

The challenges of fighting sex trafficking in the legalized prostitution market of the Netherlands

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Abstract In 2000, the Dutch authorities lifted the ban on brothels in the Netherlands. The essence of their approach was to regulate prostitution. People of legal age could now voluntarily sell and purchase sexual services. Brothels which complied with certain licensing conditions were legalized. This paper critically assesses the logic of a position that argues that human trafficking is reduced when actors in the legalized prostitution sector are made responsible for what happens on their premises (using licensing conditions). This idea is confronted with empirical evidence about the Netherlands in general and the city of Amsterdam in particular. Furthermore, the paper addresses two questions. What are consequences of the regularization of prostitution for the criminal investigation and prosecution of sex trafficking? How do criminal justice agencies collaborate with regulatory authorities in the regulated and non-regulated sectors of the prostitution market? The main conclusion is that the screening of brothel owners and the monitoring of the compliance of licensing conditions do not create levels of transparency that enable sex trafficking to be exposed. The prostitution business retains many characteristics of an illegitimate market and the legalization and regulation of the prostitution sector has not driven out organized crime. On the contrary, fighting sex trafficking using the criminal justice system may even be harder in the legalized prostitution sector.

Introduction

In 2000, the Dutch authorities lifted the ban on brothels in the Netherlands. The essence of their approach was to regulate prostitution. Voluntary prostitution by prostitutes of legal age was no longer prohibited. Brothels which complied with certain licensing conditions were legalized. At the same time, policy makers intended to crack down forcefully on ‘unacceptable’ forms of prostitution, such as involuntary prostitution and prostitution by minors [1].

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The positive and negative consequences of legalizing prostitution have been subject to an ever-recurring debate. Some authors argue that legalization may improve the position of prostitutes and increase transparency in the prostitution sector. Others contend that legalization will actually increase human trafficking, as supply and demand for prostitution will rise and reach a higher equilibrium (for a review, see e.g. [2, 3]). The flaws inherent in this debate are: that prostitution and sex trafficking are often equated; that normative and empirical questions are conflated; and that any analysis often involves an aggregate level, comparing prostitution regimes in several countries with the numbers of reported instances of human trafficking (for a critical review, see e.g. [4, 5]).

This paper, however, addresses a different question and a different level of aggregation. It explores the consequences of the regulation of the prostitution sector for law enforcement agencies and for the efforts to combat sex trafficking. The legalized prostitution sector in the Netherlands is examined in detail; and, the relationship between the regulatory enforcement of brothel-licenses and the criminal investigation and prosecution of human trafficking is addressed.

The first part of this paper critically assesses the logic of a position that argues that human trafficking is reduced when actors in the legalized prostitution sector are made responsible for what happens on their premises using licensing conditions. We confront this idea with empirical evidence about the Netherlands in general and the city of Amsterdam in particular. The second part of this paper addresses the questions: what are consequences of the regularization of prostitution for the criminal investigation and prosecution of sex trafficking and how do criminal justice agencies collaborate with regulatory authorities in the regulated and non-regulated sectors of the prostitution market? The conclusion of this paper summarizes the challenges inherent in the fight against sex trafficking in the legalized prostitution market and shows that the screening of brothel owners and the monitoring of the compliance of licensing conditions do not create levels of transparency that enable sex trafficking to be exposed.

Reducing sex trafficking by legalizing prostitution

Prostitution and sex trafficking are not the same. In the legalization debate, however, sex trafficking and prostitution are often conflated. Opponents of legalizing prostitution often claim that, by legalizing prostitution, the supply and demand for prostitution will rise and reach a higher equilibrium (for a review, see e.g. [2, 3]). Some go even further by concluding that this also means that sex trafficking will rise (e.g. [6: 88, 7: 14]). On the other hand, advocates of legalization often claim that legalization may improve the position of prostitutes and the transparency of the prostitution sector, thus reducing or even eradicating sex trafficking.

The impetus for lifting the ban on brothels in the Netherlands in 2000 was based upon several explicit or implicit policy assumptions. First, it was based upon assumptions about the behavior of owners of (legalized) businesses, the behavior of prostitutes, the nature of sex trafficking, and the behavior of traffickers. Second, it was based upon assumptions about the interaction between participants in the legalized sector and the relevant authorities, amongst others, the local administration, inspection agencies, tax authorities, and the criminal justice system.

In a legalized sector, participants have to pay taxes and comply with licensing conditions and other forms of regulation. But many other types of behavior might still remain illegal, such as prostitution by minors, prostitution by illegal immigrants, involuntary prostitution and sex trafficking. However, in a changed context of legality, the dominant way of approaching the sector changes considerably and some authorities are given different responsibilities. This will be discussed in the next section, but first we will focus on the policy assumptions made about the behavior of the owners of legalized businesses, the behavior of prostitutes, the nature of sex trafficking and the behavior of traffickers.

Much has been written about the legalization of prostitution in the Netherlands (for reviews, see e.g. [1, 8, 9]). A dominant assumption behind this policy change is that unacceptable forms of prostitution can be diminished by ‘normalizing’ the profession of prostitutes and by making actors in the legalized prostitution sector responsible for what happens on their premises by using licensing conditions. Another (implicit) assumption is that sex trafficking will diminish as prostitutes of legal age are able to work voluntarily and actors in the legalized sector, (e.g. brothel owners or people renting out rooms for window prostitution), may lose their license if they do not comply with licensing conditions.

In 2007, a large-scale evaluation of the legalization of prostitution, coordinated by the Research and Documentation Center of the Ministry of Justice, was published [1]. Some conclusions about the legalization of location-bound prostitution (brothels, sex clubs, and window prostitution) were quite encouraging. Almost all municipalities had completed the issuing of licenses and inspections had been carried out to a greater or lesser extent everywhere [10]. Business owners had tended to comply with licensing conditions, and the number of prostitutes without legal documents had decreased (matched by an increase in documented prostitutes from Eastern European countries in the European Economic Area).

A specific study of non-legal prostitution, such as non-licensed prostitution, prostitution by minors and prostitution by people without a residence permit, concluded that the strict enforcement implemented in the studied regions did not seem to have led to a shift to non-licensed prostitution within the area [11]. However, according to another study, labor relations in the licensed businesses had scarcely changed and showed no significant improvement [12]. The study concluded: “There still is confusion about the form which labour relations should take. Towards the Tax Administration, prostitutes and owners stubbornly maintain that prostitutes are self-employed, but at the same time the involvement of owners in the prostitutes’ activities takes on such forms, that these are, in fact, employer-employee relationships. The legal position of prostitutes is not good” [1: 14–15]. Furthermore, the emotional well-being of prostitutes was lower than before legalization of prostitution on all measured aspects; the use of sedatives had increased; and the number of prostitutes with a pimp had not decreased [1: 86]. Finally, Dekker et al. [12] reported that 70 % of the interviewed prostitutes claimed not to pay taxes. In fact, Verhoeven et al. reviewed the available evidence and concluded that the legalized Dutch window prostitution sector retains many characteristics of an illegitimate market [13].

Law enforcement investigations revealed that human trafficking was still thriving behind the legal façade of legalization [14]. With the benefit of hindsight, one might conclude that the legalization policy had a one-sided focus on business owners while

neglecting the relationships between pimps and prostitutes. Research shows that the principle means of exploitation are: manipulation through social relationships, close monitoring, intimidation and outright violence. However, this violence may be integrated in complex, personal relationships and in the relationships of (economic) dependency which exist between prostitutes and pimps (see e.g. [15, 16]). Such trafficking practices are not only possible in an illegal prostitution sector but also in a legalized sector (see [14, 17]).

The heart of the prostitution sector in Amsterdam is known as the ‘Red Light District’, named after the red lights illuminating the windows of the brothels behind which scantily dressed prostitutes put themselves on clear display. In a recent study in the Amsterdam Red Light District, Van Wijk et al. [18: 165] found that the interviewed respondents (police officers, social workers and prostitutes) claimed that hardly any prostitute worked without a pimp. Theoretically, however, several favorable conditions supporting independent prostitution are available.

Women are able to rent a window independently for example. In the main part of the Amsterdam Red Light District, there are about 290 windows, usually rented out in two shifts, a day shift and a night shift [18: 31–36]. Women use these premises as a location to solicit customers, to make themselves visible from the street (and other windows), to negotiate prices and render legal sexual services. They do not have to be afraid of police intervention and alarm bells often provide extra security. Nevertheless, many women still have a pimp (sometimes equal to a ‘boyfriend’); and, if a woman does not want to work for a pimp, pimps are still able to frustrate her business for example by standing in front of her window until she shares the profits with them (a form of ‘protection’).

In one of the most notorious cases, the so-called ‘Sneep’ case, German pimps traveled to Amsterdam with some female relatives. They gradually took over a significant part of the district, using other pimps, bodyguards, and prostitutes to extend their business. In the end, numerous women worked as prostitutes for this group, handing over a large share of their profits. Many of the women were related to these pimps and had worked as prostitutes prior to their arrival in Amsterdam. Some people find it difficult to grasp that prostitutes can be victims of human trafficking and the same applies to women who have intimate relationships with their pimps. The ‘Sneep’ case, however, shows how some pimps use intimate relationships and family networks in addition to brutal violence as tools to manipulate victims. As we know from the literature on domestic violence, intimate relationships can coincide with vicious circles of violence [14]. The ‘Sneep’ case was a prime example of how sex trafficking is possible in a legalized prostitution sector. This process is also demonstrated in more detail and for many other cases in research by Verhoeven et al. [14]. They describe 12 criminal investigations during the period of 2006–2012 that exposed human trafficking behind the legal façade of the legalized prostitution sector in the Red Light District, mainly by pimps who had intimate relationships with the victims of sex trafficking.

Before the legalization of the prostitution sector, an interesting study by Van Dijk [19] analyzed police investigations into human trafficking involving 521 suspects in the Netherlands in the period 1997–2000. Most victims at that time worked in brothels or in window prostitution, while some were active in street prostitution or escort services. Forty clubs were owned by trafficking suspects, 27 cooperated with traffickers (the owners usually turned a blind eye), and 21 were used by traffickers (the owners

were unaware). Landlords renting rooms out for window prostitution were never directly involved in trafficking but rented rooms to pimps without checking whether the prostitutes were illegal or exploited. Sometimes the women were recruited abroad, but more often they were simply bought from other pimps or recruited domestically.

One may question whether changing the rules of the business, by legalizing prostitution, has changed the behavior of the participants. The legalization of the prostitution sector may have been effective in deterring business owners, particularly brothel owners, from becoming directly involved in human trafficking. Nevertheless, law makers seem to have neglected a very important aspect of human trafficking, namely the exploitation of prostitutes by pimps, particularly in window prostitution. Prostitutes with pimps work predominantly behind the windows, in the escort business and from home.

One might even contend that—by legalizing a sector—window prostitution has become more accessible to outsiders, as any woman of legal age—with or without a pimp—is able to rent a room. Pimps were a problem in the past, before legalization; and, they are still a (neglected) problem in the post legalization situation. One aspect of legalization is that not only was the ban on brothels lifted (making the exploitation of prostitution legal), but the ban on ‘pimping’ was also removed from the Dutch Penal Code. In one way, this seems consistent, as brothel owners, landlords renting out rooms, and procurers ‘facilitate’ prostitution. However, pimps exploiting prostitutes can now only be prosecuted for the offence of ‘human trafficking’.

Law enforcement in a legalized prostitution market

As in most forms of organized crime, the criminal investigation of human trafficking is challenging. Research by Farrell et al. [20] in the United States shows that local law enforcement agencies often perceive human trafficking as rare or non-existent, but agencies serving larger communities are more likely to identify human trafficking, particularly sex trafficking, as a more pervasive problem. Furthermore, Farrell et al. found that human trafficking investigations are often lengthier and more complex than other criminal investigations [20].

In the Netherlands, before 2000, the exploitation of prostitution was officially a criminal offence, but the police and prosecution department hardly paid any attention to this type of ‘crime’. This was possible through the so-called ‘expediency principle’, formulated in the law, which gives the Public Prosecutor the power to refrain from prosecuting offences, as it is not efficient to prosecute all offenses. This discretionary power, formulated in Dutch procedural law, allowed public prosecutors to dismiss criminal proceedings in cases such as prostitution where strict law enforcement was not considered to serve the public interest. The official ban on the exploitation of prostitution slowly became a ‘dead letter’ in the Criminal Code as prevailing circumstances rendered it inoperative. By legalizing the employment of prostitutes, the government was thought to be able to exercise more control over the sex industry and counter abuses.

Interestingly, the legalization of the prostitution business came at the same time that an increase in criminal law enforcement policies to fight sex trafficking were put into place. Along with the regulation of brothels, a stricter penalization of undesirable forms

of prostitution and the sexual abuse of minors was introduced. A new section of the Dutch Criminal Code penalizes all forms of involuntary exploitation in the prostitution sector. Fighting sex trafficking also became a higher priority and new criminal policies were introduced by both the Ministry of Justice and the Public Prosecutors Service to fight organized crime [21]. In this national policy move against organized crime, fighting human trafficking was one of the top priorities. A national ‘Task Force to Combat Human Trafficking’ was set up for this purpose [22].

Despite these formal efforts, we do not know how the legalization and regulation of the prostitution market changed the practice of the criminal investigation and prosecution of sex trafficking. To answer this question, we will first look at the impact it has had on the targets of criminal investigation and prosecution: the sex workers, traffickers and customers. Secondly, we will look at the application of the official goal of achieving ‘integrated enforcement’ and the collaboration between regulatory and criminal justice agencies. Thirdly, we will address capacity problems; and, fourthly, we will examine the criminal investigation strategies used in the regulated prostitution sector in some detail. Finally, we will address multi-agency cooperation in criminal investigations.

The aim of law enforcement

No developed body of literature exists on the role of enforcement in prostitution regimes in particular [3: 236]. In a way, the legalization of prostitution dictates the aim of law enforcement. Theoretically, law enforcement to combat sex trafficking could be aimed at sex workers, traffickers or pimps, or customers. A well-known example of the last is found in Sweden, where making use of the services of sex workers is criminalized and law enforcement methods are aimed at customers.

When offering prostitution services is criminalized, as it is in many countries, law enforcement can also be aimed at the victims of human trafficking who work as prostitutes, especially when victims are illegal immigrants. Marinova and James [3: 236] contend that human rights advocates have been criticizing stringent enforcement, arguing that states may use trafficking in an effort to put a human face to tough enforcement policies and to justify immigration control [23: 1642–1644]. According to Marinova and James, some authors have held that the EU policy on trafficking is underpinned by a crime control approach. Furthermore, they argue that the purpose of the EU Council Framework Decision on Combating Trafficking in Human Beings, while stating that its objective is to protect the human rights of affected persons, has actually been utilized to limit irregular migration [24: 790].

In the Netherlands, law enforcement is not aimed at sex workers for two reasons. First, sex workers are officially seen as legal entrepreneurs, unless they are illegal immigrants. But because of the expansion of the EU, most sex workers who are forced into prostitution are also legal immigrants. However, to ensure people choose and execute this type of work voluntarily, sex trafficking and pimping have to be combatted.

Second, the official position that prostitutes voluntarily choose this type of work is being challenged [1, 18]. In Amsterdam, the Deputy Mayor—who recently became Deputy Prime Minister of the country—took the position that no woman chooses this work voluntarily. So from both a legal and moral point of view, traffickers who

facilitate prostitution are seen as ‘evil’ and therefore law enforcement policies are aimed at them.

Sex trafficking was made a criminal offence in Section 273f of the Dutch Criminal Code. It is, in brief, a criminal offence to recruit, transport, move, accommodate and shelter a person, while inducing that person to give up money earned by prostitution under duress, by using violence (or threatening to do so), by deception, extortion, fraud or abusing the vulnerable position a person is in for the purpose of exploitation.

Because it was expected that the regulated prostitution sector could be monitored effectively, it was also thought that the police could then focus on prostitution *outside* the regulated sector. Sex trafficking networks and their victims were expected to move to unregulated forms of prostitution. To combat abuses outside the arena of regulated prostitution, much would depend on the actions of criminal justice agencies, which were expected to focus directly on the investigation and prosecution of sex trafficking [25]. However, as mentioned above, the Sneep case showed that prostitutes working in the licensed sector are often also victims of violent pimps and of sex trafficking.

Integrated enforcement?

Although it was expected that, because of the monitoring of the regulated sector, the police could focus on prostitution outside this sector, this does not mean that criminal justice agencies had no role to play in keeping the regulated sector free of human trafficking. On the contrary, one of the central ambitions of the national policy on organized crime is to combat human trafficking in a joint effort between criminal justice agencies and administrative bodies, at both national and local levels.¹ This ‘integrated’ approach is designed to prosecute traffickers and to reduce criminogenic opportunity structures that facilitate sex trafficking.

Under this umbrella of the ‘integrated approach’ to organized crime and sex trafficking, various collaborative projects were initiated to build trust, to develop the tools of intervention and to organize the exchange of information. The ‘Task Force to Combat Human Trafficking’, for instance, designed a toolkit for the various agencies involved in the monitoring, investigation and prosecution of sex trafficking and in the support services offered to victims. This toolkit provides information on the registration of indications of sex trafficking and the practicalities involved in the exchange of data with other agencies.

According to the National Rapporteur in Trafficking in Human Beings, in 2009 some cities and municipalities were still not participating in this integrated approach [25]. Not all local authorities recognized sex trafficking as a problem. Only in some larger cities, such as Amsterdam, were law enforcement agencies and public authorities working together to fight sex trafficking. The Rapporteur recommended that all the cities and municipalities should take the initiative and support an integrated, national approach to sex trafficking.

Although the police are primarily responsible for targeting prostitution outside the regulated sector, this does not mean that other local authorities do not have any responsibility. Local authorities have a duty to collect data and information about the

¹ According to the policy plan ‘Versterking aanpak georganiseerde misdaad’ presented by the Minister of Justice to the Dutch parliament in 2007.

un-licensed businesses under their jurisdiction which offer or mediate in sexual services, such as escort services. According to the evaluations made by the Dutch police, this task is not being done well [26]. The success of the integrated approach to organized crime and sex trafficking is dependent on various conditions. Not all of these have been met. Not all actors, for example, accept the joint responsibility, as illustrated above. The exchange of information is problematic too, as will be discussed below. Finally, one can observe that the criminal justice system and the regulatory enforcement agencies focus on *diverging aims*.

There is much debate between municipalities and the police about these responsibilities. Some municipalities try to shift the responsibility onto the police by using the argument that these tasks only serve to collect evidence to prosecute offenders, and that this is not within their remit. On the other hand, a growing number of police forces are refusing to execute these monitoring tasks and, as a result, neither local authorities nor the police are gathering intelligence on unregulated prostitution. This is highly problematic, as criminal investigations into sex trafficking start by building criminal intelligence.

Regulatory enforcement by local authorities is aimed at the ‘front door’ of the prostitution business: monitoring the compliance with the licensing conditions. In order to be in compliance, the brothel owners have certain duties to perform to prevent sex trafficking; duties that require some form of *action*, such as inspecting the identity documents of prostitutes and interviewing them to ensure that they are acting of their own volition.

Conversely, criminal enforcement by the police and public prosecutors is aimed at the ‘backdoor’ of the prostitution business: investigating sex traffickers who provide brothels and other premises with sex workers who are coerced into prostitution, and pimps who force these women to hand over most of their earnings. Contrary to regulatory enforcement, criminal enforcement is not aimed at ensuring compliance (action), but at forcing traffickers to *refrain* from action. These differences imply that both types of enforcement follow different kinds of logic, hindering effective cooperation.

Capacity problems

In three ways, the legalization and regulation of the prostitution sector can influence the capacity of the police (in terms of manpower) to fight sex trafficking: first, when legalization leads to an increase in the numbers of trafficked women working in the regulated sector; second, when monitoring the regulated sector drains capacity from investigating the unregulated sector; and, third, when monitoring drains the capacity for investigating cases of human trafficking.

Evaluation studies show that the police play a pivotal role in monitoring the licensed sector and in carrying out inspections [1]. The downside of these efforts is that there is insufficient police capacity left to play a major monitoring and investigative role with regard to punishable forms of operation outside the licensed sector. Thus, the assumption that the new policy would allow the police more capacity to fight human trafficking has not come to fruition. What is more, the feeling in the prostitution sector is that licensed businesses are inspected more often than non-licensed businesses, a situation which undermines the willingness of operators of licensed businesses to adhere to the rules and complicates the efforts to combat human trafficking [1].

Internal evaluations made by the police also show that the licensed prostitution sector is not being fully monitored and that it takes a lot of effort to monitor the unregulated parts of the business [26, 27]. The monitoring of the unregulated sector was described as ‘inefficient’ and ‘ineffective’ [26: 101]. Many police forces limit themselves to incidental and reactive inspections. The internal evaluations also show that the money spent on police efforts to support local authorities is not always reimbursed. In some regional police forces, local authorities financed extra police-officers. This can mean, however, that any increase in the police capacity to fight sex trafficking becomes dependent on the priority that local municipalities put on it.

The National Rapporteur on Human Trafficking has frequently pointed at the importance of an inclusive policy which—besides monitoring the regulated side of the prostitution sector—also gives sufficient priority to fighting the unregulated, illegal side of prostitution. The reporter has repeatedly stressed the importance of having more capacity for criminal investigations of sex trafficking. The Dutch government has clearly stated that the police should increase their efforts to investigate and prosecute sex trafficking generally. Recent major criminal cases, however, have all targeted sex traffickers operating in the regulated sector [14].

Criminal investigation strategies in the regulated prostitution sector

In the Netherlands, a criminal investigation is executed by an investigation team under the direction of the public prosecutor. The specific characteristics of human trafficking in the prostitution business require a specific method, and influence the choices made by the investigation teams with regard to the investigative strategy to be applied. Verhoeven and Van Gestel [28] studied four large-scale police investigations into human trafficking. They describe the ways in which a criminal investigation into human trafficking is carried out in reality. The four criminal cases all focused on violent groups of human traffickers operating in the Amsterdam window prostitution business. The cases involved four different investigative strategies: one investigation focused primarily on victim statements; one on public nuisance complaints; one on the evidence against the criminal organization; and, one on the actual exploitation of prostitutes. Several interesting findings of this study are described below in more detail.

In the investigation which focused primarily on victim statements, the local community police played an active role in the investigation [17: 155–156]. Community police officers, doing their beat in the Red Light District, had regular contacts with women working in the Red Light District and actively contributed to the identification of victims and their whereabouts. The investigation team, including the community police, invested time and effort in making contact with the victims and convincing them to trust the police. The vice squad and other confidential persons from the network of the victims (such as interpreters or social workers) were asked to stimulate the contact with victims. Finally, specific arrangements were made for the women to file their reports and for the procedures to follow when a suspect was arrested. Finding and building contact with victims was facilitated by the fact that they were working in ‘condoned’ and, later on, legalized window brothels.² The Red Light District is a

² Actually, Brants [8] claimed that legalizing prostitution in 2000 would not have much effect on the de facto regulation that already existed prior to legalization.

relatively small area. Women were literally ‘visible’ and could be approached by the police and others seeking information.

Also in the fourth investigation, which was not aimed at getting victim statements but at finding evidence of specific offences that are related to sex trafficking [17: 158–159], there was close contact between the community police and the investigation team. They exchanged information and kept each other updated on the latest developments. As the community police were familiar with the developments of the investigation, they were able to gather specific information. In other words: the police officers on the street knew what to look for.

The second investigation focused on public nuisance complaints [17: 157]. Residents of the Red Light District (which has also become a popular residential area for ‘young urban professionals’) were confronted with fights and quarrels in the streets and with the intimidating presence of pimps in the neighborhood. They reported this to the police. The community police officers were already collecting information on the men causing the nuisance and on the exploitation of prostitutes through their close contacts with the prostitutes. This information, however, was not used in the investigation; moreover, to make sure that the suspects did not discover that they were under investigation, the investigation was not made public.

Verhoeven and Van Gestel [28: 157] claim that the decision to not use information from the community police presents a risk: “*Specific information and insight into victims, abuse and exploitation may fail to materialise and, consequently, it is possible that no clues will be found for the investigation of human trafficking.*” Instead, the investigation team sought cooperation from the municipal authorities. The suspect owned a bar in the Red Light District. This bar served as an ‘office’ where pimps got together and managed their interests in the prostitution business. The group was a dominant factor in the streets in the area around the bar. In cooperation with the municipal authorities, a plan was drawn up and, following the integrated approach, information from the criminal investigation was shared with the municipal authorities, although the community police were not involved. On the basis of this information, the municipality had sufficient evidence to revoke the license for the suspects’ bar. Such a public nuisance-oriented strategy creates the possibility, by revoking licenses, to drive criminal entrepreneurs away from a prostitution area.

As all four of the investigations that Verhoeven and Van Gestel [28] studied focus on traffickers whose victims were working in the window prostitution in the Red Light District in Amsterdam, this could not account for the difference in strategies. No study is available on investigation strategies used in criminal investigations into sex trafficking in illegal outlets of prostitution, such as unlicensed brothels, street prostitution and escort services. A comparison to assess the influence of regulation on the investigation strategy is, therefore, hard to make.

Verhoeven and Van Gestel contend that, while human trafficking is partly a transnational phenomenon, it is also a local problem and embedded in local situations [28]. This local character of human trafficking provides opportunities for the community police to be involved in the investigation. They are the eyes and ears of the police on the street. Community police officers gather information by carrying out surveillance and talking to the people they encounter on their beat. The legalization and regulation of the window brothels in Amsterdam has facilitated this community police work. Brothels are not underground and both brothel owners and prostitutes are legitimate

entrepreneurs who can be approached and conversed with. In this way, community police officers can pick up signs of abuse, exploitation, and human trafficking. Whether or not this information is used to fight sex trafficking depends on the strategy of the team that is responsible for the criminal investigation. According to Verhoeven and Van Gestel [28], the involvement of the community police has an effect on the information gathered during the investigation. They see a connection between the degree to which the community police are involved (in the criminal investigation) and the gathered evidence.

Multi-agency cooperation in criminal investigation

Legalizing a ‘marginal activity’ such as prostitution may have unforeseen consequences for government agencies. Legalization does not mean that prostitution is accepted, certainly not by all parts of the population. As Felson [29: 166] put it, a society may legalize prostitution, “*but often continues to hold it in some disdain*”. Many clients and prostitutes still rely on anonymity, secrecy, and cash transfers, whether prostitution is legalized or not, as is concluded in a review of the available evidence on the Dutch legalized prostitution market [13]. As a consequence, the prostitution business retains many characteristics of an illegitimate market (see also [30]), although the local government and the tax authority try to deal with brothel owners and prostitutes as ‘legitimate entrepreneurs’. Traditionally, the tax authority is primarily focused on raising taxes from legal activities that can be checked by accounts and registered payments, while the police are primarily focused on catching criminals for committing acts that are criminalized. By legalizing prostitution, the playing field for many government agencies has been changed considerably, raising several new questions about collaboration.

First, it raises questions about the priorities of government agencies. Legalizing prostitution means that the offence of human trafficking remains the only criminal act for which people can be prosecuted, while much police capacity has to be used for ‘monitoring’ activities (see above). On the other hand, the tax authority is obliged to raise taxes for activities which—by their very nature—are extremely difficult to check, as long as anonymity, secrecy and cash transfers are so dominant in the prostitution sector [13].

Second, for an approach to be effective, cooperation is often necessary, but viewed from the logic of bureaucratic institutions, it is hard to give it a high priority. The police and tax authorities have different mandates and goals. For the tax authority, checking the accounts of large companies in Amsterdam produces a much higher ‘return on investment’ than scrutinizing prostitutes and brothel owners in the Amsterdam Red Light District.

Third, cooperation is difficult, both from a legal point of view (information exchange) and a practical one (trust). Information gathered in the context of checking compliance with licenses—from a legal point of view—is treated in a different way than information gathered in the context of a criminal investigation. Furthermore, privacy regimes often hinder the ‘free flow’ of information between criminal justice authorities, the tax authority, the local government, and inspection agencies. This became clear in the context of the so-called ‘Emergo-project’, a concerted effort of the city of Amsterdam and the national government in the period 2007–2011 to combat serious organized crime in the Red Light District and the surrounding area, involving various other government agencies. For this multi-agency approach to be effective, lots of effort had to be invested

in overcoming privacy problems, which involved the setting up of a special judicial arrangement (for the period of this project alone) [17, 31]. Whilst overcoming technical, ‘judicial’ problems is one thing, building trust between co-operating agencies is another question entirely. An earlier evaluation of the multi-agency approach in Amsterdam revealed that trust was often lacking, particularly between the police and the local government [32]. A recent evaluation of human trafficking collaboration within the context of ‘Emergo’ showed mixed, but more positive results [17].

Despite all these difficulties, there are examples of good levels of cooperation in the investigation of human trafficking in the Red Light District in Amsterdam in the context of the Emergo-project. The evaluation by Huisman and Nelen [32] showed that to revoke licenses, for example, local government was often dependent on police information. Without this information, the so-called ‘administrative’ approach towards organized crime was rather difficult. However, the evaluation by Verhoeven et al. showed that in the Emergo-project, the police investigated human trafficking not only with a focus on the offence of human trafficking, but also with specific knowledge of the licensing conditions of local government [17].

A common problem is that criminals use ‘straw men’ to exploit their businesses, as a ‘straw man’ without a criminal record can successfully apply for a license. Wiretaps by the police illustrated that as soon as any problems arose—such as a letter arriving from the tax authority or the local government—the ‘straw man’ immediately called his real boss and discussed these problems with him. By collecting this evidence, the local government was able to withdraw the licenses after arrests had been made [17]. The criminal investigation also showed that direct negotiations about rooms took place with pimps (rather than prostitutes) and that a café was used as a meeting place for pimps, where they could monitor their prostitutes in the alley via the café’s surveillance cameras [17: 63–92].

The tax authority also invested time and energy in the human trafficking investigations (primarily by attending meetings), yet was of limited use, except for providing information about the income and property of suspects [17: 85–86]. The main reason for this is that so many people and businesses are not known to the tax authority or do not provide adequate information. Furthermore, the information held by the tax authority is often not linked to current events (unlike police information), but more often relates to administrative checks of situations which can be two or more (fiscal) years old. This ‘time lag’, while necessary for raising taxes, means that information from the tax authority is often of limited use for a police investigation, which focuses primarily on current events.

Conclusion

This paper discussed the efforts made to combat sex trafficking within the regulatory framework of the prostitution sector in the Netherlands. We examined how regulators and criminal justice officials combat human trafficking alongside efforts to regulate legalized prostitution, by addressing the relationship between the regulatory enforcement of brothel-licenses and the criminal investigation and prosecution of sex trafficking.

By legalizing and regulating brothels and, at the same time, criminalizing human trafficking, the Dutch government hoped to create more transparency in the prostitution

market, and consequently, to enable the criminal justice system to fight and contain sex trafficking more effectively. This paper shows that the screening of brothel owners and the monitoring of the compliance of licensing conditions do not create levels of transparency that enable sex trafficking to be exposed.

Regulatory enforcement by the city administration is still largely dependent on criminal investigations made by the police to uncover the legal façades of organized crime. While the city administration and the tax authority try to deal with brothel owners and prostitutes as legitimate entrepreneurs, the prostitution business retains many characteristics of an illegitimate market. This hinders regulation and monitoring.

Yet, in turn, to be able to investigate and prosecute sex traffickers, the police are reliant upon the information provided by regulators. The regulation has hidden the legalized sector from the view of the criminal justice system, while human trafficking still thrives behind the legal façade of a legalized prostitution sector. Brothels can even function as legalized outlets for victims of sex trafficking. Monitoring the regulated sector drains capacity away, which could alternatively be devoted to criminal investigation and other tasks, thus preventing the police from focusing on the investigation of sex trafficking in unregulated forms of prostitution.

Local authorities have to be the eyes and ears of the criminal justice system if sex trafficking is to be detected; but, they do not always accept this responsibility. Legal limitations and the differing aims of regulatory enforcement and criminal justice hinder effective collaboration between local authorities and criminal justice agencies.

This paper, therefore, concludes that the legalization and regulation of the prostitution sector has not driven out organized crime. On the contrary, fighting sex trafficking using the criminal justice system may even be harder in the legalized prostitution sector.

While the results of this analysis are not very positive about the achievement of the aims of Dutch policies regarding prostitution and sex trafficking, the Dutch approach does provide an interesting case for the criminological study of the effects of regulation on the nature and modus operandi of organized crime. In classic American studies of *mafia*-style organized crime, organized crime is supposed to reap profits by exploiting legal markets ('racketeering'). In many European countries such as the Netherlands, however, the main source of income for organized crime groups originates from vices and illegal markets [33]. One might observe that the Dutch approach has allowed offenders to transform from *vices*, offering illegal services on a black market, to *racketeering*, by criminally exploiting a *de iure* legal market.

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