec.europa.eu/home-affairs/policies/crime/crime_human_trafficking_en.htm, retrieved on the 17th of August 2011.

5. REGULATION OF PROSTITUTION IN THE NETHERLANDS

The Netherlands attracted major attention when the country legalised prostitution in 2000 by lifting the ban on brothels and pimping. The general prohibition against brothels has been installed in 1911 in order to stop immoral behaviour (Dutch Penal Code art. 250 *bis*) (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004). At the same time trafficking in women was criminalised and prostitution in itself was not punishable (Dutch Penal Code art. 250 *ter*). In general the government tolerated prostitution as long as it did not cause nuisance or disturbed public order. This was described as passive tolerance. Active tolerance meant that the government took guiding action in order to direct developments in the prostitution sector into a certain direction (requirements and regulations by municipalities) (Nationaal Rapporteur Mensenhandel, 2002). The ban on brothels thus existed but only few effort was put in its enforcement.

The distinction between voluntary and forced prostitution is a cornerstone in Dutch policy-making. It developed out of feminist attempts of theorising prostitution at the beginning of the 1980's (Outshoorn, 2001). The feminists saw prostitution as a reflexion of the power relations between men and women, where the woman have to submit their sexuality to the man. Simultaneously feminists acknowledged also that women could choose to do prostitution as work (Outshoorn, 2001). The work vision of prostitution emerged among Dutch feminists because a "*fundamental view of anti-sexual violence policy was the right of women to sexual self-determination, self-determination could be extended to prostitutes and prostitution*" (Outshoorn, 2001). The state's role was not to be a moral police force, but to guarantee the right to sexual self-determination and to direct its activities at eliminating forced prostitution and the trafficking of women.

The intention and implicit dynamic behind splitting prostitution into legal and illegal forms is to reduce gendered exploitation by distinguishing between voluntary and forced prostitution (Scoular, 2010), as well as to decontaminate and clear the sector from criminality and to be able to counteract exploitation of involuntary prostitution (thus forced prostitution and prostitution of minors).

Because of ongoing criminality and violence in the prostitution sector, the government repealed the prohibition against brothel enterprises and pimping, giving way to the sex work discourse after long debates with several different discourses (traditional moral and sexual domination discourse) related to general images of women (Outshoorn, 2001). "*Legalisation of the brothel business was an adaptation of legislation to reality where the prohibition on the brothel business was not being enforced. In addition legalisation was viewed as a means for combating trafficking in human beings*" (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

The articles about the ban were deleted from the penal code, but at the same time criminalisation of unwanted forms of prostitution and sexual abuse of minors was intensified (Daalder, 2007, p. 41).

Legalisation was adopted on the 1st of October 2000. Since then, on paper, prostitution is considered legitimate work.

The criminal provision against forced prostitution and trafficking in human beings has been art. 250a of the Dutch Penal Code, until 2005 when art. 273f about crime against personal freedom entered into force. It addresses not only exploitation in the sex industry but also in the service sector and the removal of organs (Daalder, 2007). Outshoorn (2001, p. 278) describes the approach of regulating the sex branch and improving the position of prostitutes as “*congruent with the pragmatism endemic in Dutch policies when tackling moral or, more precisely, social-regulatory issues on which there is no consensus on values*”.

As voluntary prostitution is not prohibited, the Dutch Penal Code is limited to trafficking in human beings with the purpose of exploitation. Involuntary prostitution and gains from this crime are thus criminalised (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

Penalties for exploitation of involuntary prostitution or the prostitution of minors (under 18) have been increased to a maximum of six years of prison (Daalder, 2007, p. 41). Clients who make use of minors of the age of 16 or 17 are criminalised. Clients of younger prostitutes were already criminalised earlier on.

Interestingly even assisting women to work as voluntary prostitutes is criminalised if national borders have been crossed, because “recruiting” and “picking up” are forbidden by law in the context of sexual services (Daalder, 2007, p. 41). This provision should be applied much more to pursue traffickers (Interview Hannes Snijder, question 3).

In the legal sector, licences, handed out by the municipalities, were introduced for prostitution establishments (not individual prostitutes) (Daalder, 2007, p. 42). The sex establishments have to fulfil a number of requirements regarding hygiene, security, transparent administration etc. Sex establishments and prostitutes working independently have to pay taxes.

Subsequently different agencies can control whether the requirements are met. The Dutch government assumed that through strict controls and enforcement, compliance to the rules would be promoted and that this would lead to a transparent and crimeless sector.

Licenses can be withdrawn or refused if: “*the owner of the brothel is unable to produce a police clearing certificate issued by local authorities, the intended location conflicts with the zoning plans, the brothel employs a minor or an illegal resident or any person under coercion, it is in the interest of public order, it makes the area less desirable to live and work in.*” (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

Increased decency of the sector was assumed to furthermore improve the social position of prostitutes and increase acceptance of their work in society (Daalder, 2007, p. 42).

In the illegal sector intensified criminalisation was intended to improve the approach towards involuntary forms of prostitution (Daalder, 2007, p. 42). With the legal part of the prostitution sector being regulated, more enforcement and detection capacities can be made available to prevent and fight trafficking in women. The legislator assumed that increased enforcement and detection capacities engender higher probability of detection of human trafficking. Higher probability of detection, more available capacities and intensified criminalisation would eventually lead to a decrease of human trafficking in the Netherlands (Daalder, 2007, p. 42).

New prostitution law (WRP)

Recently, in March 2011, the Dutch Parliament accepted new prostitution legislation (Wet Regulerend Prostitutie (WRP)) in order to more effectively counteract ongoing problems in the prostitution sector. The proposal still needs to be accepted by the senate of the Netherlands³⁷.

But the new law has been strongly debated in parliament because it would install an obligation for all prostitutes to register and to have a talk with a municipality staff member which would greatly affect their anonymity (Interview Nynke de Vries, question 1&5). The escort branch would be subjected to a license system. Moreover the new law would address responsibility of the clients by expecting them to control whether the prostitute is working legally or illegally (Interview Floris van Dijk, question 1; Interview Carla Aarsen, question 1; Interview Nynke de Vries, question 7). Criminalisation would follow the visit of an illegal prostitute.

The new law recognises and deals with problems still remaining in the prostitution sector of the Netherlands, but it has not been accepted, let alone implemented yet. According to the interview with André van Dorst (question 4&6) operators of relaxation businesses already have their doubts on the effectiveness of the WRP.

5.1 Aims of the law

Municipalities are the key designers and responsible actors in Dutch prostitution policy and work in close cooperation with the police.

The lifting of the ban on brothels and pimping and the ensuing intensification of criminalisation of unwanted forms of prostitution had several goals (Daalder, 2007, p. 39):

- *control of voluntary prostitution through regulation by licences*
- *improvements in the fight against forced prostitution*
- *protection of minors against sexual abuse*
- *protection of the position of prostitutes*
- *reduction of criminal activities in the prostitution sector*
- *reduction of prostitution by illegal persons without a working permit*

The repeal of the prohibition against the brothel business was directed at indoor prostitution (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004). Street prostitution was taking place in the Netherlands in so-called tolerance zones with a drop-in centre for coffee, chatting, rest and a working area (Interview Nynke de Vries, question 1). But because of problems with drug-addicts, dealers and illegal prostitutes (who cannot work in the legal indoor sector because of the requirement to have a residence permit) these zones were closed in most of the Dutch cities (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

³⁷ http://www.eerstekamer.nl/wetsvoorstel/32211_wet_regulering_prostitutie, retrieved 28th June 2011.

5.2 Legalisation and human trafficking in the Netherlands

In the Netherlands, the difference between voluntary and forced prostitution is crucial. The Dutch government has placed the responsibility for the administration of the set of rules related to legal prostitution activity in the hands of the municipalities. Key partners in the enforcement of the licensing system are the police, tax authorities, municipal and health service and the municipal building and house inspectorate (Nationaal Rapporteur Mensenhandel, 2002).

Voluntary prostitution falls under administrative rules and involuntary prostitution under criminal rules. Trafficking in women belongs to the involuntary side of prostitution and therefore needs to be counteracted, but prostitution itself is seen as a part of reality that will never disappear from society (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

The table underneath shows the number of licensed sex establishments in the Netherlands for the municipalities that responded to a survey conducted in 2006. The table also displays an estimated number of sex establishments by sub-sector in the Netherlands. In total the number of licensed sex establishments is estimated at 1270 (Daalder, 2007).

Number of licensed sex establishments and an estimate of the whole of the Netherlands (n = 260)

	Number in response	Estimated Dutch total
Window brothel	507	ca 580
Sex club	235	ca 260
Private house	117	ca 130
Escort Agency	81	ca 90
Erotic massage parlour	54	ca 60
Sex cinema	51	ca 60
Couples club	19	ca 20
Other sex establishments	63	ca 70
Total	1127	ca 1270

Source: Daalder, 2007, p.31

Despite the licensing, precise data of the numbers of prostitutes working in the Netherlands are difficult to find but is estimated at around 20'000³⁸.

The exact number of victims of trafficking in women in the Netherlands is not known. Comensha³⁹, the organisation registering victims of human trafficking in the Netherlands and the most reliable source with regard to human trafficking (formerly called Stichting tegen

³⁸ <http://www.prostitutie.nl/index.php?id=174&L=4%27%60#c250>, retrieved 29th June 2011.

³⁹ http://www.mensenhandel.nl/cms/index.php?option=com_content&task=blogsection&id=4&Itemid=72, retrieved 29th June 2011.

Vrouwenhandel (STV)), reports 716 victims of human trafficking in 2007⁴⁰ (see also Nationaal Rapporteur Mensenhandel, 2009) but the number of unregistered victims must be much higher. The numbers of victims reported at Comensha increases regularly each year, which does not mean that human trafficking expands but that the signalling of the victims has improved.

In its seventh report, the National Rapporteur on trafficking in Human Beings, admits that human trafficking has neither disappeared nor declined, but has become more visible (National Rapporteur Mensenhandel, 2009).

A special task force has been set up to fight human trafficking and a Reference Framework for Human Trafficking formulating a uniform method for dealing with the offence has been made by the police (National Rapporteur Mensenhandel, 2009).

But despite increased efforts to counteract trafficking of human beings the Netherlands still figure among the top destination countries for human trafficking because incidence of reporting is very high⁴¹. It must be acknowledged that the levels of reporting of trafficking in persons are related to political emphasis, the availability and quality of official statistics and reporting, non-recognition of different forms of exploitation etc. The position of a country in the rankings therefore heavily depends on the focus a country puts on trafficking in human beings.

Trafficking in women in the Netherlands (2001 – 2006)

Year	Registered Investigations	Finished investigations	(Possible) victims	Minors
2001	130	48	284	27
2002	200	55	343	41
2003	156	42	257	20
2004	220	60	403	26
2005	135	No data	424	24
2006	No data	No data	579	No data

Source: Staring, 2007, p.52

In 2007 Comensha registered 716 victims, 826 in 2008 and **909 victims in 2009**⁴².

The numbers in the above standing table about the registered and finished police investigations are formal police data who do not necessarily represent an increase in trafficking in women in the Netherlands, explains Staring (2007). They should be seen as numbers indicating the resources, priorities and activities of the police. The number of victims also does not stand for general trends in human trafficking but they display adapted investigation priorities or changes in the way of registering the victims (Staring, 2007, p. 52).

⁴⁰ http://www.mensenhandel.nl/cms/index.php?option=com_content&task=view&id=39&Itemid=59, retrieved 29th June 2011.

⁴¹ http://www.unodc.org/pdf/traffickinginpersons_report_2006-04.pdf, retrieved January 17th 2011.

⁴² <http://www.mensenhandel.nl/cms/docs/jaarverslag2009.pdf>, retrieved 30th of June 2011.

The nationality of possible victims registered at Comensha for trafficking in human beings in the Netherlands, between 2005 and 2006, was Dutch for 255 persons, Nigerian for 119, Bulgarian for 94 persons, Romanian for 58, Polish for 41, Sierra Leonean for 36, Chinese for 30 persons, Russian for 24, Czech for 18 persons, Brazilian for 16, Slovakian for 10, Hungarian for 13, Moroccan for 10 and another nationality than the ones cited above for 256 persons.

Most of the victims identified were female (women or girls). One male victim was identified in 2004, two men in 2005 and 30 men in 2006 (UNODC, 2009).

5.2.1 Judicial pursuit

If the licensing requirements of the municipality are not respected various sanctions and measures depending on which rule has been broken are applied. In criminal cases the office of the public prosecutor acts and decides whether a prosecution shall be initiated (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004). In addition to criminal enforcement there are administrative statutory penalties, such as a single warning, temporary closure, change of opening hours, closure or withdrawal of the licence, that may be inflicted on transgressors (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

The number of persons prosecuted for trafficking in persons in the Netherlands (2003-2006) (UNODC, 2009):

2003 → 155 (35 female)

2004 → 217 (39 female)

2005 → 138 (19 female)

2006 → 199 (31 female)

The number of persons convicted of trafficking in persons in the Netherlands (2003–2006) (UNODC, 2009):

2003 → 80

2004 → 116

2005 → 81

2006 → 70

All the persons convicted were involved in the trafficking of persons for the purpose of sexual exploitation (UNODC, 2009).

The country of citizenship at birth of suspects of trafficking in persons, between 2001 and 2005, was the Netherlands for 272 suspects. 89 suspects came from Turkey, 76 from Bulgaria, 61 from Romania, 38 from Yugoslavia and 37 from Morocco. Albania, Nigeria, Czech Republic and Poland are other countries of citizenship at birth of suspects. Also 190 suspects of trafficking in persons come from other countries than the ones cited above (UNODC, 2009). Sanctions for those convicted of trafficking in persons were rarely above four years (UNODC, 2009).

5.3 Regulation implementation analysis

Five criteria established in the theoretical framework (chapter 3.2) will be examined carefully in order to see whether the law has been implemented according to its intentions, namely fighting forced prostitution, since this is the focus of this thesis.

Furthermore the aim of this chapter is to carve out whether legalisation has been implemented well or poorly in order to make sure that the differences between Sweden and the Netherlands with regard to incidence of reporting of destination countries for human trafficking, are not due to inefficient enforcement.

This chapter hence tries to find out whether the differences are *de facto* a consequence of the two opposite ways of policy making.

5.3.1 Clear policy objectives and task attribution

For a policy to be successfully implemented establishing clear and consistent goals is a key requirement (Hogwood & Gunn, 1984). All actors involved with the policy must give similar interpretation to legislation and collaborate efficiently to achieve the set objectives. Information and training are essential elements in the policy process (Hogwood & Gunn, 1984).

The main objectives in changing legislation in the Netherlands were control and regulation of operations within the prostitution sector, intensification of the fight against forced prostitution, protection of minors from sexual abuse, protection of the position of prostitutes, disentanglement of prostitution from marginal crime and reduction of prostitution by illegal migrants (Bindel & Kelly, 2003).

Municipalities' objectives and tasks

The Dutch government has placed the responsibility for the administration of the set of rules relating to legal prostitution activity in the hands of municipalities. Decentralisation has been chosen because municipalities are the ones being confronted with prostitution (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004). Local authorities were made responsible for control, guidance and cleaning up of the legal prostitution market through for example hygiene rules, health checks, closing time or labour law provisions.

But legalisation also needed supervision and control from higher instances which has not been done in a coordinated way claims Hannes Snijder in his interview (question 1). Local autonomy and the participation of the municipalities were counterproductive factors because legalisation requires completing and flanking measures which have not sufficiently been taken (Interview Hannes Snijder, question 1).

Tolerance has gone too far when extreme criminality hides behind a legal system (Interview Floris van Dijk, question 3). Additionally municipalities did not take measures to improve the situation of the prostitutes in order to work independently, but increased the monopoly position of the operators of brothels finds Marjan Wijers (Interview Marjan Wijers, question 1).

In the first years after the lifting of the brothel ban there were huge differences between the municipalities with regard to implementation of the license system. Now there is a common minimum level of enforcement with local adaptations (Daalder, 2007, p. 49).

The strict controls, as well as difficult and unclear rules for prostitutes and sex entrepreneurs hamper making business in the licensed sector. Prostitutes and business people often have the impression that the legal sector is heavily focused on and controlled whereas the illegal sector is left with peace (Daalder, 2007, p. 56). André van Dorst, director of the Association for operators of relaxation businesses (V.E.R) joins this view: *“Legislation, policies and actions are almost entirely aimed at the licensed business, the unlicensed businesses are only targeted if there is evidence for abuses which can be followed by prosecutions (Interview André van Dorst, question 2)”*.

Hence regulation is taking place within the licensed sector, the unlicensed sector remains out of sight of the authorities.

Police objectives and tasks

The national police has worked out guidelines, advice and recommendations for the police districts, which have ensured that there has been a large degree of similarity in the organisation and problem-solving (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

Officers within the sexual crimes department regularly carry out unannounced checks in the brothels. They check age and passports, as well as residence and working permits. A good atmosphere between those checking and those being checked is of major importance for the police to discover possible indications for forced prostitution and trafficking.

Officers making the checks did have special courses because evidence of exploitation is often difficult to collect and because those involved in human trafficking are often reluctant to give evidence to the police (Verhoeven et al., 2011, p.74). Obligatory examination courses have also been set up for officers investigating trafficking in human beings, they become human trafficking certified (Verhoeven et al., 2011; Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

But licenses and controls do not mean that there is no exploitation in the Netherlands (Nationaal Rapporteur Mensenhandel, 2009, p. 306). The Sneep⁴³ case for example showed that many women sitting for years behind licensed windows were forced into prostitution.

When it comes to trafficking in women collaboration with other European countries is extremely difficult and dependent on the country's view on prostitution (cf. bad cooperation with Hungarian police (Verhoeven et al., 2011, p. 75)).

The guidelines for checking brothels and windows are clear for all actors but other forms of prostitution like escort services, hidden brothels etc. are a problem the police does not have

⁴³ <http://ec.europa.eu/anti-trafficking/entity.action;jsessionid=0DQ1NVhRdtmc4KC29nyYCfMgSjJvLH0vcJKv2bRbLJg8wTvTRXGT!1145937442?id=68a39d25-88b5-46a4-a5cd-3fbef8809108>, retrieved 2nd July 2011.

enough control of, because it does not fall within the licensing system (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004; Interview André van Dorst, question 2).

The “grey zone” market developed considerably and the police are working to develop new methods to act against illegal work (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

After ten years goals are rather clear for the implementing agencies when it comes to legal prostitution in brothels and windows, but the escort sector and illegal forms of prostitution are not under control at all and guidance is considerably lacking (Daalder, 2007, p.32; Nationaal Rapporteur Mensenhandel, 2009, p. 308).

Attention towards the unlicensed sector even decreased in the last two years compared to 2008 according to a police monitoring report of 2010 (Korpsmonitor Prostitutie en Mensenhandel⁴⁴). The report worries also about the fact that expert knowledge disappears when investigators switch to other functions within the police.

Public prosecutor’s objectives and tasks

Public prosecutors, experienced in human trafficking cases, work closely together with the police. Experience with victims and knowledge about the functioning of human trafficking in general are essential for the judicial treatment of the cases (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

The number of acquittals is high in cases concerning human trafficking and this is partly related to regulation of prostitution centring on the empowered prostitute (Nationaal Rapporteur Mensenhandel, 2009, p. 506). Among judges there is no specialisation for human trafficking and courses are only scarcely provided, let alone visited (Nationaal Rapporteur Mensenhandel, 2009, p. 506). Additionally there is a lack of knowledge and expertise because the cases are spread among jurisdictions treating the cases differently (Interview Carla Aarsen, question 7). Concentrating human trafficking cases would enhance expertise building (Nationaal Rapporteur Mensenhandel, 2009, p. 506).

It is alarming to see that courts, as essential link in the pursuit of traffickers and solving of cases do not make efforts to train and inform their staff with regard to the complicated matter human trafficking (Interview David Ellero, question 3).

Actors collaboration

A huge number of actors is involved in control and enforcement of Dutch prostitution regulation, which makes effective collaboration challenging. Next to the municipality as main actor for the licensing system (together with municipal health service, municipal housing and building inspectorate), the police, the labour inspectorate and public prosecution services are responsible for the enforcement of the provisions of the Penal Code (Nationaal Rapporteur Mensenhandel, 2002). Tax authorities are another player in the game next to NGO’s and organisations of brothel owners.

Cooperation between these bodies, is not always good because of unclear information exchange between different parties (Verhoeven et al., 2009, p. 119), or because authorities, like the Chamber of Commerce are not able to discern a situation of coercion or, in spite of

⁴⁴ <http://www.hetccv.nl/dossiers/Mensenhandel/landelijk---korpsmonitor-2010>, retrieved July 3rd 2011.

doubts about the independent situation of a women wanting to work as prostitute officially register her (Verhoeven et al., 2011, p.91)⁴⁵. Task attribution between the different players has been ameliorated over the years but there are still problems of clarity and responsibility.

The police are actually the biggest implementation organ, executing controls, whereas other public organs should participate more in the enforcement process (Daalder, 2007, p. 83). The police also complain that municipalities do not use the information brought by the agents and that tax authorities or the labour inspectorate do sometimes not cooperate sufficiently⁴⁶.

Prostitutes

Prostitutes have not been entitled with a task for the implementation of prostitution policy. But they should and could play a crucial role in information campaigns and when approaching potential victims of trafficking in persons (Interview Metje Blaak, question 8).

5.3.2 Sufficient resources

The implementing agency must have adequate staff and resources to carry out the policy. Inadequate funding can doom a policy before it even gets started and it is also an important indicator of legislative and executive support of the policy to be implemented (Mazmanian & Sabatier, 1981).

Money

In the Netherlands no extra money was allocated to legalisation despite new efforts and duties for the municipalities. The municipal administrations received no additional funds and did not undertake reorganisations (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

It comes forth from the interview with Nynke de Vries (question 2) from the assistance centre and shelter for prostitutes, Shop, in the Hague, that in 2009 financial resources have been invested by the government into an exit program for prostitutes wanting to make a switch to another job. Because amongst others the financial crisis, Shop will now be financed by the municipality of the Hague and needs to reduce capacity.

Staff

The police neither received extra financial, nor other resources in connection with the legalisation process. The police did own efforts to establish strategies and guidelines for the enforcement of duties with regard to prostitution and human trafficking. The outcomes of the project were the “Guidelines Prostitution Protocol” and a “Prostitution and trafficking in human beings handbook” (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004). Priorities were reorganised and resources were taken from areas with less priority (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

The police are confronted with a serious lack of capacities and a lack of flexibility of the available capacities in human trafficking cases because these cases are extremely labour

⁴⁵ See also the report *Schone Schijn* by the KLPD about signalling trafficking in human beings in the licensed prostitution sector.

⁴⁶ <http://www.hetccv.nl/dossiers/Mensenhandel/landelijk---korpsmonitor-2010>, retrieved July 3rd 2011.

intensive (Hopkins, 2005, p. 173, 181). Human trafficking investigations often compete with rape or child pornography cases. In Amsterdam this problem has been resolved by setting up a special human trafficking team which is operational since 2009 (Daalder, 2007, p. 95). The number of prostitution control teams has increased from 20 in 2008 to 22 in 2010⁴⁷.

Time

Trafficking in women cases are not only staff but also time intensive because in order to get a victim to make a declaration to the police, confidence has to be build up. In today's performance addicted world, the police have to make investigations within time frames and produce sufficient output (Hopkins, 2005, p. 208). This development does not enhance the possibilities for resolving cases of trafficking in women.

Nynke de Vries, clearly states in her interview (question 10) that *“there is a lack of manpower at the police and assistance organisations to carry out the policies and a lack of accommodation places. If exploitation is not tolerated in our civilised country and the fight of it seen as a priority, then resources and means to curb it, as well as care for the victims have to be guaranteed. There are by far not enough resources at the moment.”*

5.3.3 Correct underlying theory of cause and effect

Cause and effect relationships in the policy must be direct and uncluttered (Hogwood & Gunn, 1984). A successful policy must be based on clear and unambiguous relationships because complex policies are more likely to be misunderstood. A valid causal theory also requires that officials responsible for implementing the program have the authority necessary to succeed or, put differently, that they have jurisdiction over a sufficient number of the critical linkages needed to achieve the policy objectives (Mazmanian & Sabatier, 1981).

The cause and effect dynamic behind the lifting of the brothel ban was that legalisation (cause) will normalise the prostitution sector, making more capacity available to fight forced prostitution (effect). But in how far does jurisdiction reach trafficking networks and their victims?

Transparency

Experience of the police shows that, with legalisation, greater openness has been created along with a dialogue between the parties within the prostitution business (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004). In that sense the sex industry has become more transparent because legalisation made it easier for the police to obtain information and to establish contacts within the legal prostitution sector in order to signal potential signs of human trafficking (Interview Carla Aarsen, question 2).

But the illegal part of the prostitution business is still non-transparent and difficult to manage. The number of complaints of women have increased considerably in recent years because of

⁴⁷ <http://www.hetccv.nl/dossiers/Mensenhandel/landelijk---korpsmonitor-2010>, retrieved July 3rd 2011.

the police's checking activity. Several big cases (Sneep⁴⁸) have been resolved and investigations are increasing⁴⁹.

Normalisation

Legalisation has had some positive effects but this does not mean that the sector has been normalised. The major effect of legalisation failed to appear. The Netherlands are actually far away from normalisation (Interview Hannes Snijder, question 1, Interview Metje Blaak, question 3). Prostitution as work is still not recognised as a legitimate occupation in the Netherlands since for example banks deny credits to prostitutes and insurance companies refuse them (Interview Hannes Snijder, question 1).

Switching from prostitution to another job is more than difficult because of factors like debts, addiction, different night and day rhythm, social hurdles to explain the past, acceptance from the employer and colleagues of the past etc. (Interview Nynke de Vries, question 2).

Pimping

Together with the lifting of the ban on brothels came the lifting of the ban on pimping. A major problem connected to this change is that the police do no longer have the right to arrest pimps hanging around near the windows. In order to arrest them, agents need to be equipped with difficult to obtain evidence proving human trafficking (Hopkins, 2005, p. 187).

Waterbed effect and lack of supply

The waterbed effect of legalisation is not to be neglected either, says the National Rapporteur for trafficking in human beings, because as soon as measures, like licensing or controls are taken, the sector shifts towards less strict and more profitable places or countries (Nationaal Rapporteur Mensenhandel, 2009, p. 14). The decrease of anonymity and the increase of police checks also pushed many legally working women across the border or into other branches, like internet, home or phone prostitution. The lack of national or legal women is compensated by importing women coming voluntarily or involuntarily from outside the Netherlands (Hopkins, 2005, p. 167). Here legalisation provoked the exact opposite effect, namely attracting traffickers delivering women for the Dutch market.

A critical linkage in the cause effect relationship between prostitution and normalisation are values and morals of society. Getting jurisdiction over them seems to be required but especially in a sector marginalised for centuries, this proves to be more than complex in Europe today. The alderman of Amsterdam Asscher (Labour Party (PvdA)) says that the government has been condemnably naive when it legalised prostitution and simultaneously the borders of the EU were opened⁵⁰.

⁴⁸ <http://ec.europa.eu/anti-trafficking/entity.action;jsessionid=0DQ1NVhRdtmc4KC29nyYCfMgSjJvLH0vcJKv2bRbLJg8wTvTRXGT!1145937442?id=68a39d25-88b5-46a4-a5cd-3fbef8809108>, retrieved July 2nd 2011.

⁴⁹ <http://www.hetccv.nl/dossiers/Mensenhandel/landelijk---korpmonitor-2010>, retrieved July 3rd 2011.

⁵⁰ <http://www.nrc.nl/nieuws/2011/05/26/helpt-van-uitbaters-op-de-wallen-heeft-crimineel-verleden/>, retrieved July 2nd 2011.

5.3.4 Compliance to policy goals

No matter how well a policy structures the formal decision-making process, the objectives cannot be attained without the support of officials in the implementing agencies (Mazmanian & Sabatier, 1984). Any new program requires implementers who can and will develop necessary regulations and enforce them in the face of resistance from bureaucrats or others.

Due to the complex regulations (taxes, licenses, police etc.) a significant number of entrepreneurs in the sex industry did have to close their doors. Not only illegal but also legal sex workers relocated their activities to the informal sector (Bindel & Kelly, 2003). Furthermore 60% of the prostitutes do not pay taxes (Daalder, 2007, p. 66). Prostitutes repeatedly point out that employees of the tax authorities ask weird and unnecessary questions during inspections. On the one hand staff of the tax authorities seems not to be used to and trained for the sector (Daalder, 2007). On the other hand counter staff at the tax authorities received training to recognise human trafficking, because it is the place where prostitutes receive the obligatory tax identification number (Nationaal Rapporteur Mensenhandel, 2009, p. 334).

The prostitutes that do not want to work in the licensed system, shift to the internet, home or hotel prostitution (Daalder, 2007, p. 82; Interview Nynke de Vries, question 9) or go abroad⁵¹. Compliance to regulation goals of the prostitution sector is therefore limited.

It is moreover shocking that only a third of the municipalities know how many prostitutes work in their areas (Daalder, 2007, p. 31). On paper human trafficking is a big priority and compliance absolute, but in reality other forms of criminality are investigated first (Daalder, 2007) and priorities shift and transform from national to provincial level and from provincial to district level because each level has other goals and worries (Hopkins, 2005, p. 202). A lack of capacities and time for these time consuming and complex cases reduce actual compliance to policy goals even more.

5.3.5 Policy beneficiaries and target group feedback

This criteria defines the degree to which policy beneficiaries and target groups positively respond to the policy and to what degree they are involved in the policy-making process, as well as its evaluation.

Prostitution policy is characterised by top-down policy making. The government decides what is best for the sector and people involved in it according to national (moral) views, history and the political atmosphere. It is however of major importance to include persons concerned by the policy into the decision-making and implementation process. Especially prostitution policy suffers from a chronic lack of input from the main concerned party, i.e. sex workers.

Sex workers

Prostitutes have not been involved in the legalisation process (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004). The group that will at first experience

⁵¹ <http://www.mt.nl/1/1314/home/seksbusiness-lijdt-onder-legalisering.html>, retrieved July 10th 2011.

the changes engendered by legalisation never had a voice in the implementation process (Hopkins, 2005, Interview Metje Blaak, question 8-9; Interview Marjan Wijers, question 3). Their voices, opinions and input are hard to gather because of the fear of the prostitutes to lose their anonymity when fighting publicly for their rights, for example in unions, and also because of their mobile existence.

De Rode Draad, an organisation representing the interests of prostitutes, states that the situation for women who have obtained a working permit and have joined a union is better after legalisation (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004, p. 34). But for non-European women it has become worse. The work of immigrant women was formerly tolerated in the same way as the work of national sex workers. Now with legalisation, one group of women has become legal and the other one illegal, which makes it more difficult for immigrant women (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004, p. 34). This confirms the claim of Scoular (2010) who found that most workers in the Netherlands are excluded from the formalised system.

The ideal wish of the Rode Draad for the sex industry is that it should not become criminalised, but neither should it receive support. The independent sex worker is the ideal model (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

The Prostitution Informatie Centrum (PIC) finds that nowadays everything is possible and permissible in our society when it comes to sex, except being paid for it.

Former sex worker and PIC director Mariska Majoor explains that: *“if somebody chooses this profession for him or herself and works in a responsible and healthy way, there does not have to be any problem with prostitution at all. But because there are problems, it is the task of the government to regulate prostitution in a proper way, so that we can learn to live and let live and respect each other’s choices”* (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

According to Ms Majoor, problems like forced prostitution do not have anything to do with the profession as such, but with the mentality of society today. The biggest problem is *“changing that mentality in relation to how we get on with each other as human beings”* (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

Legalisation did not remove the social prejudice and the stigma around prostitution (Farley, 2004, p. 1092; Interview Metje Blaak, question 3, Interview Hannes Snijder, question 1). The situation only improved for a small selected group, for the great majority life is as hard as before and in addition tax authorities and the police are after them.

Brothel owners

Problems with regard to clear objectives and task attribution have been experienced by this group in relation to varying implementation practice amongst the local authority inspectors within the same local authority (Interview André van Dorst, question 4). The department responsible for buildings can have another opinion than the health or fire department when a specific shortcoming is concerned. In some municipalities it is difficult for brothel owners to

operate legally because of the strict and sometimes unreasonable rules (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

The differences between the municipalities with regard to implementation of the licensing system were big in the beginning. Some municipalities administered licenses easily, others refused sex establishments on their territory and used laws in improper ways to block licensing (Interview André van Dorst, question 3).

Despite definite deficiencies in the licensing system especially with regard to the lack of attention to the unlicensed sector, André van Dorst, Director of V.E.R (Interview André van Dorst, question 2) says: *“Not legalisation is negative, but the half-hearted licensing policy and an inadequate controlling and tackling approach being its consequence.”* He thinks that *“it has been proven that licensing and regulating are a good thing and the fact that there are shortcomings after 10 years of implementation is not unusual.”* And adds: *“Sex entrepreneurs will only feel advantages when compulsory licensing is established. But there are already advantages now, if one looks at normalised competition between licensed firms, abuses being hardly the case and a more transparent way of working.”*

But Marjan Wijers (Interview, question 1) points out a fly in the ointment by claiming that since 2000 all installed measures reinforced the monopoly positions of operators instead of supporting sex workers to work independently.

5.3.6 Regulation implementation analysis conclusion

What can be concluded from the analysis of prostitution legislation implementation in the Netherlands?

After ten years municipalities managed to acquire a common minimum level of enforcement with local variances (Daalder, 2007, p. 49). The interpretation of the objectives is still very divergent since some municipalities are more tolerant than others when it comes to licensing and rules for brothels. Municipality and other instances' personnel too often lack training in analysis and behaviour with potential victims of human trafficking and prostitutes in general (Verhoeven et al., 2009, p. 119; Interview David Ellero, question 3).

At police level uniformity of implementation of the attributed tasks was tried to be achieved from the beginning and courses have been set up (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004). The legal sector has been of central focus whereas attention for the illegal part is seriously lacking⁵² (Interview André van Dorst, question 2).

Collaboration and task attribution between involved agencies still needs to be ameliorated, but the worst failure with regard to the clear policy objective and task attribution criteria can be detected among untrained public prosecutors in unharmonious jurisdictions (Nationaal Rapporteur Mensenhandel, 2009, p. 506).

Amongst others because no resources have been attributed to municipalities or the police, a serious lack in financial and staff capacities and time for the investigation of human

⁵² <http://www.hetccv.nl/dossiers/Mensenhandel/landelijk---korpsmonitor-2010>, retrieved July 3rd 2011.

trafficking cases can be booked⁵³ (Interview Nynke de Vries, question 10; Interview André van Dorst, question 6).

Legalisation contributed to more transparency in the legal sector but the illegal sector adapts quickly and remains out of reach for all implementing actors (Interview André van Dorst, question 6). Normalisation of prostitution within society as effect of legalisation failed to appear and the police on the street do not have sufficient authority to arrest potential pimps or members of trafficking networks (Hopkins, 2005; Interview André van Dorst, question 2).

Compliance to the policy goals is rather small among prostitutes and sex establishments who avoid to pay taxes as good as they can, but also because of strict and uninformed rules⁵⁴. Compliance to the goals and their prioritisation among public policy officials decreases from administrative level to administrative level.

The feedback of the target group is bad and not considered enough by the government (Interview Metje Blaak, question 9); Interview André van Dorst, question 13). Prostitutes prefer to moonlight and keep their anonymity (Interview Metje Blaak, question 4) and brothel owners wanting to work legally are confronted with a huge amount of rules seducing them to operate also partly illegally⁵⁵.

From the above one can conclude that the five basic requirements for good implementation, synthesised from the criteria of Hogwood and Gunn (1983) and Mazmanian and Sabatier (1981) have not been fulfilled in Dutch prostitution policy. In that sense prostitution regulation in the Netherlands has been badly implemented with regard to the consequences of the policy for trafficking in women. Control of the illegal sector is minimal and difficult conditions for legal business potentially offer attractive incentives for traffickers to bring prostitutes to the Netherlands.

The consequences of this bad implementation and failure to counteract human trafficking will be depicted and further deepened in the sociological analysis. This analysis is necessary to explain why the influence of legalisation on the prostitution sector has been limited.

⁵³ idem

⁵⁴ <http://www.mt.nl/1/1314/home/seksbusiness-lijdt-onder-legalisering.html>, retrieved July 10th 2011.

⁵⁵ <http://www.mt.nl/1/1314/home/seksbusiness-lijdt-onder-legalisering.html>, retrieved July 10th 2011.

5.4 Sociological analysis

The sociological analysis completes and deepens the evaluation of regulation implementation. It paints a more societal picture than the legislation analysis more focused on goals and regulative functions.

The aim is to assess how national prostitution regulation influences the attractiveness of a country for human trafficking and the possibilities to exit prostitution.

5.4.1 Profitability for traffickers and prostitutes

This indicator for the attractiveness of a country for traffickers focuses on the gains and losses, costs and benefits a trafficker, but also the prostitute can make in the prostitution sector of the Netherlands.

The prostitution industry accounts for 5% of the GDP of the Netherlands (Bindel & Kelly, 2003; Farley, 2004) and the brand Yab Yum, the most famous brothel of Holland, is ranked among the 25 most known Dutch brands worldwide⁵⁶.

The prostitution sector with its bright windows, especially in Amsterdam, is connected to the tourism sector (Interview Floris van Dijk, question 2 & 5). It is often said, that the main reason why foreigners come to Amsterdam are the drugs and the girls. The tolerance of the government can be accused, because the goal of fighting prostitution obviously gets mixed with other, quite profitable interests for the municipality. Traffickers of course also know that money can be made with tourists on the famous *Wallen*.

Unintentionally legalisation might have had a positive effect on the prostitution sector, if one looks at tourism on the *Wallen* of Amsterdam but the Netherlands at least have some overview of this sector (Interview Hannes Snijder, question 2).

Additionally emigration of prostitutes due to legalisation produced a lack of supply for Dutch brothels and windows. The incentive for traffickers and brothel owners to make business together therefore increased⁵⁷. If this is paired up with low penalties “*traffickers do not fear legislation and are pretty convinced that the government does not have any grip on the matter* (Interview André van Dorst, question 6)”.

Proponents of legalisation argue that next to more security and health protection for prostitutes, as well as a better societal position, their earnings would also increase (Raymond, 2004, p. 1184). The dream of the big money and bright future in the West, whether in the prostitution sector or not attracts many young women from eastern European countries and elsewhere to try their luck in the Netherlands. The legalisation policy of the Netherlands might give the wrong impression to migrants that it cannot be that bad in the Dutch prostitution sector. That is why the EU needs to install a more realistic labour migration policy because as long as demand and supply cannot meet legally, criminals are going to profit from the mismatch (Interview Marjan Wijers, question 6).

⁵⁶ Van Dongen, M.(2011, July 2). Yab Yum wil werelsteden in. *De Volkskrant*, p. 9.

⁵⁷ idem

The West is generally attractive for traffickers because there is demand for sex and profits are high. It cannot be stated that the Netherlands are more attractive than Germany, Austria or Spain but the legalisation stamp the country is associated with can play a role because it affects the profit function (Jakobsson & Kotsadam, 2010).

Sex workers

Prostitutes themselves, when working voluntarily, prefer to stay away from the tax authorities (cf. 5.3.4 on compliance) and praise the times before legalisation because they could moonlight (Interview Metje Blaak, question 4).

Due to exit programs accentuating the pathetic side of women in prostitution, some women might get the chance and the finances to set up their own “nail studio” with extra services (Interview André van Dorst, question 8).

5.4.2 Visibility and social acceptance of prostitutes/clients

Bindel & Kelly (2003) cite an opinion poll indicating that two thirds of the Dutch population supported the government’s objectives to make prostitution a legal economic sector and to improve the position of prostitutes. Most Dutch people see prostitutes as pitiful victims who ended up in prostitution because of traffickers, criminal networks or lover boys abusing and taking advantage of them (Bindel & Kelly, 2003). The overall image of prostitution has remained very negative despite legalisation, which is fatal for prostitutes losing their anonymity more and more (Interview Metje Blaak, question 3-4).

The Nationaal Rapporteur on trafficking in human beings confirms that there has been a shift in the way how the prostitution sector is looked at (Nationaal Rapporteur Mensenhandel, 2009). After the lifting of the ban on brothels it was looked at as work, a legitimate occupation for persons freely choosing the profession, but now several years after legalisation the general public sees it as a vulnerable sector prone to exploitation, in the illegal as well as in the legal sector (Sneep case) (Nationaal Rapporteur Mensenhandel, 2009, p.1).

Marjan Wijers (Interview, question 1&5), consultant for human rights and trafficking, adds that decriminalisation of the prostitution sector, like it is practised in the Netherlands is “*a good thing, but it has to go hand in hand with investing into the amelioration of the position of the prostitute. That did not happen.*”

This is a shift backwards that puts prostitutes in a corner and thus makes them more susceptible for exploitation.

The visibility and accessibility of prostitutes and the sector is something highly praised by Dutch policy makers and stakeholders in prostitution. Cameras and police agents knowing the prostitutes enable the authorities to control at least a part of the sector (Interview Hannes Snijder, question 2; Interview Floris van Dijk, question 2; Interview Nynke de Vries, question 9). Despite all the critique that can be performed on the Dutch legalisation policy, it must be put forward that the Netherlands is the only country where systematic and ongoing monitoring, as opposed to evaluation exists (Bindel, Coy & Davenport, 2009) but this data

collection is only been going on for even less than a decade⁵⁸ (Interview Nynke de Vries, question 6).

Asked whether the visibility of and open access to prostitution in the Netherlands increases the predisposition of Dutch citizens to visit a prostitute, Floris van Dijk from the EU expert group on human trafficking, answers that not only Dutch men, but most of all foreign men take advantage of the accessible prostitution scene in the Netherlands. Furthermore the Netherlands are not the only country with open and easily reachable prostitution sectors. Along the German-Czech border on the highway E55 the brothel belt of Europe has appeared (Interview Floris van Dijk, question 5).

Visibility of the prostitution scene is stressed as a positive aspect of Dutch legalisation policy but too much visibility can turn it into a (unwanted) touristic attraction (Interview Hannes Snijder, question 2; Interview Floris van Dijk, question 5). Even if visibility is reduced by closing public windows for example, supply and demand for prostitution, will not decrease but change (e.g. switch to the internet) (Interview Nynke de Vries, question 9).

The client is invisible and not addressed in Dutch prostitution policy but the new prostitution law, having yet to be approved, appeal to the client's responsibility to check whether the prostitute is registered at the municipality. But men, in the fire of excitement, are certainly not going to control the legality of their chosen prostitute states Nynke de Vries in her interview (question 7).

5.4.3 Permeability of borders

This indicator for the attractivity of a country for traffickers lifts the entire subject up to a European dimension. An essential point to understand in the context of the Netherlands and legalisation is that for foreign women being victims of trafficking, legalisation brings no advantage since these women are outside the law (this does not count for national victims of lover boys) (European Parliament, 2000, p. 23). Women from EU countries have the right to work as self-employed but need a business plan, as well as a registration at the Chamber of Commerce and tax authorities. This can cost up to 2000 Euros and assistance of lawyers or administration offices is often required (Hopkins, 2005, p. 198). Women from countries outside of the EU make hardly any chance to receive a working permit and thus end up in illegality (Hopkins, 2005, p. 198).

Intensified police work and trained judges would increase the rate of convictions for the offenders but it would also augment the number of deportations since most of the women concerned have no residence permit or are working illegally. More police effort would therefore speed up the turnover of women because the deported women will be replaced by others in the same way as convicted traffickers get replaced easily. It is even insinuated that, preferring to keep things stable, the police does not prioritise human trafficking, but rather checks legal prostitutes for licenses (European Parliament, 2000, p. 23).

⁵⁸ Cf. Comensha annual reports since 2006: <http://www.comensha.nl/>

The number of foreign women without valid work and residence permit has decreased in the Netherlands (Daalder, 2007, p. 16). This might be related to the increase in women from Eastern European countries belonging to the EU and working as “artists”.

Victims of human trafficking in the Netherlands can make use of the B9 regulation for aliens giving them the right to stay three months in the Netherlands to think about making a declaration to the police. If the declaration is made within a three months time, the victim receives a residence permit for one year or longer depending on the judicial investigation⁵⁹. The declaration of the victim must be coherent, clear and detailed for the police to have a hard piece of evidence which is often very difficult to provide (Carla Aarsen, question 7).

But this concrete piece of evidence stands in sharp contrast with the state of mind trafficked women are in. Often the declarations are confused, obscure and women forget time and places which has as consequence that even minors are seen as liars and unwanted aliens (Hopkins, 2005, p. 119) who fake that they have been forced into prostitution to get a residence permit. Only few manage to deliver the hard piece of evidence required to be accepted as official victim of trafficking in women.

Despite a recommendation of the National Rapporteur for trafficking in human beings stating that the information a victim can procure for criminal pursuit must prevail over considerations concerning immigration policies (Nationaal Rapporteur Mensenhandel, 2010, p. 55; Interview Marjan Wijers, question 7), the rules around the B9 regulation are not eased in order give more women the possibility to profit from the regulation because this would have a “*sucking in effect*” for a flow of immigrants wanting to settle in the Netherlands (Hopkins, 2005, p. 120).

In the same period that the National Rapporteur on trafficking in human beings, regional networks of police corps for trafficking and special human trafficking teams have been initiated, the government has deported hundreds of women back to their country of origin. Ministries, police and Immigration and Naturalisation Service (IND) agree upon target numbers fixing the number of illegal aliens having to be deported from the Netherlands each year (Hopkins, 2005, p. 215).

It is a fact that the EU member states put national security, the protection of borders against illegal immigrants, and not the rights of trafficked persons, first (Nationaal Rapporteur Mensenhandel, 2010, p. 40; Interview Marjan Wijers, question 7).

Because human trafficking is transborder crime, it seems obvious that institutions such as Europol should take the lead but for a real functioning of this body common European criminal law is required, as well as a European police force, a European public prosecution service (Hopkins, 2005, p. 144) and an integrated European immigration policy (Interview Hannes Snijder, question 4). But such institutions would of course greatly infringe the sovereignty of the member states and will therefore not be set up in a near future (Interview Hannes Snijder, question 4).

David Ellero says that: “*Europol is playing its role to ensure investigations no longer stop at national borders.*” (Interview David Ellero, question 6). Measuring the effectiveness of police

⁵⁹ <http://www.b9-regeling.info/b9procedure.htm>, retrieved 3rd July 2011.

cooperation across borders is currently impossible due to a lack of standardised data collection on trafficking in human beings at EU level. It will take some time before law enforcement authorities cooperate as effectively as criminals on a transnational level for many reasons, one of them being a fragmented legislative approach to trafficking in human beings (Interview David Ellero, question 6).

5.4.4 Exit possibilities for prostitutes and buyers

Prostitutes

In order to provide good and safe exit facilities for prostitutes, policy makers need to be aware of the many different needs various groups of sex workers have. Safe and easily accessible exit facilities can facilitate the escape from the sex business for women and hence reduce attractiveness of a country for trafficking networks to some extent.

The needs of prostitutes wanting to stop working and make a new start are varying greatly (Interview Nynke de Vries, question 2).

International victims are survivors wanting to forget what happened as fast as possible. The biggest problem for this category is that they do not speak Dutch. If they are lucky and receive the B9 status, they receive the right to work but working requires language knowledge (Interview Nynke de Vries, question 2). Moreover traumata have to be treated and the women or their families sometimes still get threatened.

National victims, mostly victims of lover boys, often totally overestimate themselves when it comes to find work. They often left school and do not have a certificate. Furthermore this group presents symptoms similar to addiction towards their exploiters because for most of them it is hard to live without their “boyfriend” (Interview Nynke de Vries, question 2).

Voluntary prostitutes also have their own struggles with leaving the sector. This group often has switched its day and night rhythm, is used to make big money, presents drug addiction problems and has debts (Interview Nynke de Vries, question 2).

These problems all need to be solved before being able to start a new life making the task for care and shelter centres very complex, as well as time and staff intensive.

Daalder (2007, p. 70) points out that only 6 % of Dutch municipalities declare to integrate exit possibilities for prostitutes in their prostitution policy agenda. There is a shortage in capacities of the care for victims in general, but especially for particular groups like men, Roma or minors (Nationaal Rapporteur Mensenhandel, 2009, p. 160). Waiting time for a place in a shelter or care centre can take from a few days to months. Pilot projects in the area of housing and exit centres specialised in the various groups are being developed (Nationaal Rapporteur Mensenhandel, 2010. p. 45).

Some lucky victims of human trafficking may have the right for financial compensation and despite the fact that receiving it is difficult, this practice is intended to be increased (Nationaal Rapporteur Mensenhandel, 2009, p. 162).

Buyers

To today’s knowledge there is no centre or place where clients wanting to stop with seeing prostitutes can meet.

5.4.5 Sociological analysis conclusion

The Netherlands are a profitable destination country for traffickers in women because the country is confronted with a lack supply of national prostitutes after legalisation⁶⁰ and because the tourism sector is entangled with prostitution (Interview Floris van Dijk, question 5; Interview Hannes Snijder, question 2). Like all Western countries the Netherlands are seen as lucrative destination for work by young women without perspectives in their home country. But at the same time the Netherlands monitor the (legal) prostitution sector and compared to the rest of Europe produce rather consistent data (Bindel, Coy & Davenport, 2009).

Control of and oversight on the prostitution sector are highly praised attributes of legalisation policy (Interview Floris van Dijk, question 2; Interview Nynke de Vries, question 9). But this certainly important visibility barely affects the illegal sector and that is also why Dutch citizens abandon the sex work vision and see prostitution more and more as a shady sector where brutality and exploitation reigns (Nationaal Rapporteur Mensenhandel, 2009, p.1).

Despite legalisation, it is hard for foreign women to work as prostitute in the Netherlands. It is expensive and huge administrative efforts have to be made (Hopkins, 2005). That is why more and more eastern European women enter the country as “artists” or “wives”. Trafficked women are easily labelled as illegal migrants if evidence for trafficking is lacking. National security of the EU Member states is more important than the rights of trafficked persons (Nationaal Rapporteur Mensenhandel, 2010, p. 40).

Incentives for lucrative business, increasing marginalisation of the sector, deceitful EU immigration and anti-trafficking policies as well as a serious lack of specialised exit facilities for people having been in prostitution reinforce the status of the Netherlands as a profitable country for traffickers in women for sexual purposes and lower the possibilities and incentives of victims to stand up against their exploiters.

⁶⁰ <http://www.mt.nl/1/1314/home/seksbusiness-lijdt-onder-legalisering.html>, retrieved July 10th 2011.

5.5 Interim conclusion for the Netherlands

Dutch prostitution policy is based on the image of a strong, autonomous, emancipated women using her right for sexual self-determination for economic purposes. But this image is sadly enough not reality for a big majority of the prostitutes working in the Netherlands, which entails that the intended effects of the policy barely reach them.

The analysis of the implementation of Dutch prostitution policy demonstrated that the criteria for good implementation are not fulfilled.

Municipalities' tolerance diverges and when controls or licensing conditions are too strict, the brothels swerve to other localities. A big worrying fact is that the number of prostitutes with a pimp has not decreased and licensing did not appear to be a guarantee against trafficking in women.

The combination of a serious lack of human, financial and time resources at the police, social services and shelters and the exodus of prostitutes and consequent inflow of women from Eastern European countries after legalisation, as well as the entanglement of the sex business with the tourism sector create potential profitability for traffickers in women for sexual purposes in the Netherlands.

Additionally whereas there is some supervision and monitoring in the legal sector enabling the Netherlands to produce important data, the illegal sector has largely been forgotten by the police according to the police monitoring report 2010⁶¹. This lack of focus on the illegal sector stands in total contrast with the goals of the lifting of ban on brothels.

Legalisation of prostitution has not been able to achieve normalisation. Rather the opposite is the case because society senses the prostitution sector as a criminal branch prone to exploitation. The vulnerability of the sector and especially the women working in it, is increased by a general fear of migrant flows towards fortress Europe.

It can be said that so far, the analysis of Dutch prostitution policy and its influence on trafficking in women confirms the hypothesis of this research, thus if a country does not prohibit prostitution and does not criminalise the buyer, than the likelihood of humans being trafficked is increased. The above standing chapters demonstrate that regulation of prostitution in the Netherlands does not play a major, if any preventive role at all in the fight against trafficking in women for sexual purposes.

In the equation prostitution and trafficking in women several factors have been addressed; the problems with normalising the sector and making it a legitimate occupation for prostitutes, the pursuit and prosecution of pimps, the role and efforts of the administrative authorities and the police, but one factor has been entirely left out by Dutch policy so far and this factor is surprisingly enough the one possibly making the bridge between legality and illegality; namely, the client.

Sweden addresses this point like it has never been done before and that is why the next chapter will be devoted to regulation of prostitution in Sweden and its influence on trafficking in women for sexual purposes.

⁶¹ <http://www.hetccv.nl/dossiers/Mensenhandel/landelijk---korpsmonitor-2010>, retrieved July 3rd 2011.

6. REGULATION OF PROSTITUTION IN SWEDEN

Sweden adopted a prohibitionist prostitution policy. The policy is unique in the sense that it criminalises the purchase of sexual services, thus the client, but not the prostitute. For this legislation to be enacted several prostitution committees had been working on combating prostitution by criminalising the buyer or the seller since 1977 (Swedish Government Report SOU 49, 2010). In 1998 a legal package called “The Protection of Women” or “Act of Violence Against Women” (Kvinnofrid) was adopted. The Act included several amendments to laws relating to male violence against women, including laws on sexual harassment (Ekberg, 2004), abuse, rape and purchase of, as well as attempts to purchase sexual services (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004). Additionally a new offence, called gross violation of women’s integrity, punishing repeated instances of male violence in an intimate relationship, was set up.

On January 1st 1999, Sweden became the first country in the world to introduce legislation criminalising the purchase, but not the sale, of sexual services. In connection with the sexual crimes reform of 2005, the Act Prohibiting the Purchase of Sexual Services was revoked and replaced by new legislation on the purchase of sexual services (Chapter 6, Section 11 of the Penal Code)⁶². The legislation is gender-neutral, i.e. both buyer and seller can be male or female.

The Act directly **addresses demand** and is worded as follows:

“A person who, for payment, obtains a casual sexual relationship is penalised – unless the action entails punishment in accordance with the Penal Code – for the purchase of sexual services with fines or imprisonment for a maximum of six months. For attempting to do so, the person is sentenced in accordance with chapter 23 of the Penal Code” (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004; Ekberg, 2004).

The offence comprises all forms of sexual services, including street prostitution or services purchased in brothels, escort services or in massage parlours (Ekberg, 2004). Sexual relations are defined as sexual intercourse, but other sexual activities are also sufficient for criminal liability. Stripping and nude posing where no sexual activity takes place will not be sufficient for criminal liability though (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

Penalties for purchasing sexual services can be imprisonment for up to six months (Kelly et al., 2009) or a fine of at least 50-day fines set by the Supreme Court (Ekberg, 2004). Day fines are based on a minimum fee and on the offender’s daily personnel income. In cases where sexual services are purchased more than once the courts have imposed fines up to a 150 days (Ekberg, 2004).

The law intends to act as a deterrent to those who purchase sexual services. The reasoning behind is that if the number of purchasers declines then the number of people in street prostitution and new recruits to prostitution would also go down.

⁶² <http://www.sweden.gov.se/sb/d/4096/a/119861>, retrieved on May 16th 2011.

The law also points out that criminalising the purchase of sexual services could help make it harder for various groups or individuals in other countries to establish more extensive organised prostitution activities in Sweden or to carry out human trafficking for sexual purposes⁶³. Here the law aimed at national prostitution directly addresses trafficking in women for sexual purposes: “*The ban on the purchase of sexual services is an important instrument in preventing and combating human trafficking and in protecting those people who are, or who risk becoming involved in prostitution or other forms of sexual exploitation* (Swedish Government Report SOU 49, 2010)”.

6.1 Aims of the law

The ban on purchase of sexual services aims curbing demand, the root cause of prostitution and trafficking in human beings (Ekberg, 2004) but it also fulfils a **normative function**. It expresses the belief that in Sweden women and children are not for sale and it dispels men’s self-assumed right to buy women and children for sexual purposes (Ekberg, 2004). Prostitution represents a degradation of women and therefore a form of violence against women (Gould, 2001).

The long term goal is to abolish prostitution (Kelly et al., 2009, p. 31). But it is also said that criminalisation can never be anything other than a supplement to other efforts to combat prostitution (Swedish Government Report SOU 49, 2010, p. 11). Social work to prevent and combat human trafficking for sexual purposes, combined with measures aimed at the buyers and information initiatives to influence public opinion are other cornerstones (Swedish Government Report SOU 49, 2010, p. 11).

The ban fundamentally questions the idea that men should be able to express their sexuality at any time and in any form (Ekberg, 2004) and confronts the client directly with the social consequences of his actions (Månsson, 2001). Men’s sexual privilege and comfort is questioned (Månsson, 2001) because purchasing sex constitutes violence of men against women (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

In Sweden prostitution is viewed as a serious social problem that causes harm to individuals but also to society (Swedish Government Report SOU 49, 2010). The official Swedish view is that there is no voluntary prostitution, rather it is seen as an enforced activity whereby the persons selling sex are victims of structural mechanisms (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

An essential argument put forward is that gender equality cannot be achieved as long as men buy, sell and exploit sex (Gould, 2001; Swedish Government Report SOU 49, 2010; Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004). As long as demand exists, prostitution will continue and that is why Sweden criminalises the buyer (Gould, 2001). The law is about gender relations and to be precise male, not female sexuality (Månsson, 2001).

⁶³ <http://www.sweden.gov.se/sb/d/4096/a/119861>, retrieved on May 16th 2011.

A gender equal society finds it unacceptable and must reject that women and girls are sold as if they were commodities. Sweden displays its rejection on a symbolic and structural level (Ekberg, 2004).

How come that such a new and modern legislative approach could be passed in Sweden? One reason lies in the fact that at the time 43% of the parliamentarians (Ekberg, 2004) and 50% of the ministers in Sweden were women (Gould, 2001). Next to the presence of women on the political scene and the strength of the gender equality movement in Sweden other factors also pushed the passing of the law.

The link between prostitution and drugs provided a rationale as well as a symbolic discourse for intervention (Gould, 2001). Along came the fear of foreign prostitutes and liberal practices abroad. The Dutch liberal view on prostitution, considered as unacceptable, has sometimes even been associated and explained with the Netherlands' history of colonial exploitation (Gould, 2001).

Sweden's weak liberal tradition made the advocacy of liberal arguments quite difficult (Gould, 2001). By focusing on the clients, Sweden could claim to be unique and display its ambition become a perfect society (Jacobsson, 2009) having a model function for other countries (Gould, 2001).

6.2 Prohibition and human trafficking in Sweden

In Sweden, prostitution and trafficking in human beings for sexual purposes are "*both are harmful and intrinsically linked*" (Ekberg, 2004). Prostitution and trafficking in women are considered as inseparable factors by the Swedish government. The Violence Against Women Bill (Kvinnofrid) states "*Prostitution and trafficking in women are seen as harmful practices that cannot, and should not be separated; in order to eliminate trafficking in women, concrete measures against prostitution must be put in place*" (Raymond, 2004).

Sweden asks the international community to not only adopt a vigorous stand against human trafficking, but also against prostitution (Ekberg, 2004)⁶⁴.

The table underneath shows how the number of street prostitutes in Stockholm, Gothenburg and Malmö evolved in the last years since the introduction of the ban. Those three major Swedish cities dominate the figures because with regard to judicial practice in connection with the ban, procurement and human trafficking, the majority of the crimes are committed in and around these big cities. Since the introduction of the law street prostitution has only occurred in these cities. But the countryside and smaller cities are not ignored (Swedish Government Report SOU 49, 2010).

⁶⁴ See also <http://www.youtube.com/watch?v=xWVh8ouf1eU>, retrieved July 20th 2011.

Number of people involved in street prostitution 1998 – 2008

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Stockholm	280	170	-	-	-	200	-	150	200	-	180
Gothenburg	286	80	-	-	-	100	30	30	-	-	64
Malmö	160	80	111	123	135	106	98	92	67	74	52

Source: Swedish Government Report SOU 49 (2010)

(-) means that in some periods no annual tallies were done in Gothenburg and Stockholm, only estimates based on information such as how many prostitutes were out per evening.

Changes in total street prostitutes

	1998	1999	2003	1998-2003
Stockholm	280	170	190	-32%
Gothenburg	286	160	100	-65%
Malmö	160	80	135	-15%
Total	726	410	425	-41%

Source: Working Group on the Legal Regulation of the Purchase of Sexual Services (2004)

In 1998, the Swedish social service prostitution groups knew of around 780 prostitutes involved in street prostitution in the entire country (Swedish Government Report SOU 49, 2010). When the sex purchase law came into effect in 1999, street prostitution decreased dramatically but increased again later that year, although the number of people involved was significantly lower.

The table shows that, despite an increase of numbers of persons involved in street prostitution after the drop in 1999, the total number of street prostitutes has been halved and remains constant whereas for example in Norway and Denmark street prostitution has increased from 2003 to 2008 (Swedish Government Report SOU 49, 2010, p.45).

Another Swedish (SoS Report-03⁶⁵) report confirms the drop in street prostitutes, but observes that it is impossible to say whether the reduction on the streets is due to legislation or to other factors (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

The first question coming to one's mind is why Sweden, as fervent it is about the subject, did not rigorously collect data to be able to document the evolution of the law?

The next question is about indoor prostitution. Did the street women switch to indoor business? Did they go underground?

In its evaluation of the ban, the Swedish government states that there is no indication, according to people working in the field that indoor prostitution has increased since the ban (Swedish Government Report SOU 49, 2010). This statement is justified by the dependency on advertisement of the business in order to establish contacts with clients. Because no increase in ads and publicity has been notified, it is unlikely that any extensive type of prostitution would remain completely unknown (Swedish Government Report SOU 49, 2010).

Scoular (2010, p. 19) claims that the enormous media attention and the injection of financial resources did indeed decrease street prostitution, probably only temporarily. The decrease is

⁶⁵ <http://www.scribd.com/doc/34363634/S-Ka%CC%88nedom-om-prostitution-2003-EN>, retrieved August 16th 2011.

connected to a displacement of the workers towards hidden forms of prostitution evidenced by an increase in markets of sex accessed via the internet or informal networks like for example taxi drivers or hotels (Scoular, 2010, p. 19). This displacement is confirmed by Swedish social workers reporting that sex workers often only have the choice between illegal brothels or working alone at home. Consequently the sex workers are even more isolated (Scoular, 2010, p. 19).

Other authors (Ekberg, 2004) and the government counter that there is no evidence for a move of the sector to the internet since the law. It is even claimed that the presence of foreign women on the streets has been ended and that the number of buyers decreased by 75% to 89% (Ekberg, 2004, p. 1194).

And what about the numbers of human trafficking for sexual purposes these years? The National Crime Investigation Department (NCID) estimates that **400 to 600** women are trafficked into Sweden every year, mainly from Estonia, Lithuania and Russia (Ekberg, 2004, p. 1199).

Trafficking into Sweden is said to remain constant but lower than in other countries (Ekberg, 2004) because in Denmark 5,500 to 7,800 women are prostituted every year and 50% of them are estimated to be victims of trafficking of human beings (Ekberg, 2004, p. 1199). In Finland 10,000 to 15,000 women from Estonia, Latvia, Russia and Lithuania are said to be prostituted every year (Ekberg, 2004, p. 1199).

Interestingly Sweden and Finland are both ranked as medium destination countries for trafficking in persons by the UN (UNODC, 2006, p. 20) whereas Denmark is ranked as high with regard to the incidence of reporting of destination countries. The impact of trafficking is thus looked at differently in the reasoning of Ekberg (2004, p. 1199) than in the ranking of the UNODC (2006, p. 20).

The NCID concludes from the above standing numbers that in Sweden there is no equivalent increase in the number of victims of trafficking for sexual purposes as in other countries (Ekberg, 2004). But it also stresses that there is no evidence that the number of trafficked women has decreased in Sweden (Ekberg, 2004). Therefore it might be that the number of trafficked women has always been lower in Sweden than in other countries and that the low estimates have nothing to do with legislation (Scoular, 2010).

Sex worker Pye Jacobsson (2009) stresses that street prostitution has always been low in Sweden because of the simple reason that it is cold and sex workers do not want to stand on the street.

The combination of relatively recent, or a lack of, records of victims and prosecutions, and the focus on street prostitution make it hard to draw meaningful conclusions.

The Swedish government report finally states that *“one can feel somewhat secure in the conclusion that prostitution as a whole has at least not increased since 1999”* (Swedish Government Report SOU 49, 2010).

The reason why no specific research on the law and its effects has been carried out is explained by Henrik Sjolinder from the Ministry of Justice: *“It is sort of implicit in the system that a commissioned inquiry should build its work on what is already available in terms of knowledge and information, including research. If there is a need for further research on the*

topic, it is for the inquiry to put forward a proposal to such an end. This is also one of the proposals from this particular inquiry, i.e. to set up a permanent national centre against prostitution and human trafficking for sexual purposes. At present this proposal is considered (Interview Henrik Sjolinder, question 1).”

6.2.1 Judicial pursuit

The number of persons suspected of trafficking in persons in Sweden were (UNODC, 2009, p. 284):

2003 → 4 (1 female)

2004 → 9 (2 female, 2 unknown)

2005 → 30 (5 female)

2006 → 6 (1 female)

The number of persons convicted for trafficking in persons in Sweden were (UNODC, 2009, p. 284):

2003 → 1

2004 → 0

2005 → 7

2006 → 11 (3 female)

Among all the convictions recorded between 2005 and 2006, 11 offenders were sentenced to two or four years detention and six others were sentenced to more than four years. All were convicted of trafficking for sexual exploitation with the exception of one offender who also was involved in trafficking but for another purpose (UNODC, 2009, p. 284).

It might seem odd that only 7 persons were suspected of human trafficking in 2006, whereas 14 were convicted. Maybe the convicted persons were initially suspected of another crime than trafficking in persons. The real nature of their delict may have appeared only during investigations.

Buyers

When it comes to the buyers 2,069 individuals have been reported for criminal activity from 1999 until 2009 (Claude, 2010). 86% of the arrested persons were from Stockholm, Malmö and Gothenburg. Legal actions were brought against 590 individuals. In 2008, 69 judgements and impositions of summary fines for committing the crime of buying sexual services were issued (Claude, 2010).

Kasja Wahlberg, the Swedish Rapporteur on trafficking in human beings explains that between January 1999 and September 2008, 1753 men have been arrested. Among them about 617 have been fined for paying sexual services (Kasja Wahlberg, 2009).

Difficulties with evidence are the main reason for dropping criminal charges (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004). If the buyer does not

admit to his purchase and the prostitute refuses to give evidence or to confirm the relationship in court, it is very difficult for the prosecuting authorities to produce evidence of criminal guilt (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

The Swedish government report admits that a considerably higher number of buyers of sexual services could be prosecuted if priority was given to this crime in daily activities (Swedish Government Report SOU 49, 2010). The reason why priority is not given to sex purchase offenses might be the low penal value of the offense.

It should be kept in mind that it is not the intention of the government to prove the effectiveness of the law through the number of convictions of buyers, it rather aims at challenging the normalisation of prostitution (Bindel & Kelly, 2003, p. 75).

6.3 Regulation implementation analysis

This section analyses the implementation of the ban on the purchase of sexual services in Sweden. The law in itself is not questioned anymore (Ekberg, 2004), rather one asks about the conditions of implementation and whether they contribute to the policy goal of curbing prostitution and trafficking in women.

Five criteria established in the theoretical framework (chapter 3.2) will be examined carefully in order to see whether the law fulfils the conditions for good implementation. Furthermore the aim of this chapter is to exclude that the differences in trafficking in women data between Sweden and the Netherlands are related to good or bad implementation of the respective policies. This chapter tries to find out whether the differences are *de facto* a consequence of the two opposite ways of policy making.

6.3.1 Clear policy objectives and task attribution

Similar interpretation of legislation by all actors involved is an essential factor for the successful implementation of the policy and to achieve the set objectives (Hoogwood & Gunn, 1984). Clear and consistent goals are therefore a key requirement for success (Hoogwood & Gunn, 1984).

Definitions

Swedish law against the purchase of sexual services⁶⁶ revolves amongst others around three constructs, namely “*for payment*”, “*casual*” and “*sexual relationship*” (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

In order to prove actual “*payment*”, evidence must be produced that money, narcotic substances, dinners, gifts or other forms of compensation have been agreed upon in advance by the seller and the buyer. If compensation has not been exchanged, it is sufficient to produce evidence that there was an agreement concerning it (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004).

Evidence for a “*casual*” thus temporary sexual contact must be given in order to convict a client. But what does casual mean, if some prostitutes have had regular clients over the last 20 years and outlasting several marriages (Jacobsson, 2009)?

This cloudiness was solved by explaining that each time a client pays is temporary (Jacobsson, 2009).

A “*sexual relationship*” also had to be defined. It concerns an act where one person touches the other persons genitals in exchange for something (money, drug, alcohol) which in some cases could include one night stands (Jacobsson, 2009).

When the law was sent out for consultation legal experts stated that the law would be impossible to implement due to problems with the demarcation and demonstration of the offense (Månsson, 2001, p. 148) but the government went ahead without considering such

⁶⁶ *A person who, for payment, obtains a casual sexual relationship is penalised – unless the action entails punishment in accordance with the Penal Code – for the purchase of sexual services with fines or imprisonment for a maximum of six months. For attempting to do so, the person is sentenced in accordance with chapter 23 of the Penal Code”*

remarks (Jacobsson, 2009). Ms Jenny Andersson from the International Centre for Migration Policy Development (ICPD) explains the behaviour of the government by stating “*the law is of moral nature. Everyone knows that it is extremely difficult to catch the client with his pants down and the money in his hands, the law was introduced to make a standpoint that a human being cannot be seen and treated as a commodity i.e. you should not be able to “buy a person”*” (Interview Jenny Andersson, question 1).

Police objectives and tasks

The Working Group on the Legal Regulation of the Purchase of Sexual Services (2004) highlights that preparations to implement the ban on the purchase of sexual services were limited. The police are the main implementer of the law in Sweden. Police representatives reported that no key goals or strategy had been prepared and enforcement was not given priority by central police authorities (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004). The police districts were not given strategic directions in the form of instructions or enforcement directives. Police districts set their own target figures for the number of arrests to be made under the law.

The lack of goals and strategy is combined with the low penal value of sexual purchase offences (Swedish Government Report SOU 49, 2010). More than 80% of prosecutions for individual instance of purchase of sexual services have resulted in a penalty of 50 day fines (Swedish Government Report SOU 49, 2010).

Bindel & Kelly (2003, s.25) write that the police and prosecutors have been educated on all aspects of the law, what aspects this education comprehended with regard to trafficking in women is not stated.

Municipalities’ objectives and tasks

The municipalities are responsible for the assistance to victims of crime. The task is often performed by local NGO’s but sometimes the municipalities set up their own organs for special target groups like women abused by men or sexually offended children. Some NGO’s are financed by the state, some by the municipalities (E-notes, 2010, p. 210) with different assistance measures in different places.

Public prosecutors objectives and tasks

Prosecutors have the task to identify a victim of trafficking. Although other stakeholders might identify victims as well because of nationwide indicators, procedurally it is the prosecutor leading the preliminary investigation who carries out the identification of a victim of trafficking (E-notes, 2010, p. 210).

Particular training for prosecutors with regard to prostitutes and human trafficking is not documented except by Bindel & Kelly (2003, s.25) who talk about education on aspects of the law for prosecutors and the police. But the Swedish Government Report SOU 49 (2010) points out that available knowledge is difficult to grasp, assess and that it is shaped by the organisation providing it. Therefore making reliable assessments and comparisons of the

knowledge is almost impossible. This massively hampers efforts to establish trainings and support to fight prostitution and human trafficking.

Actors collaboration

The responsible institution acting as a focal point for anti-trafficking efforts is the Ministry of Integration and Gender Equality (MIJ) (E-notes, 2010, p. 209). The MIJ is only responsible for trafficking for sexual exploitation, labour trafficking falls under the responsibility of the Ministry of Labour. The Ministry of Justice is responsible for legislation regarding prostitution and trafficking and the Ministry of Health and Social Affairs for the assistance to victims (E-notes, 2010).

This set up makes a clear division of tasks and responsibilities difficult and the risk of duplication of efforts or that some tasks fall between the chairs is high (E-notes, 2010).

A national coordinator (Patrik Cederlöf⁶⁷) has been appointed in 2009 and works on the set up of a Permanent Secretariat for trafficking in human beings to ensure a sustainable cooperation framework (E-notes, 2010, p. 209). The coordinator is based at the County Administrative Board of Stockholm (Interview Emma Stenberg Ribeiro).

A body called “National Support Operations against Prostitution and Trafficking in Human beings” has been installed and is composed of representatives from the border police, National police board, criminal police, prosecutors chambers, migration board and social welfare authorities. It focuses on operational work, activities coordination and case management in order to ensure information exchange between agencies (E-notes, 2010, p. 209). Whether the cooperation works well has not been analysed yet.

Prostitutes

Prostitutes have not been entitled with a task within the law and its objectives and their opinions on the law are not regarded as relevant (Jacobsson, 2009).

The objectives of the law, arresting and fining buyers of sexual services are clear to all stakeholders. How clients are arrested and pursued remains a more critical subject, and even if caught with their pants down, penalties turn out quite low.

Task division and attribution and information exchange ask for major improvements the *Action Plan against Prostitution and Human Trafficking for Sexual Purposes* of 2008⁶⁸ tries to cover. By installing a national coordinator, first centralisation steps have been taken to improve coordination and cooperation among the many involved stakeholders in the field of prostitution and human trafficking.

⁶⁷ <http://realstars.eu/en/2011/04/samtal-med-patrik-cederlof-nationell-samordnare-mot-trafficking/>, retrieved 20th of August 2011.

⁶⁸ [http://www.ungift.org/doc/knowledgehub/resource-centre/Governments/Sweden/Infosheet National Action Plan Against Human Trafficking en.pdf](http://www.ungift.org/doc/knowledgehub/resource-centre/Governments/Sweden/Infosheet%20National%20Action%20Plan%20Against%20Human%20Trafficking%20en.pdf), retrieved on the 19th of August 2011.

6.3.2 Sufficient resources

Money

Seven million SEK a year were allocated for a period of three years for the enforcement of the law on the purchase of sexual services by the police. The money was meant for technical undercover work (detection and investigation) but the police could freely decide how the money was to be used and distributed (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004). Some money was also allocated to prevention work with sex buyers and to rehabilitation strategies for those who are charged with buying sex (Interview Linde and Göransson, question 1).

For the period of 2004 to 2006, 30 million were allocated to work on trafficking in people. Resources for the enforcement of the ban on the purchase of sexual services were included in this amount.

Within its *Action Plan against Prostitution and Human Trafficking for Sexual Purposes* of 2008, Sweden invested 213 million SEK up to the year 2010⁶⁹. Within the Action Plan resources will also be allocated to sheltered housing and rehabilitation programs.

An evaluation of the Action Plan will be undertaken by the Swedish National Council for Crime Prevention in 2011 and presented to the Parliament.

The local police mainly focused on public order and traffic matters that could be followed due to earmarked funds (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004, p. 21). As long as the police received earmarked funds for implementing the ban, that work was given priority. When the money was not earmarked to combat the purchase of sex, but was combined with resources for combating trafficking in human beings or other offences like family violence or race-related crimes, priorities and attitude towards the law on the purchase of sex changed (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004, p. 21).

Criminalising demand without support for the prostitutes would not only be ineffective but also unfair according to the Swedish government (Bindel & Kelly, 2003, p. 25). That is why money was made available for NGO's and agencies for drug rehabilitation programmes, exit strategies and longer term reintegration (Interview Linde and Göransson, question 3).

Street prostitution has mainly been targeted but Swedish attention also slightly switches towards indoor prostitution as Emma Stenberg Ribeiro explains (Interview, question 9): "*The prostitution centre in Stockholm estimates that a big part of their clients are from indoor prostitution. Furthermore the same person can be in indoor and outdoor prostitution. The police have a unit that counters street prostitution and a unit that works with human trafficking and procuring including of course indoor and internet prostitution. There have also been preventive projects just targeting the internet and young people.*"

⁶⁹ http://www.ungift.org/doc/knowledgehub/resource-centre/Governments/Sweden/Infosheet_National_Action_Plan_Against_Human_Trafficking_en.pdf, retrieved June 8th 2011.

Staff

Measures against street prostitution were mainly initiated by the local police who were in charge of the areas where street prostitution took place (Swedish Government Report SOU 49, 2010). In larger cities, where no separate units to supervise the prostitution scene existed, special projects and units were established that were entirely or partly engaged in the street prostitution situation (Swedish Government Report SOU 49, 2010).

In Stockholm two officers work for the prostitution group and now mainly direct their efforts at investigating the indoor market for pimping (Swedish Government Report SOU 49, 2010).

Time

Since there were no concrete goals to be achieved in a certain amount of time, the time frame for implementation is not really essential and relevant to Swedish authorities.

Sweden allocated quite some resources for the implementation of the ban on the purchase of sexual services within the police forces. The police use the money for investigations and observation work.

Only since the Action Plan of 2008⁷⁰ financial resources are allocated to training for staff in health care, sheltered housing and social services, but also prosecutors and employees of the migration board.

The criteria for good implementation of the policy can thus be seen as fulfilled since there are quite some resources available for implementers and stakeholders.

6.3.3 Correct underlying theory of cause and effect

Cause and effect relationships within the policy must be direct and clear (Hogwood & Gunn, 1984).

In Sweden the cause and effect dynamic behind the ban on the purchase of sexual services is that prohibiting to buy sexual services (cause) firstly has a deterrent function which reduces demand, hence making the prostitution market less attractive for traffickers in women (effect 1) and secondly makes a normative statement saying that women, children and men are not commodities for sale, thereby promoting gender equality (effect 2).

Demand

What do we know about demand for sexual services and has it been reduced in Sweden?

Månsson (2001) explains that when men buy sex, it always involves social and individual dimensions. Demand for sexual services, like demand in all markets, is a socially, culturally and historically determined and constructed matter (Anderson & O'Connell Davidson, 2003, p.41). Prevailing social norms play an important role in shaping people's behaviour as consumers in both legal and illegal segments of the commercial sex market (Anderson & O'Connell Davidson, 2003, p.42).

The "*understanding of the norms is largely determined through peer behaviour*" and what one can get away with (Anderson & O'Connell Davidson, 2003, p. 42). Demand has to be created and grown for a market to exist and expand, which means that "*human beings have to learn to*

⁷⁰ <http://www.sweden.go.se/content/1/c6/11/06/29/fcd261a4.pdf>, retrieved August 12th 2010.

imagine that it would be pleasurable to pay a stranger for sex, that it would be convenient and pleasant to have another person to clean up after them (Anderson & O'Connell Davidson, 2003, p. 41).”

As in other market sectors, consumer behaviour is established at young age (Anderson & O'Connell Davidson, 2003). Therefore awareness of trafficking of persons (for sexual purposes) needs to be raised in schools already.

Demand is intimately related to supply and availability. Anderson & O'Connell Davidson (2003) write that one could almost say that “*supply generates demand rather than the other way around*” because there is no given demand in society for the services of, for example, a lap-dancer and before the recent advent of lap-dance clubs, no one really missed them.

Moffat (2005) talks about a low percentage of buyers, a minority in the male population which reinforces the image of the lonely ugly men or the pervert to be the main category of clients.

Raymond (2004) on the other hand concludes out of several reports that buyers are from all ethnical backgrounds and ages. It is not unusual that fathers buy a prostitute for their sons for “*a good time – training on sex*” (Raymond, 2004). In some countries it is seen as a ritual to go to a prostitute before getting married (Anderson & O'Connell Davidson, 2003). Married men are by far no exception (up to 70% or even 90%) and all kinds of educational backgrounds have been listed as clients (Raymond, 2004).

In Europe, 1 of 8 (or 12,5%) men in Sweden make use of women and children in prostitution, in Italy 1 of 6 (17%) and in Germany 18% of men regularly pay for sex (Raymond, 2004).

The reports Raymond (2004) investigated indicated that the main users of women in prostitution are “*regular men who are in regular marriages, study in regular educational programs, and have regular jobs, some of whom are entrusted with upholding the very laws that they violate.*” The reports show that prostitute-users are not marginalised men.

What all reports have in common is that in all regions of the world, men are seeking young women, often even underage girls (Raymond, 2004).

But why going to a forced/trafficked prostitute?

Next to fact that it can be a turn on for men (Raymond, 2004) interviews with clients show that normally they feel morally outraged and turned off by the idea of using an unfree sex worker (Anderson & O'Connell Davidson, 2003, p. 25).

But nevertheless these respondents bought sex from workers who may have been trafficked. This happened either because the client was drunk, could not afford to pay for a more expensive sex worker or because the sex worker concerned happened to be the most immediately available (Anderson & O'Connell Davidson, 2003, p. 25). Men know, to some extent, about abuse and coercion in prostitution. “*More than half admitted that they either knew or believed that a majority of women in prostitution were lured, tricked or trafficked*”⁷¹.

Less demand, less trafficking?

Police and social workers in the prostitution field in Sweden state that demand for sexual services at least in street prostitution has been reduced (Swedish Government Report SOU 49,

⁷¹ <http://www.guardian.co.uk/society/2010/jan/15/why-men-use-prostitutes>, retrieved on the 10th of March 2011.

2010, p. 32; Interview Henrik Sjolinder, question 2) because clients are more cautious and afraid of being discovered.

Two different studies investigating prostitution in Nordic countries (by Kusomanen and Månsson) showed that the proportion of men admitting that they had purchased sexual services dropped from 13,6% in 1996 to 8% in 2008 (Swedish Government Report SOU 49, 2010, p. 32).

At the same time only few buyers get caught, evidence is hard to prove and sentences are mild. Furthermore both studies show that it is more common to buy sex abroad than in Sweden (Swedish Government Report SOU 49, 2010, p. 32; Interview André van Dorst, question 8). Also conviction rates have been low if one observes that in 10 years time around 500 men have been convicted since the law was enacted (Scoular, 2010, p. 19). A big majority of the cases has been discontinued due to insufficient evidence and few actually proceeded to court (Scoular, 2010, p. 19).

But as already mentioned the focus is more about the symbolic, normative effect of the law, rather than high conviction rates (Ekberg, 2004).

The biggest proof that the ban decreases the attractiveness of the Swedish market and reduces trafficking in women are wiretaps in cases of procurement and human trafficking that indicate that demand in Sweden is not as high as the procurers and human traffickers would like (Swedish Government Report SOU 49, 2010, p. 29; Interview Emma Ribeiro Stenberg, question 1).

These taps proof that the ban led to *effect 1*, namely decreasing Sweden's attractiveness for traffickers, but the similarly important *effect 2*, changing norms of society has not been achieved since clients buy sexual services abroad, face mild sentences and repress the fact that a prostitute is forced when they lack money or are drunk.

But how much can the phone intercepting argument be trusted if it comes from one trafficking investigation, dating back a few years and classified as police investigation material that is not publicly available⁷²?

In general the policy reminds many persons the strict approach of the Swedish government towards alcohol. Demand is curbed by high prices and therefore citizens produce strong alcohol in their cellars or buy it abroad (Interview Floris van Dijk, question 4)...

6.3.4 Compliance to policy goals

In a first instance the police, the main implementing agency, was reluctant towards the ban, particularly because of concerns regarding trafficking investigations being compromised by costumers being criminalised and therefore unwilling to provide supportive evidence in the trafficking case (Bindel & Kelly, 2003, p. 25). Customers can indeed play a major role in trafficking cases (Jacobosson, 2009).

⁷² Information from mail contact with Henrik Sjolinder (see also Interview Henrik Sjolinder).

But a few years after the introduction of the law police and prosecutors believe that the law deters traffickers and that the costumers provide evidence corroborating the story of the victim of human trafficking (Bindel & Kelly, 2003, p. 25).

Enforcement of the law majorly relies on the leadership of the police forces (Ekberg, 2004, p. 1196). The police force is generally a male, homosocial and conservative working environment. The Swedish government therefore asks the police to implement a law that seriously threatens basic male traditional values (Ekberg, 2004, p. 1196).

This lead to situations in which police officers arresting men for the crime of purchasing sexual services agreed to send the letter of notification to an address of the offenders choice, rather than to his home address, in order to protect the offender from the scrutiny of his spouse or family members (Ekberg, 2004, p. 1196). Training programs for police officers have been set up for these problems and results were noticeable and immediate according to Ekberg (2004). One year after the educational program began in 2003, there was a 300% increase in arrests related to the “*deeper comprehension of the conditions that make women vulnerable to becoming victims of prostitution and trafficking*” as well as better investigation methods (Ekberg, 2004, p. 1196).

Compliance to the law seems to have increased over the years among the police, but its degree is still highly connected to other factors, like money and priorities of the police unit (chapter on resources).

Compliance of the clients has not been investigated, but it has been seen in the previous chapter on correct underlying theory of cause and effect that there is:

- a decrease in the number of men buying sex in Sweden (Swedish Government Report SOU 49, 2010, p. 32)
- a shift of clients towards “safer” indoor prostitution because of less risk to be arrested (Jacobsson, 2009)
- a common understanding that buying sex abroad is an attractive option (Swedish Government Report SOU 49, 2010, p. 32; Interview André van Dorst, question 8).

The law thus affected the buyers purchasing dynamics, but societal norms allowing the purchase of sex have not necessarily been shifted majorly, neither been eliminated.

6.3.5 Policy beneficiaries and target groups feedback

Sex workers

Prostitutes did not receive a voice at all in the implementation process of the law in Sweden as well. Sex workers activists opinions and input are not considered by the Swedish government (Jacobsson, 2009).

Collecting taxes from prostitutes in the Netherlands is a clear measure directed at prostitutes which they can commit to or not. In Sweden there is no such direct measures aimed at the prostitutes since it is all about the buyer.

Already in the early phases of the law, critics were concerned about the risk of driving prostitution underground (Swedish Government Report SOU 49, 2010, p. 32; Gould, 2001, p. 445). Negative impacts of the law for the prostitutes were a drop in custom leading to lower prices, less choice of clients, quick transactions and consequently greater risks, more stress and danger (Scoular, 2010, p. 20, Jacobsson, 2009).

“The more stereotyped you are, the more dehumanised you are (Jacobsson, 2009).” Sex workers are very stereotyped through the approach of the government. This means that for clients sex workers are not like normal persons and can therefore be treated like non-humans. This makes sex workers very vulnerable.

For women in the street this has had severe consequences because before, they could hang into the car window, discussing what they are willing to sell or to do. Since the ban of the purchase of sexual services, sex workers on the street do not have time for this anymore because the clients are very jumpy. Now sex workers have to get into the car, drive away and negotiate inside, making it harder to get away or turn down an unpleasant client (Jacobsson, 2009).

Jacobsson (2009) points that the “good”, “safe” clients believe that the risk of getting caught is higher on the streets. Those clients thus turn to indoor workers, leaving the outdoor workers with the “bad” “dangerous” clients. Before, these clients could be turned down but now the outdoor workers cannot afford to refuse them (Jacobsson, 2009).

Despite these negative aspects some prostitutes support the Swedish regime and used it to move out of the prostitution, helped by NGO’s, “exit-organisations” and/or the social welfare system, says Gudrun Nordborg (Interview, question 6). *“Some have also created good lives after the exit with academic education and a family of their own (Interview Gudrun Nordborg, question 6)”*.

Clients

Clients, when discovering unfree conditions, help trafficked women to escape their situation of slavery. Sex worker Pye Jacobsson (2009) explains that a frequent way for the police to find out about abuse, coercion and trafficking is through information of clients. Since the ban on the purchase of sexual services, clients do not call the police anymore when discovering bad circumstances because of their fear of being accused of a crime (Jacobsson, 2009).

Within NGO’s and social services clients can get help to stop with buying prostitutes because it is said that the buyers are *“not happy with their situation”* (Interview Linde and Göransson, question 1).

It can be concluded from the above that the feedback on the law is negative because prostitutes are even more isolated and more exposed to dangers, and because penalties for clients remain tolerable.

The criterion for good implementation is not fulfilled because the law refrains clients from denouncing bad conditions and exposes women on the streets to more dangers while driving the business underground. Additionally the government and policy maker’s interest to work with sex workers activists in order to discuss and improve the situation is low (Jacobsson, 2009).

6.3.6 Regulation implementation analysis conclusion

After having analysed the Swedish law according to the regulation implementation criteria, it can be pointed out that the initial confusion about terms used in the law has been overcome. A major problem remaining in Sweden is the division of responsibilities in the field of prostitution and trafficking in women. The police arrests clients, the municipalities provide assistance to victims according to their means and anti-trafficking efforts are spread between different ministries (E-notes, 2010). In 2009 a centralised organisation for cooperation in trafficking in human beings has been initiated. Even though objectives of the policy have been elucidated, task attribution requires major improvements.

Sweden invested important sums for the implementation of the ban. It turns out that the money needs to be earmarked for the special purposes of arresting sex buyers. If the resources are not earmarked but combined with resources for combating trafficking or family violence, less priority is given to the pursuit of buyers of sexual services (Working Group on the Legal Regulation of the Purchase of Sexual Services, 2004). Within the police's staff resources special units for the street prostitution situation were created (Swedish Government Report, SOU 49, 2010).

According to the government, the two intended effects of the law, reducing the attractiveness of the country for traffickers and promoting gender equality by stating that women, men and children are not for sale, have occurred. Wire taps recording traffickers discussions prove that Sweden is less attractive for their business and numbers of buyers of sexual services have decreased (Ekberg, 2004; Swedish Government Report, SOU 49, 2010). But actually concrete evidence and data are lacking and the government did not commission any academic institution with an evaluation of the law. The government openly states that the law is not about results but about a shift in established gender norms.

Compliance within the police towards the law took some time, but after initial doubts and reluctance it has been accepted by the Swedish police forces as long as other factors like financial resources for and prioritisation of the law are established.

The beneficiaries of the law are indoor, Swedish prostitutes (Jacobsson, 2009) because they get the good clients scared of being caught outdoors. Foreign and street working women are less well off because quickly jumping into the car of nervous clients for negotiations makes them even more vulnerable. Often the only option is to work in illegal brothels or alone, thus increasing isolation and possibilities for exploitation.

Clients are of course affected by the law, but because of low punishments and possibilities to purchase sex abroad or in safer, less controlled indoor contexts, the effect on demand appears to be less important than displayed by the government.

The final intended effect of the ban on purchasing sexual services is elimination of prostitution in Sweden, but the real effect appears to be no knowledge at all about a sector forced to operate underground.

6.4 Sociological analysis

As in the chapter on the Netherlands, the sociological analysis completes and deepens the analysis of the regulation implementation criteria. It is more focused on the societal picture prostitution policy creates, than on its regulative dynamics.

The four criteria, displaying the attractivity of a country for traffickers, will show whether the ban on the purchase of sexual services contributes to the prevention of a lucrative trafficking in humans business in Sweden.

6.4.1 Profitability for traffickers and prostitutes

Traffickers

The Swedish government claims that Sweden has become a less attractive market to traffickers (Ekberg, 2004). Testimonies of victims confirm that traffickers experience difficulties, because of the high discretion costumers ask for or the need to operate several apartment brothels in order to reduce exposure (Ekberg, 2004; Interview Jenny Andersson, question 1). Pimps and traffickers prefer to operate on markets where the buyer is not criminalised and where certain prostitution activities are tolerated or legalised (Interview Gudrun Nordborg, question 5; Interview Henrik Sjolinder, question 4).

The NCID concludes therefore that the law that prohibits the purchase of sexual services can be seen as a “*barrier against the establishment of traffickers in Sweden*” (Ekberg, 2004).

Jenny Andersson from the International Centre for Migration Policy Development agrees with the law being a barrier because it makes it more difficult for traffickers to act in big organised criminal groups, i.e. to traffic a large number of victims to the country at the same time, as there are no structured networks in Sweden (e.g. brothels) (Interview Jenny Andersson, question 1).

“*Not trafficking per se is easier in countries that legalised prostitution, but the structures inherent to legalisation make organisation of the business more attractive in countries where prostitution is legalised than where it is not.*” (Interview Jenny Andersson, question 1).

The ICMPD, Andersson’s employer *nota bene*, argues that whether the demand for sexual services is met by trafficked persons/forced prostitutes or by consensual prostitutes depends on the relative cost of these services.

If a state creates conditions under which it is not profitable (thus too risky) for the traffickers to offer services provided by trafficked persons, the supply of services provided by trafficked persons will diminish. To put it differently, if the state criminalises trafficking in human beings and forced prostitution and enforces rigorously the law, the risks and therefore the costs for traffickers will go up. At some point it will cease to be profitable for traffickers to enter or to stay in the business of trafficking. Consequently, whether services provided by trafficked persons are provided on the market is determined, among other things, by the severity of criminalisation of trafficking in human beings and the degree of law enforcement (ICMPD, 2009). Sofi Linde and Eva Göransson (Interview, question 1) from the women’s shelter Skogsbo confirm that it is more complicated to traffic persons to Sweden because of the law against purchasing sexual services.

It should be quickly noted that legalisation might have had a positive effect on the prostitution sector in the Netherlands in connection to tourism on the *Wallen* in Amsterdam with its famous windows (Interview Hannes Snijder, question 2; Interview Floris van Dijk, question 2&5). And similarly criminalisation of the client in Sweden might have had a positive effect on the prostitution sectors in other countries because of Swedish sex tourists. Different studies on johns reveal that it is common to buy sex abroad (Swedish Government Report SOU 49, 2010, p. 29; Interview Floris van Dijk, question 5).

Sex workers

Pye Jacobsson states that Swedish law has had positive effects for her as a Swedish, middle aged, indoor sex worker because clients feel more safe with Swedish than with foreign workers. The former can thus charge more (Jacobsson, 2009).

6.4.2 Visibility and social acceptance of prostitutes/clients

Despite the government proclaiming the success of the law and its effect on demand and trafficking in women (Interview Gudrun Nordborg, question 5&7), it should rather be said that the law achieved a restructuring of visible street work and invisible off street work (Scoular, 2010, p. 19).

Many Dutch stakeholders able to judge the prostitution scene in Sweden see it shifting underground as well as to the internet (thus into illegality) because criminalisation of the client leads to losing sight and control of the sector in their opinion (Interview Floris van Dijk, question 2; Interview Carla Aarsen, question 1; Interview Marjan Wijers, question 2; Interview André van Dorst, question 8).

“Everything that is forbidden goes underground which means that one loses sight over what is happening and decreases the possibilities to control abuse and exploitation in the sector (Interview Hannes Snijder, question 2).” André van Dorst (Interview question 10) confirms that the idea of disappearance of prostitution because of prohibition and criminalisation of the client is illusionary: *“It is naive to think that taking away supply at one place, will not lead to its appearance somewhere else again. The only thing you get is a shift and very local effects”*. The above cited statements are opinions of Dutch stakeholders on the Swedish policy and its effect and should therefore be consumed carefully. They are no hard evidence, but a mere indication.

The gender equality and violence against women argument convinced the citizens who support the law with a great majority of 70% (Swedish Government Report SOU 49, 2010), as well as women who have been in prostitution (Ekberg, 2004, Interview Gudrun Nordborg, question 6). Several studies on public support for the law indicate that the law has had a normative effect which is expected to last because support is greatest among young people (Swedish Government Report SOU 49, 2010).

But the great public support of the law also made all sex workers in Sweden appear as victims (Jacobsson, 2009). Good citizens will call the police when they suspect their neighbours of selling sex. This can cause sex workers to lose their apartments because the landlord will have to throw them out, being otherwise charged of pimping. Mothers have been losing their

children, not because they are sex workers, but because they are sex workers who do not understand the need to stop (Jacobsson, 2009).

If a sex worker insists on working saying it is not a problem, he or she is considered as bad and will be punished because the person does not understand that the government wants to safe him or her (Jacobsson, 2009).

In Sweden the general public considers prostitution as something bad and wrong (Interview Linde and Göransson, question 4). Selling sex is something the prostitute is forced to do either due to a difficult social background or drug abuse. That someone actually prostitutes oneself because he or she wants to do so is “*generally speaking something that most Swedish people have difficulties believing*” (Interview Jenny Andersson, question 1).

The State totally adopts and supports the stances above and that is why the intended switch of norms goes dangerously hand in hand with intolerance towards persons thinking and acting differently, meaning prostitutes deciding to work voluntarily whatever the reason or motivation might be.

The consequences of arrest for clients within the general public have not been analysed at this stage of the research, but since the penalty mostly results in a fine, the breach of the law probably remains mostly undiscovered by family and friends.

But since targeting demand is crucial within Swedish prostitution policy, a nationwide poster campaign⁷³ was undertaken in 2002. The general aim of the campaign was “*increasing public awareness about prostitution and trafficking in women by pinpointing the buyers*” (Ekberg, 2004, p. 1202). The campaign has been evaluated and although generally the content has been appreciated, women reacted more positively than men (Ekberg, 2004, p. 1203).

6.4.3 Permeability of borders

Despite the radically different views and approaches Sweden and the Netherlands meet in their way of treating foreign women in prostitution (Hopkins, 2005, p. 169). Both countries treat foreign women the same way, namely not asking them what they want because they are either victims or criminals.

Trafficking occurs because the possibilities for regular migration have declined, as more stringent entry controls force migrants to use illegal channels (Salt, 2000, p.32). The opposite view is that lax entry controls related to e.g. the Schengen zone have made it easier for trafficking to thrive, amongst others because anti-trafficking legislation is scarce and its enforcement frequently weak and uncoordinated (Salt, 2000, p.32).

“Whether either (or both) of these views holds, the consequence is the emergence of a market for irregular migration services, in which the mechanisms and forms of organisation are still relatively unknown. Irregular migrants making use these services are exposed, both to unscrupulous service providers and to the immigration and policing authorities, thereby generating a dependence on the safeguards provided by the trafficking networks. Thus a symbiosis develops between traffickers and trafficked ” (Salt, 2000, p. 32).

⁷³ To see the posters cf. <http://www.thesolutionsjournal.com/node/895>, retrieved August 11th 2010.

Sweden needs to further develop indicators and guidelines to identify victims of trafficking and to coordinate more intensively authorities for the management of each trafficking case (E-notes, 2010, p.210). Procedurally legal identification of a victim of trafficking has to be carried out by the prosecutor leading the investigation. Mostly the victims are already back in their home country when the preliminary investigation starts. Swedish police agents then travel there to interrogate the victim (E-notes, 2010, p.210)!

It is the police who present the case to one of the prosecutors of the International Chamber who then decide whether the case can be brought to court (E-notes, 2010, p.210). If the victim is legally identified as such, he or she can benefit from the special residence permit for persons involved in court proceedings and he or she is granted a reflection period of 30 days (E-notes, 2010, p.210; Interview Emma Stenberg Ribeiro, question 5).

But this reflection period has never been applied in Sweden because of the an amendment in the Aliens Act in 2004 introducing the possibility to issue a temporary residence permit for foreign victims of crime (E-notes, 2010, p.210; UNODC, 2009, p. 284). It lasts six months and can be extended by the prosecutor if needed (Interview Gudrun Nordborg, question 4).

Only the prosecutor in charge may apply for the residence permit and only if the victim is needed in the judicial procedure (E-notes, 2010, p.210). This means that a foreign victim can only stay in Sweden when the prosecutor absolutely needs him or her in the investigation.

In 2008, 15 persons were granted a temporary residence permit and in 2009, 23 trafficked persons received it (E-notes, 2010, p.210). According to state officials, most victims opt for the return to their origin country and 80% of the identified victims are said to return home immediately (E-notes, 2010, p.210; Interview Gudrun Nordborg, question 4). But staff from a women's shelter writes that actually most women want to stay in Sweden (Interview Linde and Göransson, question 2).

No official statistics are available for this subject!

“The objectives of return projects are to make trafficking victims' return safe, efficient and adequately organised so as to avoid the risk of re-trafficking. The project aims to provide victims with opportunities to start a new life when they are back in their home country. The project works closely with NGO's and governmental bodies in countries of origin and in transit states, among other things to create routines for safe returns (Interview Henrik Sjolinder, question 3)”. How these return programs concretely look like and fail because perspectives for women in their home countries are not improving over night, can be read in Hopkins (2005).

As in the Netherlands, it is hard for migrants being victims of traffickers to receive their rights in Sweden. Behind the openness of residence permits and reflection times, hides the arbitrariness of a prosecutor. The fact that there are no serious statistics and records about the destinations and destinies of foreign victims sent home is mildly said disturbing. Nevertheless staff of a women's shelter working closely with victims of trafficking in human beings for sexual purposes affirms that the *“system is becoming more and more generous and*

understanding for the issues” (Interview Linde and Göransson, question 9; Interview Gudrun Nordborg, question 10).

6.4.4 Exit possibilities for prostitutes and buyers

Prostitutes

The UNODC (2009) states that medical and psychological care are provided by social services when there is an ongoing trial against perpetrators. Women’s shelters also offer help to victims of trafficking and housing and shelter may be provided by social services (UNODC, 2009, p.284; Interview Emma Stenberg Ribeiro, question 4; Interview Linde and Göransson, question 3).

The general UN facts above are deepened by a more specific European report stressing that there are few accommodation facilities available and designed for victims of trafficking (E-notes, 2010, p.210). Accommodation is often run by NGO’s or the social services prostitution units in the three major cities Stockholm, Gothenburg and Malmö.

There are assistance standards in place for trafficking victims like the national model for women coming out of trafficking providing accommodation, trauma therapy, sport activities, child care and job training (Interview Linde and Göransson, question 3).

Job training and occupation during rehabilitation is not regarded as sufficiently present according to the E-Notes report (E-notes, 2010, p.210) and once the trial is over the victims are sent back home.

Career switch programs like they are offered in the Netherlands (cf. Interview Nynke de Vries) do rarely exist in Sweden, amongst others because of the victim perspective the country adopts, excluding personal initiative for these women.

The return of victims of trafficking is currently managed case by case by the municipalities, local police and the Migration Board. Contacts with the countries of origin regarding victims of trafficking are few. A joint nationwide cooperation model for safe return of victims of trafficking is in the making (E-notes, 2010, p.211).

Pye Jacobsson (2009) argues that even though the Swedish government wants to get women out of prostitution, it offers them nothing. There are no exit programs, no specially trained social workers and the interest to work with sex workers activists is low (Jacobsson, 2009). Sweden thus makes a distinction between voluntary and forced prostitution in this case since voluntary sex workers do not have the same right to a shelter and help, even if they need it (Interview Linde and Göransson, question 2).

There is a Crime Victim Compensation and Support Authority compensating for violation of personal integrity and financed by tax revenues (Interview Gudrun Nordborg). Ideally compensation for the victims is paid by the perpetrator (Interview Henrik Sjolinder, question 3). The Authority is handling about 10 000 applications and pays about 110 million SEK in compensation each year, but applications and payments for victims of trafficking are few (Interview Gudrun Norborg, question 3).

Buyers

Sweden has projects and programs targeting the behaviour of sex buyers. The country sees costumers as people who are in need of help and can get it at NGO's (Interview Linde and Göransson, question 1&8).

6.4.5 Sociological analysis conclusion

With regard to profitability for traffickers, it can be said that the law against the purchase of sexual services and general prohibition of prostitution reduce the attractiveness of the Swedish market because structures like strict police controls or fines for clients hinder the establishment of a flourishing business (Interview Jenny Andersson, question 1; Interview Gudrun Norborg, question 5; Interview Linde and Göransson, question 1&6). But there are always ways to get something that is forbidden. Even though there is no statistical proof, the law has probably driven some Swedish sex buyers across the borders to countries where it is safer to purchase sex.

The law has been profitable for the group of indoor, Swedish sex workers due to safety interests of the buyers avoiding the streets (Jacobsson, 2009).

Prostitution has never been as visible in Sweden as it was in other countries but among all the uncertainties revolving around the law and its effects, it can definitely be assured that prostitution and its grievances have become even more invisible because of the law.

Swedish society totally embraces the moral stance of the government, namely that prostitution is a form of degradation of and violence against women that should be stopped by addressing demand. But addressing demand results in fines and short imprisonment for men. For women in prostitution the law means more victimisation and isolation from society. Swedish sex worker Pye Jacobsson (2009) states in her interview that Sweden's self-proclaimed status of being the perfect society is destroyed by two groups, namely drug-users and sex workers. That is why they are hidden.

But why are the sex workers isolated again and the buyers left in relative peace if the law was supposed to alter norms and increase gender equality?

Sweden's interest in its national security and welfare predominates and outweighs the task of the same welfare system to help foreign prostitutes and victims of trafficking for sexual purposes. If not immediately deported to their home country (and interrogated there if needed!) temporary residence permits enable the victims to stay in Sweden for the time they are needed in the trial or investigation.

The holders of such a temporary residence permit, often receive accommodation by Social Services and psychological help by local NGO's.

6.5 Interim conclusion for Sweden

Swedish prostitution policy addresses demand for sexual services by penalising the buyers. At the same time it reduced all sex workers to victims abused and exploited by trafficking gangs because it is generally recognised within Swedish society that no women would ever prostitute herself voluntarily.

The analysis of the implementation of Swedish prostitution policy reveals fulfilled, partly fulfilled and unfulfilled criteria guaranteeing good implementation of the policy.

Within the regulation implementation analysis, the first criterion, clear policy objectives and task attribution has only partly been fulfilled. The objectives of the ban on the purchase of sexual services seemed clear, but the formulation of the law and its content required many clarifications and explanations. Definitions having been given and received with more or less acceptance.

Task attribution for arresting clients, caring for victims, solving trafficking cases are spread between many different authorities fulfilling their tasks uncoordinatedly and according to different standards. Major improvements need to be made and efforts centralised.

Sweden invested millions of SEK in a first instance for technical undercover work of the police in order to detect clients. When the funds were not earmarked for work on clients of prostitutes, other matters were given priority. Resources for housing, specialised social workers and trainings for stakeholders were only concretely made available since the *Action Plan against Prostitution and Human Trafficking for Sexual Purposes* of 2008. Special trafficking and prostitution police units within the existing staff have been set up to focus on the matter.

Sweden did not fix a time frame for success of its policy. Nevertheless a follow up of the Action Plan is planned for 2011. Sweden thus fulfilled the sufficient resources criterion quite well. How well and efficiently it is spent remains to be seen.

Achievement of the third regulation implementation criterion, correct underlying theory of cause and effect, can only partly be seen as fulfilled since Sweden headed for two effects. Namely a decrease in attractiveness of the country for traffickers and a change of norms within society. The first effect is said to be proven by phone interceptions where traffickers indicate difficulties in Sweden. This might be the case but mild penalties for buyers and difficulties to bring prostitution cases to court because of lack of evidence bear enough possibilities for clients to make use of prostitutes on other markets than street prostitution (indoor, abroad, internet...).

It is exactly the use of other prostitution markets that demonstrates that norms have not majorly been altered. A lack of statistics and research reinforces doubts about an actual transformation of norms.

Compliance to the law seems to have increased over the years among the police, but its degree is still highly connected to other factors, like money and priorities of the police unit. Since Sweden does not listen at all to sex workers activists the last criterion regarding feedback of policy beneficiaries remains unfulfilled.

The sociological analysis revealed that Sweden is less profitable for traffickers, not because of the criminalisation of clients but because of the lack of structures to earn high profits (e.g. no brothels).

The law has contributed to ongoing victimisation of sex workers in Sweden. Persons doing the job voluntarily are disgraced in collective Swedish thinking. This puts all prostitutes even more in a corner and exposes them to more isolation and dangers.

Foreign prostitutes having been victims of trafficking networks are mostly sent back to their country of origin if they are not explicitly needed for the trials because they are seen as illegal migrants.

Structures for housing and psychological help are existing but social workers need more training for the work with traumatised victims.

Hence, even though Sweden addresses demand and thereby complicates trafficking business to some unknown extent, the influence on the buyers remains small because of low penalties. The major drawbacks of Sweden's policy making lies in the absolute ignorance of what happens indoors, via internet contacts and abroad, as well as in the stigmatisation of sex workers and the reluctance to integrate their opinions and ideas.

With regard to the hypothesis of this thesis it can be stated that if prostitution is prohibited and clients penalised, than the structures for the trafficking of women for sexual purposes are less favourable for big trafficking networks.

7. COMPARISON SWEDEN AND THE NETHERLANDS

The last chapters have shown how the Netherlands and Sweden succeed or fail in implementing their prostitution policy aiming amongst others at curbing trafficking in human beings for sexual purposes. The table underneath roughly and briefly summarises the outcomes of the regulation implementation and sociological analysis.

<i>Criteria for good implementation</i>	<i>NL</i>	<i>SE</i>
Clear objectives, task attribution	Unfulfilled	Partly fulfilled
Sufficient resources	Unfulfilled	Fulfilled
Correct theory of cause and effect	Unfulfilled	Partly fulfilled
Compliance to goals (implementers, prostitutes, operators)	Unfulfilled	Partly fulfilled
Target group feedback	Irrelevant	Irrelevant
<i>Sociological criteria for attractiveness of country</i>		
Profitability for traffickers/prostitutes	Yes (traffickers)/No (sex workers)	Impeded (traffickers)/Yes (for indoor and abroad)
Visibility and social acceptance of prostitutes/clients	Visible sector Return of stigma and victimisation	Invisible sector Total stigma and victimisation
Permeability of borders	In no, out yes	In no, out yes
Exit possibilities	Insufficient	Insufficient

At the first sight it seems as though Sweden outperformed the Netherlands in fulfilling the criteria for good implementation and its prostitution policy appears to make the country less attractive for traffickers because risks and thus costs are increased.

But actually both countries do not get a sufficient grade for the implementation of their prostitution policies when it comes to tackling trafficking in human beings for sexual purposes. In this regard both perform badly and this is illustrated by the following facts:

In the Netherlands the lifting of the brothel ban was mainly aimed at indoor prostitution. In Sweden the ban on the purchase of sexual services essentially targets street prostitution. But trafficking in human beings for sexual purposes is not limited to one area or the other. And as literature and the interviews reveal, policy measures, whether of regulationist or prohibitionist nature, in one part of the sector lead to a shift of the business towards another part.

In the Netherlands a part of the sector is very visible in windows, and legalisation was supposed to guarantee transparency and visibility of bad conditions and exploitation, thus also trafficking for sexual purposes. This did not happen because the illegal sector is totally left aside by the authorities exclusively focusing on the licensed sector where problems are fewer.

It needs to be admitted that in the Netherlands at least the peak of the iceberg is visible and renders some monitoring, data collection and overview possible. In Sweden, what was visible from prostitution, namely on the streets, goes even more underground because of the ban on purchasing sexual services. It speaks volumes that the government report evaluating the policy gives no clear and concrete data or indications on the situation at all (Swedish Government Report SOU 49, 2010). Trafficked women hence disappear in illegality and invisibility in both countries.

Both investigated countries made some more or less intense efforts to train their police forces for the difficult world of prostitution, but what was totally left aside was education and training for prosecutors and judges who imperatively need to understand and see through complex behaviours and facades victims of human trafficking and their perpetrators display. Despite a raise of the level of penalties for trafficking, other crimes like for example drug smuggling are still and inexplicably punished more heavily.

The focus on the perpetrators is not strong enough in the Netherlands. Competencies of the police are impeded by their dependence on strong evidence for exploitation or abuse and when criminals get caught penalties are low. In Sweden traffickers are even more invisible than the prostitutes.

Both countries also intended to alter norms and values regarding prostitution with their policies. The Netherlands strived for a normalisation and destigmatisation of the sector which did not occur, whereas Sweden, condemning normalisation, attacks it by questioning and punishing demand for sex in order to re-educate its population. Despite the laudable and important contribution to the gender equality debate made by addressing demand, the policy did not majorly influence norms since buyers now purchase indoors or abroad.

In Sweden the National Rapporteur on trafficking in human beings works for the national police and also has operational tasks, whereas the Rapporteur in the Netherlands is an independent body monitoring developments in policy and patterns of trafficking in human beings. The latter version is desirable in Sweden and all European countries as well in order to establish an institution developing expertise, knowledge and understanding for the phenomenon of trafficking in human beings. All EU Rapporteurs need to be connected for collaboration and exchange of practices and know-how.

Neither of the countries involves prostitutes, the persons most affected by policy-making and knowing the sector, into debates and decisions. Party-political interests and especially moral fears and concerns prevail over real democratic behaviour. In both countries acceptance of and tolerance for sex workers and their work is intentionally or unintentionally deficient. Stigmatisation remains under both regulative regimes, which do not counteract victimisation and thereby contribute to a dehumanisation of sex workers. At least Dutch prostitution policy contains a fraction of an idea of strong, independent women making their own choices and getting the possibilities to do them in secure surroundings, while the non distinction between

prostitution and trafficking for sexual purposes in Sweden actually creates intolerance, objectifies women and deprives them of their rights.

Care and staff training standards in shelters and therapy centres need to be improved, as well as adapted to special needs of various groups (men, ethnical minorities, minors, pregnant women...). In general the problem with lacking accommodation has to be solved in both countries. Next to care and therapy for victims of human trafficking, facilities and expertise in career orientation and switches should be expanded in the Netherlands and Sweden.

Where both nations excel in is safeguarding their borders and welfare from illegal migrants. Because providing evidence for trafficking in human beings cases is tough, as well as time and staff intensive, many cases do not make it to court. A foreign victim of trafficking for sexual purposes often only receives a temporary residence permit if she has been recognised as such by the authorities and is otherwise sent back to her home country no matter the age, story or family situation.

Sweden as well as the Netherlands did not implement their regulations well and that is why the effect of them on trafficking in human beings is minimal to non-existent. If the policies would have been implemented well, maybe they would have contributed to the fight against human trafficking to some extent, but the deficiencies in both countries with regard to the prostitution sector are so serious that even good implementation of prostitution policy would not solve the problems with trafficking in human beings for sexual purposes.

The above standing paragraphs summarising the effects and differences of Dutch and Swedish prostitution policies, lead to an important question. What are actually the profits of legalisation or criminalisation of the buyer and for whom? The answer is heavily depending on a person's moral understanding and world view, but what is certain is that victims of human trafficking for sexual purposes are not better off in any of these policies.

CONCLUSION

This research asked and answered many questions. Amongst others, it has been asked which term appropriately defines a person in the sex industry (prostitute or sex worker). Providers of sexual services express a preference towards the term “sex worker” because of its inclusiveness for all persons active in the business and its element of respect. This preference should be respected, no matter which ideology hides behind the word.

The main research question of this thesis asked “*What type of regulation of prostitution contributes to the prevention of trafficking in women for the purpose of sexual exploitation in Europe? And why?*”

Five sub-questions functioned as pillars in order to answer the main research question above.

-How is trafficking in women for sexual purposes organised? Trafficking for sexual purposes is run by networks operating as multi-product organisations in an extremely profitable business. This means that the profits generated by prostitutes are used for and combined with other criminal activities like drug or car dealing. The trafficking process is divided into a recruiting phase in the origin country, a transport phase through a transit country and an integration phase into the destination country. The real bosses operate in the dark and next to the pimps there are many facilitators. Few is known about exact structures and patterns within the trafficking for sexual purposes world, but it is generally acknowledged that the networks are highly flexible, innovative, well-connected and ahead of the police and Europol. Furthermore trafficking networks can be described as profit-oriented and they hence are attracted by countries where good money can be made and risks of being caught are relatively low. This knowledge makes it possible to claim that trafficking in women can only be fought by reducing benefits, as well as increasing risks and costs for traffickers.

-What is known about forced prostitution in Sweden and the Netherlands? Concrete data on forced prostitution are hard to establish because of the illegal character of the business and victim numbers are only recorded since a few years. The Netherlands are considered as a top destination for trafficking for sexual purposes. Sweden is classified as a medium destination country.

-How do prostitution policies function and respond to trafficking in women for sexual purposes in the Netherlands and Sweden? In Sweden forced prostitution is a pleonasm because in the eyes of the government no woman does it voluntarily, whereas the Netherlands accept sex work done out of free will as a legitimate job.

The Netherlands hence legalised the sector and installed a licensing system through which control and overview were to be achieved in order to clean the sector’s image and turn prostitution into a legitimate activity. But legalisation divided the sector into a heavily controlled licensed business and a forgotten illegal business. Trafficked women are mainly to be found in the latter and the police’s, as well as the authorities’ attention for the illegal business has been far too little.

Sweden operates a policy aiming at reducing demand for sexual services by criminalising the buyer. Additionally the regulation fulfils a normative function stating that in Sweden persons are not for sale. In general the criminal act of buying sexual services is hard to prove and

penalties are low. Street prostitution decreased due to the regulation but pushed the sector underground. Trafficked women are hence again out of sight and knowledge about them is low.

Additionally both regulation systems marginalise women in prostitution: prohibition by generally considering prostitution as something bad and wrong and victimising all women working in the sector; regulationism (legalisation) by holding up an image of strong, independent and legitimately working sex workers who in reality did not experience any amelioration of their position within society at all. Sex workers are still put in a corner and hence remain susceptible for exploitation.

-Can the amount of forced prostitution in Sweden and the Netherlands be explained by the countries' respective policies? The likelihood that the Netherlands are a more attractive country for traffickers than Sweden because of legalisation is high.

In the Netherlands networks can openly advertise, display and profit from the women. Clients can easily access windows and brothels. The lack of attention for the illegal business, as well as low penalties render benefits higher than costs and risks for traffickers in the Netherlands.

In Sweden attention for the underground business needs to be intensified, but criminalisation and the prohibition on publicly selling sex hamper the access of trafficking networks to clients and of clients to prostitution. Criminalisation of the client does not stop trafficking in women for sexual purposes to Sweden, but impedes the scale and demand for prostitution more than in the Netherlands.

Costs and risks for the trafficking business seem higher in Sweden than in the Netherlands, but to an unknown extent because of the lack of concrete data.

-To what extent can/shall the EU be involved regarding prostitution and trafficking policies? Trafficking means transborder crime and therefore relates to EU affairs. The EU should persistently push member states to install more uniform standards for victim identification and care. Prevention and investigation of trafficking should be fostered through binding legislative acts. Cross-border investigation cooperation needs to be amplified and data collection intensified. The tools for it, like for example joint investigation teams, have to be made available and affordable. Furthermore the EU should also start to reflect on the potential contribution of Fortress Europe to the trafficking business.

Prostitution policies will for now remain national business but member states should ideally use them to prevent trafficking as much as possible.

This comparative case study answers the main research question by showing that Swedish prostitution regulation in all likelihood contributes more to the prevention of trafficking in women for the purpose of sexual exploitation than Dutch prostitution policy, because prohibition and criminalisation of the buyer create structures hindering the business and making it less profitable and more risky for trafficking networks in Sweden.

Still both countries could do more to prevent trafficking by more intensively focusing on and undermining business in the illegal (underground) sector where forced prostitution is mainly to be found. Less restrictive immigration policies could also play a major role in preventing young women from ending up in the arms of traffickers. Enabling women from countries without any perspective for them to legally and safely enter the EU, on their own, in order to

construct a future for themselves would greatly reduce the number of potential victims in the net of traffickers.

This research finds that prostitution policy (despite a greater trafficking reduction potential in Sweden than in the Netherlands) is not contributing to the fight against trafficking in women to the extent policy-makers and researchers think. It hence seems as if other regulations inherently related to the trafficking business, like immigration policies, should receive more attention within the anti-trafficking fight and within theory on prostitution regulation related trafficking. Additionally this research makes clear that exploitation within the prostitution sector is not curbed with top-down policy-making.

At the present moment the fight against trafficking in human beings is a huge construction site with many teams, ideas and wishes waiting for an architect. That architect needs to be found quickly because regulations and authorities are not operating as effectively as traffickers.

RECOMMENDATIONS

Many deficiencies have been demonstrated in the prostitution policies of the Netherlands and Sweden. But the knowledge about the failures and problems allows to bring forward the recommendations underneath.

To prevent trafficking in women for sexual purposes:

- Benefits for traffickers need to be reduced and risks, as well as costs increased
 - by guaranteeing higher penalties for pimps, traffickers and facilitators, as well as consequent pursuit of them
 - by freeing more staff capacities and resources for investigation in trafficking cases
 - by training judges and prosecutors for trafficking cases and coordinating judicial experiences
 - by investing in, improving and building up shelters, facilities, expertise and care for victims
- The voices of the sector need to be imperatively integrated into policy-making and decisions (bottom-up approach) and need to be placed above moralising party politics
- The focus on investigations and research needs to be on all branches of the sex industry, especially the internet and also on traffickers
- Public debate on acceptance of the legal business and an amelioration of the situation and position of sex workers in society needs to be fostered
- Research on the influence of Fortress Europe on the trafficking business needs to be initialised
- Standardised data collection on THB in all EU countries needs to be set up

REFLEXION

Investigating the effect of prostitution policies in Sweden and the Netherlands on trafficking in women for sexual purposes through a comparative case study has been a choice entailing several consequences.

First of all, limiting the research to these two countries brought about a detailed picture of the national situation in the Netherlands and Sweden. But trafficking in women affects all EU countries and beyond, therefore all member states should have been depicted in order to gain a complete view on the situation. This would also have refined the findings since this research focuses on the rather antipodal cases of Sweden and the Netherlands sometimes creating a black and white perspective. Of course this report has its limits in space and depth, but a follow-up study could use the present methods and criteria to analyse other EU countries, for example Germany and Finland which handle different regulative versions of respectively legalisation and criminalisation of the client.

Another limitation for this research has of course been the availability of concrete data. It was necessary to rely on national reports and numbers which only represent slight indications of what is really going on in the prostitution and especially the trafficking scene. Immersing oneself into the sector by following a prostitute, a police agent or a social worker remains a difficult undertaking for students though. But a follow-up study in e.g. a shelter for victims could analyse whether the conclusions and statements of this research are confirmed in particular contexts.

The interviews made for this research reveal important stakeholder information and provide insights academic literature does not always offer. But despite the variety of interviewees a certain bias could not be avoided. The experience of police agents in the Netherlands and Sweden would have been an important contribution, but unfortunately efforts to arrange interviews failed. Police documents certainly are valuable sources, but answers to the specific questions of this research might have nuanced the findings in one way or the other.

Furthermore information about the Dutch case is slightly more exhaustive because living in The Hague close to agencies concerned with trafficking and the possibility to approach stakeholders in Dutch facilitated making contacts. I felt that speaking Swedish would have made the establishments of contacts and the analysis of some documents easier. For Dutch documents it was possible to read the entire report, whereas with Swedish documents sometimes only the summary was available in English. If this research had to be made again I would have travelled to Sweden to visit a shelter, the police, prostitutes and ministries.

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Attachment 1 - Interviews with Dutch stakeholders

Interview Hannes Snijder (Senior Researcher BNRM)

1. One of the goals of the lifting of the brothel ban was to fight trafficking in human beings for sexual purposes, but there still remains a lot of exploitation in the prostitution sector in the Netherlands. What were the errors made during implementation of legalisation and have shortcomings and errors fostered human trafficking?

It cannot really be said that errors have been made during implementation, but one can say that some choices have not been consistently performed.

The idea behind legalising was to normalise prostitution and thereby liberate the sector from conditions in which exploitation can occur. The intention was to make prostitutes less vulnerable and less susceptible for exploitation, but in order to achieve this a real normalisation of the job is required, meaning no impediments with taxes, mortgages at banks etc. Unfortunately this normalisation has never taken place and the question is of course whether it is possible at all. The profession stayed special despite legalisation. The government should have invested more into the elimination of the peculiarity of the profession.

Additionally, it needs to be mentioned that legalisation requires sufficient oversight. That oversight has not been sufficiently organised in a coherent way. Local autonomy and participation of the municipalities was counterproductive in that sense.

Legalisation needs flanking and complementary measures which maybe have not been taken that well.

2. Since 1999 Sweden criminalised the clients to decrease the demand for prostitution and to make the country less attractive for trafficking networks. What do you think of this policy and its intended effect on trafficking in women?

The BNRM thinks that the organisation of the prostitution sector is not really decisive for a (un)successful fight against human trafficking.

By criminalising the clients prostitution cannot be banned and stopped. Everything that is forbidden goes underground which means that one loses sight over what is happening and decreases the possibilities to control abuse and exploitation in the sector. The Netherlands legalised prostitution to achieve as much insights and overview as possible. Sweden chose prohibition to keep the sector small with the danger that the sector goes underground because prostitution is hard, if not impossible to ban. In the approach of Sweden supervision and control need to be included. In order to prevent the sector from moving into illegality, good monitoring has to be put into place.

Human trafficking definitely exists in Sweden but it happens underground. It is an illusion to think that the ban against the purchase of sexual services can eliminate exploitation in the sector or even let prostitution disappear.

Maybe there has been a decline of prostitution in Sweden and maybe the tolerant policies of the Netherlands let the sector grow unintentionally (for example if one looks at tourism on the *Wallen* in Amsterdam), but the Netherlands have more knowledge about what is happening.

In fact when it comes to human trafficking, everything revolves around specific measures a country takes in the area of qualitative oversight, investigation and prosecution.

3. Is the flow of trafficking in women related to regulation of prostitution in a country?

The open borders with Eastern European countries are a problem because more women are brought to the Netherlands in order to work in the prostitution sector. A provision in the Dutch Penal Code prohibits the facilitation of the entry of women into the country with the purpose of working as prostitutes (even if the women know that they will work as prostitutes). Thus simply facilitating the entry of someone into the country is punishable. The Netherlands need to make much more use of this provision in order to fight human trafficking more efficiently.

4. Does the European Union do enough in the field of human trafficking or is more action required?

The European Union does a lot and Europol is a common investigation institution. The member states are encouraged and pushed to install measures and establish standards in areas like care for the victims, investigation and prosecution thanks to EU directives. The role of the EU is the establishment of norms and standards for the member states and their human trafficking policies.

The best way to curb human trafficking is to treat the causes which are mostly to be found in poverty and the bad position of women. An integrated immigration policy of the EU would also be an efficient tool to fight human trafficking, but because it would infringe the sovereignty of the member states it will not be set up soon.

Interview Floris van Dijk (EU expert group on human trafficking)

1. Through the licensing system and enforcement measures, Dutch policy is more concerned with the operators of brothels than with violent pimps or with clients (Daalder, 2007, p.13). What else is wrong with Dutch prostitution policy with regard to human trafficking?

A client cannot really put coercive pressure on the prostitutes. The clients represent the demand side and make use of an offered service, sometimes a forced service. The difference between pimps and operators is not clear. A pimp is a sex entrepreneur but he can also be a landlord owning a building with windows. In an average brothel there is no difference between pimp and operator, it runs together.

The good thing about the new prostitution law (WRP) is that it tries to create more responsibility on the side of the clients. If the client goes to a prostitute without license, he becomes liable to prosecution.

But in general the best way to prevent trafficking in human beings is serious investigation, inspection and strong repression for the employers and facilitators, like drivers or errand boys. If the employers (pimps) and facilitators are put into jail, this will have a preventive effect on their business colleagues who will be warned and scared. The best prevention is not done through educational campaigns but through strict enforcement of the law.

The new prostitution regulation (WRP) tries to increase the customer's liability, but if someone wants to enter prostitution out of free will, it must be possible in the Netherlands. It is seen as a right to do it and there is demand for it.

2. One of the goals of the lifting of the ban on brothels was to curb human trafficking for sexual purposes. Is legalisation the way to go to fight forced prostitution?

In general Mr. Van Dijk sometimes doubts the efficiency of the old policy.

Operators and facilitators are not pursued, controlled and treated strictly enough. Why? Because Amsterdam has become a tourist attraction thanks to the windows and the ladies in it. Upper world and underworld mix with each other and different interests intertwine. The *Wallen* is the perfect example to observe it.

Even though many windows have been closed strict measures are still lacking and there is too much passivity. The new law enables authorities to do better inspections and get more oversight.

The Swedish only enforce strict measures on the clients and that is why prostitution is driven into illegality. There is no overview on what happens with cameras, through public windows or police agents knowing the women. If Sweden's assertion that street prostitution has been diminished by 50% is true, other European countries are confronted with a problem because Sweden chased the women across the border. Within the European Union this does not represent a solution.

Since prostitution disappeared from the streets, it certainly has gone underground. The Swedish close their eyes in front of the fact that they have no knowledge about and oversight of what is happening in the sector.

The advantage of the Netherlands is that police agents know the women, see who is new and can control their papers. Things are more visible, but too much visibility is not good either because it can turn prostitution into a tourist attraction.

3. What are the positive and negative effects of the lifting of the brothel ban for trafficking in human beings in the Netherlands?

Too much things have been tolerated. The world of prostitution has always been dark and in the last years it has turned out that well-organised criminality hides behind a legal system. Lifting the ban on brothels has had no positive effects for the fight against trafficking in human beings, but the step was needed to make new decisions for the future.

4. Since 1999 Sweden criminalises the clients to decrease the demand for prostitution and to make the country less attractive for trafficking networks. What do you think of this policy and its intended effect on trafficking in women?

In Sweden there is no overview and control at all. Licenses enable supervision of the legal sector and monitoring can be done.

Clients knowingly visiting a forced prostitute need to be punished. Sweden criminalises every client, which is a black and white approach that needs to be nuanced. The Dutch approach thus seems more intelligent since it includes women who chose the profession voluntarily.

And there will always be demand for sexual services. Demand is followed by supply and simply punishing demand does not solve any problems at all. By criminalising the client prostitution becomes invisible and disappears behind closed doors or is exported abroad.

It is naïve to say that punishing the clients solves all problems, because this approach pushes the entire sector underground and makes it impossible to control.

Sweden also adopted a restrictive alcohol policy wherein demand is punished with high prices. Consequently the citizens produce alcohol illegally in their cellars or buy it abroad. This is exactly how it should not be.

5. Do you think that visible supply in windows and legal brothels positively influences demand for prostitution?

If the government does not take enough action against supply, areas like the *Wallen* can easily become a tourist attraction. But not only Dutch men make use of the supply if one looks at the huge number of English, Japanese, etc. tourists on the *Wallen*.

Along the E55 highway crossing Germany and the Czech Republic the biggest open air brothel in the world with thousands of prostitutes can be found. Mainly German, Austrian but also Swedish men drive a few hundred kilometres to visit a prostitute because it is possible. In Israel, Italy and Portugal prostitution is publicly accessible as well.

It is true that Dutch men grow up with prostitution in public and that it makes it more reachable, but do not forget the enormous influence the sector has on tourism and therefore on foreign people.

The most effective policy is an open system with strict enforcement of the law and pursuit of the bad boys.

6. Demand for different forms of exploitable work in the EU seems huge. How can the EU curb this demand?

Demand for exploitable work will always remain. The longing for a better existence in places in Africa and Asia is big and therefore the possibility of earning money in rich Western countries is attractive.

Within Europe this becomes complicated knowing that the minimum wage in the Netherlands is 1407 Euro per month, whereas in Bulgaria it amounts 127 Euro. A Bulgarian thus earns around 11 times less than a Dutch person and that is why Bulgarians come to the Netherlands, Germany or England where the wages are more interesting.

As long as people in Germany or the Netherlands are not willing to pay for products produced in a fair but more expensive way, wages will not be equalised.

The longing to migrate to Europe for food, education and a better life will not decrease and that provides the breeding ground for exploitation!

You and I will not see it happen that people in Latvia or Hungary are paid the same as people in the Netherlands.

7. Does the European Union do enough in the field of human trafficking or is more action required?

The best one can do keeping in mind the differences between countries is to do preventive campaigning. In the countries where the women come from, it needs to be clearly stated that migrating represents huge risks. Since some will come anyway, the bad guys operating in the sex industry need to be treated in a stricter way.

Heavy penalties are necessary and the pimp's wallets should be taken away as well, meaning that a sex entrepreneur having exploited and abused some women for five years should not only be imprisoned, but his bank account also needs to be emptied and his cars and houses confiscated. Trying to tackle things this way will make it all very interesting.

Interview Carla Aarsen (Senior policy-maker, Dutch Public Prosecution Service)

1. Through the licensing system and enforcement measures, Dutch policy is more concerned with the operators of brothels than with the violent pimps or with clients (Daalder, 2007, p.13). What else is wrong with Dutch prostitution policy with regard to human trafficking?

Answers to questions 1-2-5

Prostitution is a business that will never disappear and where exploitation lurks no matter whether it is legalised (licensing system) or prohibited (criminalisation of the client).

Personally, I see more advantages in the Dutch system because the licensing system offers possibilities to install rules in the interest of the security and health of the prostitute. Through controlling compliance to the rules signals indicating human trafficking can be noticed. Signals of abuse or exploitation enable the police to start an investigation, the municipality to withdraw licences or the tax authorities to issue a fine. That is what we call an integrated approach and the development of this approach made the Netherlands book good results.

It is the way we believe in, but that does not mean that we managed to eliminate organised crime from the prostitution sector.

Prohibiting prostitution and criminalising the client can only push the sector to go underground and operate illegally.

I suppose that demand for paid sex is a fact and prohibiting it leads to underground activity. This is not in the interest of the prostitute or public health and creates room for exploitation. Within the frame of the new prostitution law in the Netherlands (WRP) the client becomes liable if he visits a prostitute who is not registered at the municipality.

It is important to notice that this does not mean that the Swedish approach is adopted but rather that more overview and control of the business are created on top of the already existing licenses and registration systems.

2. One of the goals of the lifting of the brothel ban was to fight trafficking in human beings for sexual purposes, but there still remains a lot of exploitation in the prostitution sector in the Netherlands. Has legalisation been a good way to curb forced prostitution?

See question 1.

3. Do you think that visible supply in windows and legal brothels positively influences demand for prostitution?

I do not believe that visible windows and brothels create demand for a century old business. It possibly attracts sex tourists but that is only a part of the costumers.

4. Prostitution is still not normalised and looked at as legitimate work by banks, insurances and society. What can be done to increase acceptance of the profession?

No opinion.

5. Since 1999 Sweden criminalises the clients to decrease demand for prostitution and to make the country less attractive for trafficking networks. What do you think of this policy and do you think it diminishes trafficking in women?

See question 1.

6. Human trafficking and prostitution are difficult subjects tightly related to social and moral taboos. How does the Dutch Public Prosecution Service prepare staff working in the field?

There are special courses for human trafficking officers and detectives and they exchange experiences among each other.

7. What problems is the Dutch Public Prosecution Service confronted with at the moment when it comes to trafficking in women cases?

There are problems with:

- Reticence of victims to make a declaration
- Declarations reveal only few concrete pieces of evidence for investigation
- Human trafficking cases are difficult with regard to evidence and proving evidence
- Jurisprudence is still in the making and the degree of penalties varies from court to court.

Interview Marjan Wijers (Consultant human rights and human trafficking)

1. One of the goals of the lifting of the brothel ban was to fight trafficking in human beings for sexual purposes, but there still remains a lot of exploitation in the prostitution sector in the Netherlands. Has legalisation been a good way to curb forced prostitution?

Decriminalisation of the prostitution sector is a good thing, but it has to go hand in hand with investing into the amelioration of the position of the prostitutes. That did not happen. Actually the opposite has happened because since 2000 all installed measures reinforced the monopoly position of the operators instead of supporting prostitutes to work independently.

2. Since 1999 Sweden criminalises the clients to decrease demand for prostitution and to make the country less attractive for trafficking networks. What do you think of this policy and do you think it diminishes trafficking in women?

No, because it makes prostitution less visible, reinforces the stigma around prostitution and makes sex workers more vulnerable for coercion and brutality. Lawlessness and stigmatisation are breeding grounds for violence.

There is no real evidence demonstrating that the ban on the purchase of sexual services reduces trafficking in women.

3. Which form of prostitution regulation respects the most the rights of victims of trafficking for sexual purposes?

Prostitution regulation in New Zealand because it decriminalises prostitution, involves sex workers with policy-making, ameliorates the position of sex workers and fosters their autonomy and independence.

4. Do you think that visible supply in windows and legal brothels positively influences demand for prostitution?

I have not heard about research on this subject, but it is obvious that prohibiting prostitution has until now never lead to its disappearance.

5. Prostitution is still not normalised and looked at as legitimate work by banks, insurances and society. What can be done to increase acceptance of the profession?

There needs to be a strong government policy against discrimination and support for sex workers organisations instead of throttling them.

6. Does the European Union do enough in the field of human trafficking or is more action required?

The position of victims of human trafficking must be improved (as well as the position of victims in other sectors than the sex industry):

- Development of minimum standards for victim care
- Offering victims a long term perspective
- Access to help and protection, and not making it depend on a declaration or cooperation in the investigation and prosecution as it is the case now (and deporting them as soon as they are not a useful witnesses anymore)
- Free legal support
- Better protection of the privacy of victims
- A realistic immigration policy because as long as demand and supply of labour do not meet in a legal context criminals will continue to profit from it.

Interview Nynke de Vries (Director of Shop, The Haag)

1. To what extent did the lifting of the ban on brothels influence the assistance to prostitutes?

In the times of the tolerance zones (tippelzones) Shop run a living room where coffee or soup were served, a break could be taken or the doctor came along. Everybody knew each other well. It was kind of a community centre where everybody, the police, the tax authorities, transgenders, etc. met. People look back at these times with nostalgia and since everybody knew each other weird things caught attention and one prostitute could ask the other if she or he heard something about this and that.

The living room has gone since the brothel ban was lifted. Shop possesses care and accommodation places where women can feel safe, or where homeless women can stay for some time. During day time it is possible to walk in there too and people know each other.

During the last years mobility of persons providing sexual services has increased. They go from city to city and from one country to the other because clients want to see new faces. That happened less before and the big difference between then and today is that before more Dutch women worked in the sector.

Now many providers of sexual services come from Eastern European countries and Latin America. The biggest problem with women from Eastern Europe is the language. There is only few contact with them.

During a big police intervention in the Doubletstraat in The Hague, 157 women have been arrested and taken to the town hall. 49% were of South-American origin, 49% were from Eastern Europe and two women spoke Dutch. This makes care difficult.

If Eastern European prostitutes come to us we make use of an interpreter.

In general it can be said that now there is less contact between the different groups of prostitutes. Low prices from the Eastern European persons providing sexual services increased competition between the groups. The relation between the groups is not pleasurable.

But the ban on brothels has of course not been lifted for nothing. The Public Health Service (GGD), the police and Shop often visit streets with windows to establish and keep contact. The police control passports and age. Once in a three months Shop goes to clubs and once a week to the streets with windows. There is a lot of contact and in general it is safe for prostitutes. And there are cameras in the window streets. In The Hague the atmosphere is generally good. The police visit and know everyone and the agents speak the language of the street.

Shop worries about the fact that new prostitution regulation (WRP) will abolish the preventive work of the police (i.e. visiting, keeping contacts) because of registrations that need to be controlled. The police will have more work with that and thus do not have time anymore for walking around and keeping contact with people.

2. Daalder (2007, p. 48) notes a lack of exit possibilities for prostitutes in Dutch municipalities. What do prostitutes need to change the profession and start a new life?

In 2009 quite some resources have been allocated to set up exit programs (RUPS programs). 172 persons participated in our RUPS program. Shop calls it career switch (CS) because “exiting” a legal profession is not an adequate formulation and victims of human trafficking obviously never wanted to enter the profession.

Within the CS program women were asked whether in a five years time, they still wanted to work in the sexual service sector. If the answer was no, we talked about other possibilities and a program plan was made. More than half of the participants were victims of human trafficking. One part of the victims was Dutch but most of them were internationals.

There is a big difference between prostitutes working voluntarily and victims of human trafficking.

When it comes to **international victims**, one can talk about survivors. They want to forget the bad conditions as fast as possible. They are very vigorous and want to do everything to get away from their traumatic situation. The problem is that these persons do not speak Dutch. If they are identified as victims, they get the B9 status enabling them to stay in the Netherlands up to three years. They also get the right to work or assistance etc. But who wants to work needs to be equipped with a minimum of Dutch language skills.

There is also a big difference between Eastern European victims and people from outside Europe. In The Hague most of the victims of THB are from Nigeria. These women often know that they will work in “massage” salons and that it will not be a pleasure, but they also think that it cannot be as terrible as at home. They often arrive via Rome or another European city and are then, after having been in different cities, brought to the Netherlands. This makes it hard to trace and detect them. The women and their families are threatened with voodoo to stay silent and not run away.

Another group is represented by South-American women working voluntarily. They send the money earned here to their children at home to pay for universities or houses. Which kind of work they are doing in Europe is often kept secret in front of the family, but these women are generally very self-confident and talk a lot.

Eastern European women often seem scared or angry. They are observant and establishing contact with them is difficult. When we have the impression that something is wrong we contact the police, but as care and support organisation we do not want to be associated with the police of course. But if worries are big it is of major importance to involve a partner.

National victims (victims of lover boys) overestimate themselves regularly when it comes to look for work. They think that they are able to do more than actually is the case because these victims often dropped out of school and did not complete their trainings. Additionally these victims are continuously fighting with themselves because they cannot live without the boy exploiting them. They often contact their exploiter again and that is why their behaviour can be compared to an addiction.

Prostitutes working voluntarily represent also a complicated case because some have been in the business for years and adopted another day and night rhythm. Many are addicts or indebted. Together with the sex worker we try to get an overview of the debts. If prostitutes receive social welfare benefits after having stopped to work in prostitution, they often think that it is not enough and therefore start working again. This group is used to earn a lot of money in good times and the switch to social welfare benefits while having to pay debts back is a hard step for them. Additionally all their friends and social network are located in the sex business.

All groups can receive practical and psychological help. As can be seen above many factors are playing a role when a prostitute wants to make a new start and it is very complicated for each group.

3. In Sweden prostitution is seen as violence against women and cannot be tolerated in a society where men and women are supposed to be equal. Your organisation makes a difference between voluntary and forced prostitution. Why do women want to work voluntarily in this profession?

South-American women come to the Netherlands, work in the sexual services business and are proud that they manage to achieve lots of things in their home country. In how far this makes it voluntary work, is questionable.

Students sometimes find prostitution a quick and easy way to earn money.

In the clubs one often notices that the work is not that far away from normal life. The women go to work and the hostess of the club asks how they are, how the children are doing and whether the stolen bike is back. Then they drink coffee and if a client arrives, the provider of sexual services starts to work. It is thus not something as far away as we might think.

Of course nobody will say, when thinking of a profession: "I want to become a whore".

Circumstances lead people there, and who would actually say: "I want to become dustman".

But if you ask somebody working with prostitutes, there actually is always something making a social worker think that some events drove the person to do this work.

What happens in Sweden can be compared a bit with the number of suicides in a country. In the Netherlands we talk openly about it, other countries stay silent because it leaves the issue in invisibility. In Sweden there are sexual services provided, but in the underground.

4. Is the difference between voluntary and forced prostitution influencing the care and support?

There are big differences between the groups (cf. question 2).

Forced people come to us because they want to get out. Voluntary persons come for information on working conditions or safe sex, sexual diseases tests at the Public Health Service (GGD) or for a career switch.

5. One of the goals of the lifting of the brothel ban was to fight trafficking in human beings for sexual purposes, but there still remains a lot of exploitation in the prostitution sector in the Netherlands. Has legalisation been a good way to curb forced prostitution?

In order to do the work legally, prostitutes must work at a licensed establishment. Everyone who does not do that, is punishable because of working without a license. But forced as well as voluntary sexual services providers can work without a license.

The new law on prostitution (WRP) makes registration go further. It will become mandatory for each prostitute to register and during a required talk the working permit will be checked as well as potential signals for trafficking. If this will influence or decrease trafficking in human beings is questionable.

But what has to be done? Shop thinks that the government needs to seduce prostitutes to register by themselves. This means that advantages need to be connected to registration, e.g. maternity leave, health insurance discount etc. Registration has to become attractive and associated with benefits.

It has been thought of to run the prostitution business (house with prostitutes working in it) via the government, but prostitution may not be promoted by the government.

Shop is scared that prostitution will also go more and more underground in the Netherlands. And because of internet everything becomes more complex.

At the moment the government is using hard words and speaks of repression. This entails the danger that prostitution goes even more underground and that it becomes more difficult to establish contacts with the providers of sexual services. A lack of contact means less possibilities to signal human trafficking and speak to us.

6. What are your experience with human trafficking for sexual purposes before and after the lifting of the ban on brothels?

Before the lifting of the ban on brothels we did not know much about human trafficking. At Comensha numbers are only known for the last ten years. Only around 2006 a serious look at human trafficking has been taken.

The government and the municipality of The Hague made it a priority in their policy-making. This has had an effect on the number of applications which is a good sign.

7. Since 1999 Sweden criminalises the clients to decrease demand for prostitution and to make the country less attractive for trafficking networks. What do you think of this policy and do you think it diminishes trafficking in women?

When a country does something like that, it actually should happen in entire Europe as well and at the same time lots of efforts need to be invested to look for and catch the perpetrators. Chasing traffickers would help. But human trafficking will continue to exist because of the difference between rich and poor and because sex trade is lucrative. The phenomenon can only disappear if all people in each country can more or less live under the same conditions.

If it is true that prostitutes are not on the streets anymore, then other ways like the internet have been found. In the Netherlands one can compare it to the boys and men who were strolling “in the woods” before and are now selling their services on the internet.

The new law on prostitution touches upon the client. The government wants men to control whether the prostitute is registered, but that will never happen. Men are too excited and tense to control anything and it is weird actually if one thinks that the client of a psychologist would in general never control whether the psychologist is registered. A client would never be punished if the psychologist was not registered.

The fact that the client might get a fine can have a deterrent function but actually it would be better to do more in the countries of origin of the victims.

8. Can you imagine to also assist clients (like in so-called john school where caught costumers are educated on life and work of a prostitute)⁷⁴?

It would be nice if there was a course to teach men how to treat women and prostitutes with respect, but educating clients does not really belong to the repertoire of Shop.

Shop does go to schools though to explain to young boys and girls how to protect themselves against lover boys or wrong contacts in social networks on the internet.

9. Do you think that visible supply in windows and legal brothels positively influences demand for prostitution?

Because prostitution is approached in a stricter and stricter way, the legal sector may become smaller and streets with windows will one day maybe even disappear. That is what makes the internet attractive.

For men it belongs to sexual excitement, to the ritual, to walk along windows and select a woman. They decide who they go to and have the “power”; all this belongs to the game. If that game cannot be played anymore, other games will appear as will supply, which will not decrease but change.

Because the windows are easily reachable the sector can be well protected and security increased.

10. What should be done on the side of the government to protect women from forced prostitution?

The Netherlands are on a good way because human trafficking is prioritised. The problem is that there is a lack of manpower at the police and assistance organisations to carry out the policies and a lack of accommodation places.

⁷⁴ <http://www.pbs.org/now/shows/422/prostitution.html>, retrieved May 30th 2011.

If exploitation is not tolerated in our civilised country and the fight of it seen as a priority, then resources and means for to curb it, as well as care for the victims have to be guaranteed. There are by far not enough resources at the moment.

And voluntary providers of sexual services must receive benefits when registering. If workers get more self-confident and stronger, the risk of exploitation becomes less. Finally procedures are taking far too long sometimes and drive victims of human trafficking back into illegality where they become victims again.

Interview Metje Blaak (Rode Draad – Red Thread)

1. In Sweden prostitution is seen as violence against women and cannot be tolerated in a society where men and women are supposed to be equal. Your organisation makes a difference between voluntary and forced prostitution. Why do women want to work voluntarily in this profession?

If a women decides by herself to become a prostitute then there is nothing wrong with it. In the end it is totally legal in the Netherlands.

2. Since 1999 Sweden criminalises the clients to decrease demand for prostitution and to make the country less attractive for trafficking networks. What do you think of this policy and do you think it diminishes trafficking in women?

A ridiculous solution and affecting the privacy of a person (man).

3. One of the goals of the lifting of the brothel ban was to fight trafficking in human beings for sexual purposes. Do you think that legalisation is the best way to counteract forced prostitution?

It could be, if they would not have made those ridiculous rules. Let them first of all start with seeing prostitution as a normal profession.

4. What were the advantages and disadvantages of the lifting of the ban on brothels for prostitutes?

That they cannot moonlight anymore and that they lose their anonymity more and more.

5. What are your experiences with forced prostitution on the *Wallen*?

It is there and needs to be tackled by getting the pimps not the women.

6. How does interaction between forced and voluntary prostitutes look like?

The girls are often on their own and do not interfere with each other.

7. Do you think that visible supply in windows and legal brothels positively influences demand for prostitution?

Demand for prostitution becomes less because of the internet and swingers.

8. What should be done on the side of the government to protect women from forced prostitution?

Catch the pimps and set up information campaigns run by ex-prostitutes who speak their language.

9. Does the government listen to prostitutes when making policies like with the new prostitution law (WRP) or the lifting of the brothel ban?

No, never did and still does not do it.

Interview André van Dorst (Director of V.E.R)

General remarks

We are always talking about him and/or her because 10% of the prostitutes are men. Businesses are lead by women in 50% of the cases.

1. What is the difference between a pimp and an operator of a sex business?

a.

In our vision “pimp” defines someone who uses the money of the prostitute without providing any service in return. No coercion is necessary for this to happen and it even occurs with the prostitute consenting to it. Some might call it crime, but is based on mutual consent.

It becomes exploitation as soon as things happen against the will of the prostitute, whether with or without subtle coercion. Thus in cases of unreasonable (mandatory and enforced) fees, the term human trafficking can be used.

It is a complex situation because the victim often does not see himself or herself as a victim.

b.

A partner can also be considered as a pimp but does not deserve that name. Think for example of a partner who takes care of the children and the house. One of the partners thus earns the money and the other one is at home, like it happens in many couples of different professions. The situation should not be judged differently simply because prostitution is involved.

The question: “Who would let his wife do that sort of work?” is a moral question. It is a couple’s own choice and business if they decide to life like this.

c.

An operator runs an enterprise where prostitutes can work and where they pay, as compensation for the offered services, a fee on the basis of a business or working agreement. The relationship is purely professional, transparent and takes place within the frame of the law.

There are hence worlds of differences between pimps and operators.

2. What were the positive and negative consequences of the lifting of the ban on brothels for operators?

Legalisation creates a separation between licensed and unlicensed enterprises, between controllable and barely controllable activities... in 2000 the government forgot that licensing a bit does not work (like being a bit pregnant...).

The WRP will (have to) try to bring changes about by installing compulsory licensing. Operators fear insufficient investment into enforcement. Today unlicensed businesses are

estimated to revolve around 60% - 75% (we estimate it halfway that number). Unlicensed does moreover not (yet) by definition mean illegal.

Not legalisation is negative, but the half-hearted licensing policy and an inadequate controlling and tackling approach being its consequence. Additionally there is a problem with the competencies of the regulators, meaning that they can often not intervene in unlicensed establishments without clear evidence of criminal acts (intervening without evidence would be unlawful). Now private houses cannot be controlled and violations are not reason enough to enter a building (only with authorisation).

Legislation, policies and actions are almost entirely aimed at the licensed business, the unlicensed businesses are only targeted if there is evidence for abuses which can be followed by prosecutions.

The unlicensed and often illegally operating part of the sector also initiates competition with the businesses adapting to the rules and laws. The controversial problems of the sector are then conferred on the visible businesses and their employees (namely private clubs and registered escort services) despite the fact that calamities are minimal there.

We do not represent the so-called window renters, even though more calamities than is correct are associated with their business. Licenses can directly be withdrawn from window owners, but it is not or only barely happening.

We think that it has been proven that licensing and regulating are a good thing and the fact that there are shortcomings after 10 years of implementation is not unusual.

Disadvantage: the volume of the sector increased by 10%, but since 2000 the number of licensed and publicly working establishments has dropped to around 30 %. Entrepreneurs will only feel advantages when compulsory licensing is established. But there are already advantages now if one looks at normalised competition between licensed firms, abuses being hardly the case and a more transparent way of working.

Legalisation has not achieved yet what was expected. Seeing licensing as a failure might be a somehow obvious but is an incorrect conclusion.

3. Have the conditions for licensing been clear at the time? And now?

Generally on paper the municipalities were clear, but within implementation of the policy other agendas are sometimes hidden.

It has always been said that all licensing applications will be considered, but in the end sometimes the establishment of businesses has never been agreed on because municipalities simply did not want any sex establishments on their territory. When looking at whether a license should be given, laws (Bibob) are sometimes used in improper ways.

4. How do you experience the cooperation between municipality, tax authorities, labour inspection and other organisations?

V.E.R – Government

On a national level there are no bad experiences with the government but some political decisions around the WRP damaged this good relationship, because political and moral considerations prevailed over the amelioration of general conditions in the sector.

With municipalities the relationship is very diverse, even case-dependent and related to the political situation.

The relations with the tax authorities are good and after July 2008 barely any problems have occurred between the businesses and the fisc (94% of the establishments work with so-called opting in arrangements, 6% with wage labour and 2% handle things outside of the regulations).

The labour inspectorate does not have any other role than in other sectors, it intervenes when there are calamities.

With the police barely any problem can be signalled and the public health service is not a problem anymore! But there are sometimes conflicts between inspectors, advisors, businesses and prostitutes.

Cooperation of organisations

Problems occur when all involved organisations do simply not want to cooperate and set other priorities or goals. Conflicts arise among the different organisations and hinder another organisation's work...

As for the international aspect, cooperation is in its infancy.

5. Licensing rules and enforcement measures of Dutch prostitution regulation are mainly directed at the operators and not at the pimps or clients (Daalder, 2007, p.13). Do you agree with that?

Yes.

The client is the only one not having been addressed by the law yet and the WRP will not do it in a good way.

In general on Daalder (2007): In 2008 many things have changed with regard to working conditions and the opting in arrangements. Do not forget that many researches are 5 to 6 years old whereas the sector is constantly in movement.

6. One of the goals of the lifting of the brothel ban was to fight trafficking in human beings for sexual purposes. Do you think that legalisation is the way to go to counteract forced prostitution? What is different today in comparison to some years ago in the field of trafficking in human beings?

Traffickers do not fear legislation and are pretty convinced that the government does not have any grip on the matter. Even now the government included elements into the WRP that rather

strengthen than fight traffickers. Unfortunately the chance of catching them is small and condemnations result in low penalties (especially in the eyes of foreign perpetrators).

The Dutch Public Prosecution Service (OM) did not always deliver good work in a number of cases since some convictions did not lead to effective penalties. This was, is and I fear that it will be like this for a while.

But legalisation has proven to be a good means in the fight if more licenses and stricter and better enforcement become conditional. The government should stop with pointing at the sector and realise that it did not handle things correctly.

7. What are your experiences with forced prostitution and human trafficking?

Luckily my personal experiences are few. Traffickers think that they have no choice and therefore start again after a legal proceeding. They have learnt how things should not be done... They will not stop and move further and further away of the licensed sector (e.g. hotel prostitution).

8. In Sweden prostitution is seen as violence against women and cannot be tolerated in a society where men and women are supposed to be equal. Why do you think that prostitution is legitimate work and does not discriminate women?

The idea behind this is that women cannot make choices on their own, that they are blinded and unable to make their own decisions: prostitution is hence always a form of brutality against women. The Swedish policy reinforces the submissive role of women...

In reality this policy has very dirty sides when a prostitute has to give her children away “voluntarily” and only gets her children back after having followed a heroine consumption course and found a new job...(Talking about morals...!)

The ferries to Riga are full and a ride to Denmark or Germany is a good solution for Swedish (and Norwegian) men because they can even have a drink there...

According to my opinion criminalising the client is a guarantee for a well organised illegal circuit. No wonder that prostitution becomes invisible. The Swedes put their head in the sand. It actually looks like it was in the Netherlands in the thirties, small businesses with official employees where the clients rapidly get informed about “extra services”. In the Netherlands cover businesses also appear more and more again because a legal license is hard to get or because working at home becomes more and more difficult.

Everything is wrong with prostitution if you are not free to make your own choices. If you make a choice freely, why should others care?! People should keep their moral judgements for themselves.

Watch out for hypocrisy because also in the Netherlands, there are persons who publicly distance themselves from prostitution while being a regular client...those are no exceptions. People act like that because they think that society does not accept it from them to visit a prostitute because they are owners of a company, members of the town council or churchmen...

An anecdote: *I am not a client, she is not a prostitute. I am her boyfriend and I do not pay for prostitution, I am simply financing her to do the salutary work she does...! Exactly...!*

Often the women doing their job do not even have the impression that the client has any say at all. Rather the contrary is the case since the woman plays with him, directs and leads him in order to make him come back drooling a week later having emptied his bank account for her. In how far is this discrimination of women?

If you look for it of course you will find a poor, weak and sick and under-age prostitute suffering in the profession... but this is not the norm.

Exit programs: recently I read about a prostitute who started her own nail studio, but I have a vague idea about what will happen there. Nail studio is the cover, women working on their own are using and thanks to the exit program (because she is such a poor girl) financing it should not be a problem... These stupid little girls are certainly also running around in Sweden and nobody notices them, and if they have blond hair all suspicion will definitely fade away.

9. Since 1999 Sweden criminalises the clients to decrease demand for prostitution and to make the country less attractive for trafficking networks. What do you think of this policy and do you think it diminishes trafficking in women?

From my answers to question number 8 you can conclude that there is nothing good to be expected from that.

10. Do you think that visible supply in windows and legal brothels positively influences demand for prostitution?

It is naive to think that taking away supply at one place, will not lead to its appearance somewhere else again. The sector grew with 10% in ten years but not within its licensed part which diminished by 70%...The only thing you get is a shift and very local effects.

11. What can operators do to prevent trafficking in human beings?

What they now already do most of the time, namely hanging up the phone when somebody calls saying he has a women to offer. If a women comes to an establishment with her boyfriend, she should not be hired. And always verify the papers and working permits of applicants. If she has a permit, but doubts remain, the other girls should be consulted and they will love to ask questions to the new one. If something is wrong, she has to be send away or the police should be called.

The disadvantage is that the police are barely reachable for declarations and do not turn up rapidly enough. If they turn up later and find that human trafficking is at stake, your establishment will be in the newspapers the next day and the mayor will send you a letter accusing you of employing victims of human trafficking which may entail closure or other measures... good behaviour can have its price...

12. Does the European Union do enough in the field of human trafficking or is more action required (exit programs, European seal of approval)?

The EU should coordinate the actions taken in different countries and foster cooperation between different organisations in the various countries. It should push the exchange of necessary data and align different preventive actions in the different countries. Prostitution is organised in a such a different way in each legal system, but the problem of human trafficking is the same. The countries need to strengthen each other in that point.

Exit programs focus too much on addicted, indebted and foreign prostitutes and not at all or barely on prostitutes from clubs, private houses, escort, SM houses or massage parlours. The dynamic of thinking is often: poor her!- she needs help.

By now exit programs share a common goal: get as much women as possible out of prostitution (the Swedish approach is thus not as far away from us as we think). It is often forgotten that after a career in prostitution (around 32 and 35 years mostly) people need training to find a new place on the job market (not to forget the hole in the CV). The government wants municipalities to finance such trainings which means that it depends on the municipality (where you live or work?) whether you get support. There are hence women who need help but will never be eligible for it. I do not see any role for the EU here because the problem is already complicated on a national and municipal level.

A seal of approval (from the EU) is again a measure aiming at licensed establishments where problems are few. Strict enforcement is needed, not the fake security a seal can give. Traffickers working in an establishment will be the first to put the seal on their doors, thus everyone can go to sleep and controlling can be stopped. The chance that the seals will be counterfeited is big.

In the nineties we had a seal (Erotikeur) considering working conditions, hygiene and transparent business operations but since legalisation insured basic quality, it was not viable.

Human trafficking can be (partly solved) by utmost licensing, strict enforcement and information campaigns. Seals of approval or exit programs have nothing to do with it.

13. Does the government listen to operators of relaxation businesses when making policies like with the new prostitution law (WRP) or the lifting of the brothel ban?

Yes, the officials listen and write meaningful texts and at the same time:

No, despite consultations and good texts. Often the interests of stakeholders in the sector lose the battle against (party) politics and moral considerations. Registration of prostitutes and not making available enough resources for enforcement prove amongst others that the government hears, but does not listen.

Attachment 2 – Interviews with Swedish stakeholders

Interview Emma Stenberg Ribeiro (County Administrative Board of Stockholm)

1. Is criminalising the purchase of sexual services the best way to counteract trafficking in women for sexual purposes? Why?

Telephone tapping has shown that the traffickers themselves complain about the law since it creates a bad market for them. Since buying sexual services, procuring and human trafficking are illegal the police can counteract in an effective way.

2. The evaluation of the ban on the purchase of sexual services is based on already existing published material (Swedish government report SOU 49, 2010, p.14). No data collection has taken place in order to evaluate the ban whereas the report continuously states that there is “no detailed information” (Swedish government report SOU 49, 2010, p.26) on several issues related to effect of the ban. How come that this was left aside? Why was there no money allocated to research?

Unanswered

3. The evaluation of the ban on the purchase of sexual services states that there is no indication that prostitution shifted indoors (Swedish government report SOU 49, 2010, p.8)? But half of the street prostitutes are estimated to have left the business (Swedish government report SOU 49, 2010, p.7). Where are they?

Unanswered

4. What are the exit facilities for prostitutes in Sweden?

There are three prostitution centres in Sweden that offer counselling, treatment and medical assistance, but you can get help as well from the regular social services and organisations, shelters etc. since being in prostitution can be ground for assistance.

5. Many European countries look at victims of human trafficking as unwanted illegal migrants when there is a lack of evidence, unclear stories making it hard for the police to convict the criminals. The women are often immediately sent back to their home country. When does a victim of trafficking in women become an illegal migrant in Sweden?

In Sweden one can get a temporary residence permit when testifying and a 30 days reflection period. One can of course also apply for a residence permit on grounds related to human trafficking.

6. Do you think that the prostitution policy regime of a country is related to the trafficking in women flow to this country? Why?

I think that there is a direct link since the markets overlap. Trafficking is fuelled by demand.

7. In Sweden prostitution is seen as form of violence and degradation of women, but some women in prostitution state that it is a legitimate job connected to flexible working hours, good money, time for kids or study. How do you look at this type of prostitution done out of free choice?

I think the definition of “out of free choice” is important here. Even if there is no external coercion there can be an internal coercion in the form of for example sexual abuse, other forms of abuse, need of confirmation, destructive behaviour. Experience has also shown that the story can differ when the person is in prostitution compared to when the person is no longer in prostitution. Moreover experience has shown that the psychological consequences from being a trafficking victim or an “escort” do not need to be so big.

8. Does easy supply of prostitution (like legal brothels, windows in the streets) influence the demand for it in the population?

The prohibition of buying sexual services and the discussions that the law triggers makes people problematise prostitution. How do people really feel? What are the consequences? Am I using someone’s vulnerable position? etc. whilst legalisation creates a certain normalisation.

9. Sweden’s policy is based on a zero vision, meaning that prostitution shall disappear. For now street prostitution has mainly been targeted, whereas the supply of internet prostitution where women offer their services out of hotel rooms, via escort agencies etc. is further increasing. How will Sweden control this indoor and internet prostitution in the future?

In many different ways for example, the prostitution centres work also with indoor prostitution and the Internet. The prostitution centre in Stockholm estimates that a big part of their clients are from indoor prostitution. Furthermore the same person can be in indoor and outdoor prostitution. The police have a unit that counters street prostitution and a unit that works with human trafficking and procuring including of course indoor and internet prostitution. There have also been preventive projects just targeting the internet and young people.

Interview Gudrun Nordborg (Crime Victim Compensation and Support Authority)

1. What type of compensation do victims of trafficking for sexual purposes need? How much compensation can a victim of trafficking for sexual purposes expect (is there a difference between national and foreign (illegal migrant) victims or voluntary and forced prostitutes)?

Victims of trafficking have rights to criminal injuries compensation from the state according to the general legislation on such compensation.

<http://www.brottsoffermyndigheten.se/default.asp?id=1345>

This official translation doesn't cover all sections in action today. The law has been extended also after 1999, for example giving children witnessing violence within the family a special right to compensation, legislation.

The amount of compensation varies a lot depending on the personal injuries and also the violation of personal integrity in the case. The sum for compensation for violation of personal integrity have varied from 10 000 SEK up to 325 000 SEK.

An important factor is where the crimes were committed. If committed in Sweden no difference between Swedish and foreign victims, and no difference if the victim is in Sweden legally or illegally is made. If the crimes were committed abroad, only victims domiciled in Sweden are having the rights to criminal injuries compensation.

The question on "voluntary and forced prostitution" is not very relevant according to the Swedish legislation on trafficking, rather close to the Palermo Protocol. Also victims of aggravated procuring use to have an injured party's legal counsel appointed to them and Swedish courts are often deciding on payment of damages.

A report to the government on routines for payment of compensation from the state has a summary in English:

<http://www.brottsoffermyndigheten.se/Sidor/EPT/Bestallningar/PDF/Utbetalning%20av%20brottsskadeers%C3%A4ttning%20till%20offer%20of%C3%B6r%C3%A4nniskohandel.pdf>

2. What are the conditions for a victim of trafficking for sexual purposes to receive compensation?

See the answer above.

3. How much resources of the fund are allocated to victims of trafficking for sexual purposes in total, compared to other crime victims?

The compensation in Sweden is financed by tax revenues, not a fund, and no allocation is done for specific types of crime. In total the Authority is handling about 10 000 applications and pays about 110 million SEK in compensation each year. The applications and payments to victims of trafficking or aggravated procuring are small parts of these.

4. What are the exit facilities for victims of trafficking for sexual purposes in Sweden?

The police and the municipalities have, especially in Stockholm and Gothenburg, established cooperation to support victims of trafficking with safe housing and psychological support. A temporary residence permit for six months, possible to extend, can be applied by the prosecutor from the Migration board. So far this has never been denied. Most of the victims of trafficking want to return to their country. Only some have applied for a permanent residence permit, and have been allowed that.

5. Do you think that the prostitution policy regime of a country is related to the trafficking in women flow to this country? Why?

The prostitution policy regime is important in many perspectives. It has had the effect that traffickers are regarding Sweden as both more expensive and more risky than other countries. This regime is also a consequence and part of the policy on gender equality. Research has questioned the male sexuality in buying so called sexual services. The hard effects on persons involved in prostitution are also well documented both internationally and in Sweden (for example Melissa Farley and her colleagues and in Sweden Carl-Göran Svedin and Sven-Axel Månsson who also is focusing on the men as customers). All these factors have also reduced men's use of prostitution in Sweden.

6. The evaluation of the ban on the purchase of sexual services states that there is no indication that prostitution shifted indoors (Swedish government report SOU 49, 2010, p.8)? But half of the street prostitutes are estimated to have left the business (Swedish government report SOU 49, 2010, p.7). Where are they?

Where are they? Not totally documented but also many women involved in prostitution have supported the Swedish regime and used it to move out of the prostitution, supported by NGO's, "exit-organisations" and/or the social welfare system. Some have also created good lives after the exit with academic education and a family of their own.

7. Is criminalising the purchase of sexual services the best way to counteract trafficking in women for sexual purposes? Why?

Yes, it is the most important act in counteracting trafficking. Without demand no prostitution, and without prostitution no trafficking for sexual purposes. But support system and alternatives must also be developed; which is more possible in countries with a social welfare system and free education. But also elsewhere it ought to be possible to use for example the buyer's money to something more positive.

Other countries have followed the Swedish example with the same arguments: Norway and Iceland, partly also Finland only among the Nordic countries.

8. In Sweden prostitution is seen as form of violence and degradation of women, but some women in prostitution state that it is a legitimate job connected to flexible working hours, good money, time for kids or study. How do you look at this type of prostitution done out of free choice?

This might be true. Selling sex is not an offence in Sweden. Anyhow it's not a "job" anyone wishes that their daughter or sister will choose and no education is offered. And research is more and more questioning the free choice. Both Swedish and international research are showing that the age of entrance into prostitution very often is 14 and also that a majority of persons involved in prostitution have experiences of sexual violence. Among the staff working close to persons with experiences of prostitution many are stressing the prostitution as a form of self-destructive acts, like using drugs and physical self-injuries.

9. Does easy supply of prostitution (like legal brothels, windows in the streets) influence the demand for it in the population?

In my opinion these examples are legalising exploitation and normalising women as objectives. Many Swedes are shocked of the brothels and windows in the streets.

10. Many European countries look at victims of human trafficking as unwanted illegal migrants when there is a lack of evidence, unclear stories making it hard for the police to convict the criminals. The women are often immediately sent back to their home country. When does a victim of trafficking for sexual purposes become an illegal migrant in Sweden?

This might happen in Sweden as well. Especially if the woman is unwilling to speak about her situation and give support for collecting further evidence. Most often the trafficker has established a traumatic binding, like the Stockholm syndrome, and made the woman scared of all authorities and especially the police.

In other cases the woman has been able to talk after some time, but the evidence is not enough. Anyhow I believe that if the police, prosecutors and judges will be more skilled and competent and the cases with return without redress or vindication will decrease.

Interview Henrik Sjolinder (Ministry of Justice, Sweden)

1. The evaluation of the ban on the purchase of sexual services is based on already existing published material (Swedish government report SOU 49, 2010, p.14). No data collection has taken place in order to evaluate the ban whereas the report continuously states that there is “no detailed information” (Swedish government report SOU 49, 2010, p.26) on several issues related to effect of the ban. How come that this was left aside? Why was there no money allocated to research?

Officially commissioned inquiries such as the one you refer to on the ban on purchase of sexual services very seldom include a research component. It is sort of implicit in the system that a commissioned inquiry should build its work on what is already available in terms of knowledge and information, including research. If there is a need for further research on the topic, it is for the inquiry to put forward a proposal to such an end. This is also one of the proposals from this particular inquiry, i.e. to set up a permanent national centre against prostitution and human trafficking for sexual purposes. At present this proposal is considered. Meanwhile, the Country Administrative Board is continuing its role as national coordinator which includes work on increasing the knowledge base on prostitution and trafficking.

2. The evaluation of the ban on the purchase of sexual services states that there is no indication that prostitution shifted indoors (Swedish government report SOU 49, 2010, p.8)? But half of the street prostitutes are estimated to have left the business (Swedish government report SOU 49, 2010, p.7). Where are they?

As you can read in the report, conclusions drawn are carefully formulated. The report states that prostitution has at not least increased in Sweden. I dare to suggest that the total volume of prostitution has decreased significantly over the past ten years.

3. What are the exit facilities/ compensation possibilities for (foreign prostitutes) in Sweden?

I have cut and pasted an overall description of some procedures and schemes relevant in connection with this question.

“Safe return and rehabilitation programs for victims of trafficking:

The County Administrative Board of Stockholm has been commissioned to develop rehabilitation programs for victims of trafficking for sexual purposes and prostitution. Rehabilitation programs are to consider the special needs of children, when rehabilitation is offered to a child. The rehabilitation programs aim to empower victims of trafficking to create a better future for themselves, by identifying what basic conditions and resources are needed for them to gain access to, inter alia, education and the regular labour market. These rehabilitation programs are to be tailor made to meet individual needs and provide support for trafficking victims whether they stay in Sweden or return to their home country.

The County Administrative Board of Stockholm also runs a safe return project, funded and commissioned by the Government. The County Administrative Board of Stockholm plans, coordinates and develops measures for safe returns for victims of trafficking to their home countries. The project's objectives are to make trafficking victims' return safe, efficient and adequately organised so as to avoid the risk of re-trafficking. The project aims to provide victims with opportunities to start a new life when they are back in their home country. The project works closely with NGO's and governmental bodies in countries of origin and in transit states, among other things to create routines for safe returns.

The County Administrative Board has on this basis developed national guidelines in cooperation with all relevant public services on how to work on prostitution and trafficking, including on how to meet the victims. The Board has also with its partners established a Team of Experts that may be consulted by those who come in contact with prostitution trafficking.”

“Compensation

The Tort Liability Act contains provisions on the obligation of a perpetrator to compensate a victim of crime for the injuries he or she has incurred. Compensation can be paid for personal injury, physical as well as psychological, (which includes hospital costs, loss of income, pain and suffering) and damage to objects. Furthermore a victim of crime can be entitled to compensation for infringement of his or her individual freedom or violation of personal integrity. This kind of compensation is normally the largest single item of compensation.

The main rule is that the perpetrator shall pay compensation. A request for compensation can be dealt with in the same court proceedings as the criminal offence. Where the perpetrator does not have financial capacity to pay compensation, or where it has not been possible to identify a perpetrator, the victim can apply for state compensation. The Criminal Injuries Compensation Act from 1978 regulates the condition of such compensation. The Crime Victim Compensation and Support Authority is responsible for processing applications under the Criminal Injuries Compensation Act. The decisions of that Authority can be subject of an appeal to an Appeals Committee. To illustrate the effects of this process we can note that during 2010 approximately 12 million Euros were paid to victims of crimes.

The Criminal Injuries Compensation Act is applicable if the crime was committed in Sweden or if the victim is resident in Sweden. A right to compensation is afforded to victims of crimes or to such a victim's surviving family. The compensation is primarily paid for personal injury, which includes both physical and psychological injury. There is no need for the crime to be a violent crime, although, as a main rule, there has to be a personal injury. Compensation may be paid for the violation of personal integrity suffered by the victim.

Compensation for loss of or damage to property as well as financial loss is limited. Such compensation will normally be paid if the offender, when he or she committed the crime, was for example an inmate of a prison, a home providing care for young people or a police arrest. There is also a possibility to get such compensation in cases where there are particularly distressing circumstances.

The compensation may cover for example costs of medical care, and other costs or expenses, loss of income, pain and suffering, permanent disability and harm as well as other inconveniences resulting from the injury. In case the victim has died, compensation can be paid for personal injury that the death caused a person that was particularly close to the victim.

As a main rule, the person seeking compensation is required to have reported the crime to the police or the prosecutor within two years from the date when there is a final judgement against the offender, within two years from the decision that there will not be any prosecution or within two years from the time when the crime was committed. It must be established that the victim was a victim of a criminal act. Though, there is neither any requirement of a criminal conviction nor that the identity of the perpetrator is established.

The state compensation scheme is subsidiary to any compensation that the victim may obtain from the perpetrator (should his or her identity be known) or under any insurance policy. The compensation can be reduced if the victim by his or her conduct contributed to the injury or otherwise increased the risk for being injured.

The Crime Victim Compensation and Support Authority can oblige the perpetrator (should his or her identity be known) to reimburse the compensation awarded. As a main rule, this is done where a court has identified the author of the crime. During 2010 the Authority managed to get approximately 3.3 million Euros from perpetrators of crimes.”

4. The Netherlands legalised prostitution in 2000 with the intention of counteracting trafficking in persons for sexual purposes. But the country is still one of the top destinations for human trafficking⁷⁵. What is your opinion of the Dutch policy when it comes to prevention of trafficking in human beings for sexual purposes?

I believe that criminalising the purchase of a sexual service has provided a barrier to prostitution and thereby also to trafficking for sexual purposes. In contrast, I believe that tolerance or even the legalisation of prostitution provide opportunities for traffickers since there will be a more or less present prostitution market.

5. How much does prostitution regulation of a country influence the trafficking in women for sexual purposes flows in comparison to for example immigration policies?

A comparison is difficult to make since so many other factors are relevant also. However, I believe that the presence of a relatively open prostitution market certainly attracts trafficking to a country.

6. Many European countries look at victims of human trafficking as unwanted illegal migrants when there is a lack of evidence and unclear stories making it hard for

⁷⁵ http://www.unodc.org/documents/human-trafficking/Global_Report_on_TIP.pdf, retrieved on the 17th of January 2011.

the police to convict the criminals. The women are often immediately sent back to their home country with an unknown future. How does Sweden treat illegal migrants working as prostitutes? What are the procedures?

See 3.

Interview Sofi Linde, Eva Göransson (Halfway house Skogsbo)

1. How did the criminalisation of the client policy (1999) influence your work ? What are the differences before and after 1999 that you can see through your work?

We were personally not involved in the work against human trafficking before 1999, so we cannot speak from personal experience. But together with the new policy money was set aside for prevention work with sex buyers and for rehabilitation strategies for those who are charged with buying sex. This made possible several good projects working with values and attitudes that sex buyers and women selling sex might have.

Since it is considered a crime, it is easier to get money for prevention of this crime and to change attitudes. Many sex buyers are themselves not happy with their situation and can get help and talk to someone through the social service prostitution unit in Stockholm, Gothenburg or Malmö. Since criminalisation of buying sex, and the higher punishments for human trafficking and related crimes, the police have started working much more with all trafficking related problems, which makes a huge difference for traffickers and sex buyers and diminishes these crimes in Sweden. It is more complicated to traffic to Sweden since even buying sex is illegal and this makes it more difficult for traffickers who avoid Sweden to a large extent.

2. Are there different categories of prostitutes, needing different support, for your organisation (e.g. national victims, trafficked women)?

Our halfway house for women who have been through trafficking receive women through either contacts with other women or (mostly) through the police. When the police hits a place (an apartment or club) they call us and the women who wants to stay in Sweden will usually be placed with us if they are not on drugs. So these are the women we meet. Within this group we can see different stages in the rehabilitation process. It is very common to deny what has happened for a long time. It is also common to say that it was voluntary or say nothing at all, since they are usually feeling very threatened. After some time the story evolves of what they have been through and then they usually want to stay in Sweden and create a new life for themselves. Trust takes a long time for these women and children.

The women are usually very good with languages and want to study and create a new life as soon as possible. Many of the women we meet have been pregnant or have had children with them, so the situation for the child is usually a priority as well.

Through our network of NGO's and churches working against trafficking we meet many different kinds of women. Some have been through trafficking at an earlier state but are now in prostitution. Our experience is that those who have once been sold does not feel worthy of another life than in prostitution. They punish themselves with a destructive life because of what they have been through. Self harm and other destructive behaviours are also common. These women do not have the same right to a shelter and help, although they would need it.

These women get help through the prostitution units (government funded) and through NGO's. Our network provides different activities and centres for this group of women selling sex.

3. What kind of help does your network offer (educational courses, psychological help, job interviews...)?

Women coming out of trafficking get to go through our national model for this. The model includes a safe home (first at a women's house, later an apartment), education, social and emotional support, therapy, trauma treatment, job training, and activities to have good experiences of life such as swimming courses, sports, trips etc. At the halfway house we cook and eat together at least once a week and do many different activities together. We try to show a "normal" life and try to make the women as independent as possible, teaching them hygiene, cooking, cleaning and taking care of themselves and their children. Many have been sold at an age of 12-15 years and have not gone through the phases of getting to know themselves or taking care of themselves. They also struggle with a lot of self-hate and other personal issues that affect how they take care of themselves.

The goal with the program is that the women in the end should have a job and an apartment to stay in and be able to live independently. We are helping them through a network of volunteers and NGO's so that they have some support once they move out of the halfway house.

We believe in empowerment and help to self-help so we do not do everything FOR the women. We try to make them do it for themselves from the very start. This is partly what we feel makes it a successful model.

4. Do you work with or meet prostitutes working voluntarily?

We do not meet them at the halfway house where we work, but through our network we do. There are several organisations there working with women who are actively selling sex. We do not believe that a woman or man wants to earn their living through selling sex. We do believe that there is something (internal within them or external from outside) making them do it. This is the experience of our own work and the work through the network as well. It is a question of self respect and the other options available. They might do it voluntarily, but when you look at the options they have, it does not look so voluntarily anymore. This is our experience.

5. What are the exit facilities for victims of trafficking for sexual purposes in Sweden?

This is the model we wrote about in question 3. We sometimes have problems getting permits for them depending on the police investigation and their situation at large. Sometimes there is a long process to help them stay long term, but if this can be organised they will have to work through the program and in the end come out as functional citizens. There is no way that

works for all in this case. Everyone has been through different things and has a different process to recovery, so we have to be quite flexible in our work with the victims. A lot of our focus also goes to the children who have been with their mothers through trafficking. For them we are using professional help and are making a big effort to make them feel safe and at home in the halfway house.

6. The Netherlands legalised prostitution in 2000 with the intention of counteracting trafficking in persons for sexual purposes. But the country is still one of the top destinations for human trafficking⁷⁶. What is your opinion of the Dutch legalisation policy when it comes to prevention of trafficking in human beings for sexual purposes?

I do not see how legalising it would help the work against trafficking. The women are not very good at helping themselves and will usually not reveal how they got there or what they have been through unless they feel very safe. If they believe that nothing illegal has been done against them and that what is happening to them is not against the law, they will be less likely to try to get out of it. Many times now, the threat is not physical, but psychological. In Sweden many victims of trafficking are no longer locked up somewhere, they are just controlled and threatened in a way that makes them not dare to escape or do anything that is not allowed.

Even if it is allowed to be in prostitution does not mean that enough women want to do it “voluntarily” to make the traffickers or pimps happy. There is so much money in this business. If traffickers can get women and sell them openly without the hustle of hiding and being afraid of getting caught, they will do it even more. It is easier for them that way. There are simply not enough women who want to sell themselves and we believe there will never be. Therefore someone will take advantage of this billion dollar business and make women sell themselves. Same as drugs, people will get abused in this business and used as couriers and sellers on the streets against their will or as a consequence of lack of other options. Legal or not legal, there is too much money in it and the job is too dirty for people to want to do it voluntarily.

This is our conviction.

7. Since 1999 Sweden criminalises the clients of prostitutes in order to reduce demand for prostitution and to make the country less attractive for trafficking in human beings networks. Did this approach reduce trafficking flows according to your experience?

Yes, it did reduce it according to what the police are saying, both in prostitution and human trafficking. But what it did most of all is facilitate more work against it and more help for those in it, so that people affected could get better help. People affected from both sides, both buyers and sellers and traffickers. Let’s not forget that many traffickers also are ex-trafficked

⁷⁶ http://www.unodc.org/documents/human-trafficking/Global_Report_on_TIP.pdf, retrieved on the 17th of January 2011.

women and men and they are also in this long chain of threats through the criminal organisations. On this question we cannot again speak from personal experience since we were not working with this before 1999.

8. Do you think that the prostitution policy regime of a country is related to the trafficking in women flow to this country? Why?

Well yes. Traffickers themselves have said that they would rather traffic to other countries, such as yours, because it is easier for them to get customers and to sell the women. The criminal organisations are in constant change and they try new things all the time. We are sure they will try to find new ways whatever we do. But we think it is better to make it as hard for them as possible.

In Sweden sex buyers have reduced in number and frequency since the law. The ones that still buy can get good help to stop buying if they want, which they usually do.

9. Many European countries look at victims of human trafficking as unwanted illegal migrants when there is a lack of evidence and unclear stories making it hard for the police to convict the criminals. The women are often immediately sent back to their home country with an unknown future. How does Sweden treat illegal migrants working as prostitutes according to your experience? What are the procedures?

Usually we work with proofing what they have been through and if there is enough evidence, they will be able to stay. Until they have the right permits and everything we believe that the system is becoming more and more generous and understanding for the issues. It can however be very difficult to get the permits right and it takes a lot of time and effort. We believe that people are becoming more and more aware of the problems and that things are changing.

Many of the women we are in contact with also have children and then it is possible to argue for the safety of the child. If a sex buyer is caught they usually will let the woman go since she has done nothing wrong. If the woman is caught for something else such as stealing or something else, she will be sent away, if she is there illegally. We have helped several of such women to get permits to stay. They have usually been exposed to crime in Sweden and can get permits through different circumstances, or through work permits. We have also had to see some women go back to their countries and possibly into a similar situation again. The law is the law and sometimes you cannot get around it and help people.

Attachment 3 – Interviews with independent stakeholders

Interview David Ellero (Europol)

1. Sweden's policy is based on a zero vision, meaning that prostitution, in the interest of society, should disappear because it is seen as form of violence and degradation of women. That is why purchase of sexual services has been criminalised in Sweden in order to make the country less attractive for traffickers.

The Netherlands handle a policy where prostitution done out of free will by a person wishing to earn his/her money that way, should become legitimate work. Normalisation of the sector was expected to reduce trafficking and chase criminals away.

Which policy is the most in the interest of women trafficked for sexual purposes and police units having to fight trafficking?

Firstly, Europol's mandated area of work covers trafficking in human beings (THB), which is a serious crime against persons and a gross violation of human rights. Although victims of THB can often be exploited for sexual purposes (approx. 80%) or labour purposes (approx. 20%), this shouldn't be confused with issues linked to prostitution.

The Swedish and Dutch legislation you are mentioning have a clear impact on the prostitution scene, but trafficking is something different. Whilst it is not Europol's role to comment upon national legislation, we can say that every EU Member State is affected by THB in one form or another regardless of the legislation covering prostitution. Since there is no effective data collection mechanism on THB it is also impossible to assess the effectiveness of these policies at EU level.

2. Do you think that the prostitution policy regime of a country is related to the trafficking in women flow to this country? Why?

Trafficking is always an illegal activity (in every MS) which is driven by profit. Where there is a market, this will drive trafficking, regardless if it is conducted in a legal or illegal environment.

3. Many European countries look at victims of human trafficking as unwanted illegal migrants when there is a lack of evidence and unclear stories making it hard for the police to convict the criminals. The women are often immediately sent back to their home country with an unknown future. Why do EU countries not soften the immigration rules in cases of trafficking in women?

Non EU victims of trafficking are the minority of cases reported at EU level. When victims are identified appropriate support should be given to them and this is actually foreseen by anti- trafficking legislation, however the detection of victims of trafficking is not easy and is surely not immediate. Often the victims are suffering from post traumatic stress disorder or are threatened by their exploiters and therefore don't cooperate with Law Enforcement authorities, which they regard as a threat. Immigration laws are not an issue, since a

recognised victim of trafficking normally benefits from a residence permit for “social protection” and shouldn’t be trialled for the crimes she committed whilst in a state of dependency from her exploiter. The issue here is that appropriate training should be given to those who are likely to come in contact with victims, in order to ensure they are able to recognise this serious crime, and deal with it appropriately.

4. What are the discrepancies between migration legislation and anti-trafficking policies of the member states?

See point above.

5. Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims incorporates important criminal law provisions such as a common definition of the crime, higher penalties and the principle of non-punishment of the victims for unlawful activities - such as the use of false documents - in which they have been involved when subjected to traffickers. Do think that this directive and the Member States implementation of it will free the EU of the phenomenon of trafficking?

As I mentioned before, legislation is merely a tool in the hands of the competent authorities, and although I am quite confident it will have an impact on the phenomenon, I doubt it will eradicate trafficking.

6. How effective is European police cooperation across borders at the moment when it comes to putting traffickers in women into jail and protecting victims?

The MS response to THB has never been higher than today, however there is still a lot to do in the field of international cooperation and Europol is playing its role to ensure investigations no longer stop at national borders. Measuring this effectiveness is currently impossible due to a lack of standardised data collection on THB at EU level, however it will take some time before Law Enforcement authorities cooperate as effectively as criminals on a transnational level, due to many reasons, one of them a fragmented legislative approach to THB.

7. Do you think that supply (window prostitution and legal brothels, thus easy access) has an influence on demand for prostitution?

See point 1.

Interview Jenny Andersson (International Centre for Migration Policy Development)

1. Since 1999 Sweden criminalises the clients of prostitutes in order to reduce demand for prostitution and to make the country less attractive for trafficking in human beings networks. Do you think this approach can reduce trafficking flows?

According to Ms. Andersson's personal opinion, the Swedish law makes it more difficult for traffickers to act in big organised criminal groups (i.e. to traffic a large number of victims to the country at the same time) as there are no structured networks (brothels etc)⁷⁷. At the same time however, the law forces prostitution *per se* to go clandestine, which creates a vulnerable situation for the prostitute, which could lead to exploitation and abuse of the prostitute.

Generally speaking and according to the personal opinion of Ms. Andersson, it is easier to organise the business of trafficking in human beings for sexual purposes in countries where prostitution is legal (due to the structures at hand i.e. brothels etc.) and possibly it is easier for trafficking to flourish within these structures. It is important to mention that we are here referring to THB for the purpose of sexual exploitation only, other forms of trafficking such as trafficking for the purpose of labour exploitation, begging, petty crimes etc. is as easy or difficult in Sweden as in the Netherlands. Not trafficking *per se* is easier in countries that legalised prostitution, but the structures inherent to legalisation make organisation of the business more attractive in countries where prostitution is legalised than where it is not for example the Netherlands versus Sweden.

The following answer is not based on my personal opinion but on the general view in Sweden: The law in Sweden is of moral nature. Everyone knows that it is extremely difficult to catch the client with his pants down and the money in his hands. The law was introduced to make a standpoint that a human being cannot be seen and treated as a commodity i.e. you should not be able to "buy a person". The political cultural background is different in Sweden than in the Netherlands. In Sweden the general public considers prostitution something bad and wrong and selling sex is something the prostitute is forced to do either due to a difficult social background or drug abuse or other reasons where he or she actually have no other choice, the thought that persons actually prostitute themselves because they want to do so is generally speaking something that most Swedish people have difficulties believing. The State itself follows this approach. Based on this it is not generally accepted by the public to buy sexual services, it is something that is kept silent and done "behind locked doors". I believe (and based on the interviews I did when writing my master thesis) that is generally more accepted to buy sexual services in the Netherlands than in Sweden.

2. The Netherlands legalised prostitution in 2000 with the intention of counteracting trafficking in persons for sexual purposes. But the country is still one of the top

⁷⁷ It is important to stress the fact that the answers are connected only to trafficking in human beings for the purpose of sexual exploitation, all other forms of trafficking i.e. trafficking for the purpose of labour exploitation, begging, petty crimes etc are not touched upon.

destinations for human trafficking⁷⁸. What is your opinion of the Dutch policy when it comes to prevention of trafficking in human beings for sexual purposes?

Neither the policy to legalise nor to criminalise clients i.e. to buy sexual services influence trafficking in human beings for sexual purposes as such. Trafficking in Human Beings will continue to happen in legal as well as in illegal contexts. A general thought would be that some structures within the policies (more public acceptance) might make it easier to traffic people.

3. How much does prostitution regulation of a country influence the trafficking in women for sexual purposes flows in your opinion?

Prostitution regulation has some influence but it will never stop trafficking in women. As long as there is demand, trafficking will exist, but according to what some numbers and data from Swedish and Dutch instances tell us, it seems as if the Swedish approach hinders trafficking more than the Dutch approach.

4. Do you think that supply (window prostitution and legal brothels, thus easy access) has an influence on demand for prostitution?

Demand for sexual services is the same in all countries, but in the Netherlands taking the step to go to a prostitute is easier and more accepted than in Sweden where it is morally unacceptable to visit a prostitute.

5. What can be done at EU level to prevent trafficking in women for sexual purposes?

Information campaigning in the countries of origin and destination is an important preventative measure.

In the countries of origin potential trafficking victims need to be instructed to keep their passports with them, check employers and working conditions, ask for contracts. Access to hotlines and NGO's should be increased.

Destination countries need to implement the EU directives and set up national structures for victims to know where to go and who to contact.

⁷⁸ http://www.unodc.org/documents/human-trafficking/Global_Report_on_TIP.pdf, retrieved on the 17th of January 2011.

6. Many European countries look at victims of human trafficking as unwanted illegal migrants when there is a lack of evidence and unclear stories making it hard for the police to convict the criminals. The women are often immediately sent back to their home country with an unknown future. Why do EU countries not soften the immigration rules in cases of trafficking in women?

The process to formally identify an often traumatised victim of trafficking for sexual purposes is long. Every case and needs to be looked at separately and cooperation between the governmental institutions and NGOs in the countries of destination and origin needs to be structured to be able to support a victim wanting to get back to his/her home country i.e. assistance and support mechanisms existing in the country of origin etc.