

Summary

Prostitution in the Netherlands since lifting the general ban on brothels

Introduction and research questions

The general ban on brothels was lifted on 1 October 2000 in the Netherlands. The essence of the change in the law is that those forms of prostitution in which adult prostitutes are voluntarily engaged are, under certain conditions, no longer prohibited. At the same time, the legislator intends to crack down on unacceptable forms of prostitution (in particular various forms of human trafficking). A first evaluation of the change in the law was carried out in 2001/2002. The Minister of Justice promised the Lower House of the Dutch parliament that a second evaluation study would be carried out a few years after the change in the law had come into force. The Research and Documentation Centre (WODC), was asked to oversee this evaluation. Three sub-studies were commissioned by and carried out under the supervision of the Research and Documentation Centre. In this report the results of the sub-studies will be summarised and combined with relevant information from other studies and reports.

The aim of this study is to provide information on the state of affairs concerning prostitution in the Netherlands in 2006 in the context of the evaluation of the lifting of the ban on brothels in order to be able to develop, if necessary, policy to accompany the legislation.

The research questions are as follows:

- What is the state of affairs concerning prostitution in the Netherlands in the area of municipal policy, enforcement and compliance?
- What is the state of affairs concerning the social position of prostitutes in the Netherlands?
- What is the nature and scale of involuntary prostitution, underage prostitution and prostitution by women who do not have a valid work permit?
- Which developments have taken place in the prostitution sector in the past years and to what extent is it probable that any shifts have been (partly) caused by the lifting of the ban on brothels?

Research methods

The three sub-studies were carried out by several institutes under the direction of the Research and Documentation Centre. The DSP group carried out a study into the municipal prostitution policy and its regulation and enforcement. A survey was conducted in all Dutch municipalities. The questionnaire was completed by a total of 385 municipalities (84%). Municipalities that had not completed the questionnaire were asked a

number of questions via the telephone. The response is so high that the results can be assumed to be representative for all Dutch municipalities. A qualitative study was carried out in six municipalities in order to provide more comprehensive results. Amsterdam, The Hague, Hulst, Leeuwarden, Nieuwegein and Tilburg were chosen for this study on the basis of a few criteria. A total of 67 in-depth interviews were held with municipal officials, municipal services, prostitutes, operators, members of the police force and other persons concerned.

Regioplan Beleidsonderzoek carried out a study into the social position of prostitutes in the licensed sector. The study focuses in particular on window prostitution, clubs, private houses, escort businesses and massage salons. The study was carried out in 20 municipalities spread throughout the country. Face-to-face interviews were conducted with 354 prostitutes and 49 operators using structured questionnaires. The majority of the prostitutes were not born in the Netherlands and for that reason, a substantial part of the interviews was conducted in a language other than Dutch (mainly English or Spanish).

Interval carried out a study into the nature and scale of various forms of illegal prostitution. The emphasis in this sub-study lies on more covert forms of prostitution and owing to its subject matter, this study presented the most problems in respect of drawing quantifiable conclusions and generalising the conclusions to prostitution in the whole of the Netherlands. In a general section the researchers collected global information about the various aforementioned forms of prostitution by means of desk research, interviews with 29 key informants and an analysis of available registration data on human trafficking. The core of the study was an in-depth study in four regions into illegality and exploitation in the prostitution sector. In Amsterdam, Eindhoven, Groningen and North and Central Limburg registration data was collected, key informants, operators, prostitutes and clients were interviewed and observations were carried out. A total of approximately 190 persons were interviewed for this sub-study. The provision of prostitution services was also identified for each region by means of municipal data and via (local) newspapers and Internet.

The Research and Documentation Centre wrote an overall report taking as a guideline the aims of the change in the law. In this report the most important results of the sub-studies are combined with one another and with relevant information from other studies and reports.

Legislation and policy

The general ban on brothels and the ban on pimping were lifted by the change in the law that came into force in 2000; the relevant sections have been deleted from the Dutch Criminal Code. At the same time, stricter penalisation of undesirable forms of prostitution and sexual abuse of minors was introduced. The new section 250a of the Dutch Criminal Code penalised all forms of exploitation in the prostitution sector. In October 2002 during a partial review of the decency legislation, a number of relevant sections of the law were amended, particularly with a view to a more effective protection of minors. Section 250a was tightened up, extended and renumbered and this resulted in the current Section 273f of the Dutch Criminal Code.

The administrative responsibility has been primarily placed with the local authority. Therefore, the municipalities play the most important role in determining the form of the prostitution policy.

Conclusions

All the municipalities have practically completed the licensing process and are carrying out inspections to a greater or lesser extent. As a result of this, the lack of uniformity that was found in the first evaluation study has been reduced (but has not been completely resolved). The study into illegal prostitution revealed that the strict enforcement in the regions studied in depth does not seem to have led to a shift to non-licensed prostitution within the area. Relocations *between* regions or municipalities were found to occur less frequently than at the time of the first evaluation, but businesses were found to be relocating to municipalities with less strict regulations or enforcement. Escort businesses, in particular, still have the option of relocating to municipalities where no licence is required for escort services.

The police (still) play the most important role in monitoring the licensed sector and in carrying out inspections that could also be conducted by, for example, the Health and Safety Inspectorate. The police are primarily occupied with inspections in the licensed sector and thus lack the capacity to play a major monitoring and investigative role with regard to punishable forms of operation outside the licensed sector. The feeling in the prostitution sector is that licensed businesses are inspected more often than non-licensed businesses. This situation undermines the willingness of operators of licensed businesses to adhere to the rules and complicates combating human trafficking.

This change in the law has led on the one hand to legalisation (of the commercial operation of prostitution services by voluntary adult

prostitutes who have the required documents) but on the other hand has led to tougher penalties for undesirable forms of prostitution. The legalisation has received the most attention. Nevertheless, it is not so much the legalisation as the stricter enforcement of the regulations in respect of punishable forms of prostitution that seems to have caused the most disquiet. In fact, there can be said to be a paradoxical situation: where formerly commercial operation was prohibited and is now legalised, prostitutes and operators feel that the *regulations* have become stricter, whereas in practice it is a matter of stricter *enforcement*. Internationally, the Netherlands is viewed by some countries as a country where there are no limits in the area of prostitution and where human trafficking is facilitated, whereas it is more likely that human trafficking has become more difficult on account of the fact that there is now more enforcement of the regulations in respect of punishable forms of prostitution than there was when all commercial operation of prostitution was prohibited.

Control and regulation of prostitution

The licensing process has been regulated. The municipalities have a preference for a local maximum policy, but in the year 2006 there are possibilities to set up new sex businesses within the quota. The municipalities have the *location-bound* prostitution businesses reasonably under control. Location-bound prostitution businesses *without* a licence are by far in the minority. The situation is more complicated in respect of non-location-bound businesses. A purely local approach is not sufficient in respect of non-location-bound forms of commercial operation of prostitution. It is very easy for businesses to evade this local policy by relocating to a different municipality or region where either a licence is not required or the approach is less strict.

In addition to this, there are sectors that are difficult to control such as couples clubs, sauna clubs and massage salons. The couples clubs and sauna clubs have in common that prostitution services are often not officially provided in these businesses. Both prostitutes and prostitute's clients officially enter as paying visitors of the club and the operator has (officially) no involvement whatsoever with what the visitors then agree and do with one another. The enforcement agencies have no grounds whatsoever to check, for example, the documents of the prostitutes who have entered the club as a sauna visitor.

Both the demand and supply of prostitution services appear to have decreased in the past years. However, it is debatable as to what extent this is a result of the lifting of the ban on brothels and the accompanying stricter enforcement. It is more probable that the drop in demand

has been caused by other factors such as the economic downswing and the growth of the Internet. Other possible causes that are mentioned in the study are a lack of innovation in the prostitution sector, as a result of which supply and demand are less well-matched; the eroticisation of nightlife, as a result of which voluntary unpaid sexual activities have increased; and the deterrent effect on clients of camera monitoring in prostitution areas. Finally, the drop in demand can have been partially caused by a decrease in the diversity of the supply. This decrease in diversity is related to the increased enforcement in the prostitution sector which has made it more difficult for foreign women, who do not have a valid residence permit for the purpose of employment, to work in the sex business.

Combating the commercial operation of involuntary prostitution

It is often very difficult for third parties to establish involuntary prostitution. For that reason, it is practically impossible to comment on any developments in the number of prostitutes who are in the sex business due to some degree of coercion.

Indications of involuntary prostitution were found during the field work of the study into illegal prostitution, albeit to a minor degree. A number of the signs of exploitation that are identified by the Dutch National Rapporteur on Trafficking in Human Beings were observed by the researchers in the field, however to a limited extent. Of the prostitutes interviewed in the licensed sector, eight per cent stated that they began working in the sex business due to some form of coercion.

Complicating factors in combating the commercial operation of involuntary prostitution is that policy, licensing and enforcement are mainly aimed at operators. Operators can use coercion, but coercion is chiefly exercised by pimps who operate more in the background and of whose existence operators are not necessarily aware. Pimps are still a very common phenomenon. Prostitutes with pimps mainly work behind windows, in the escort business and at home. These are the easiest sectors for the pimps to (charge others to) keep an eye on the prostitutes. The fact that the number of prostitutes with pimps has not decreased is cause for concern from the perspective of combating the commercial operation of involuntary prostitution. There does seem to be increased awareness among operators and prostitutes about preventing involuntary prostitution and exploitation.

In view of the problematic nature of identifying and taking action against involuntary prostitution, there is a need for instruments that can assist in the aforementioned activities. In this connection the campaign “Appear-

ances are deceptive” of the tip line, Report Crime Anonymously, was found to be a useful addition to these activities.

Protection of minors against sexual abuse

The researchers of the sub-study into illegal prostitution conclude that there seem to be scarcely any underage prostitutes working in the licensed sector and that there are no signs of a large presence of underage prostitutes in the non-licensed part of the prostitution sector either. During inspections in licensed prostitution businesses underage prostitutes are only found very occasionally. However, it is difficult to shed light on the occurrence of underage prostitution, as the age of young prostitutes is often difficult to estimate. Consequently, social workers have little idea about the scale of underage prostitution. The researchers of the sub-study into illegal prostitution did not encounter any underage prostitutes during their observations. Girls who had been working as a prostitute from the age of 18 years were identified. For this reason a chain approach for youth prostitution was set up in both Eindhoven and Groningen. A chain approach for victims of so-called lover boys, in which special attention is given to minors, is used in Amsterdam.

The sub-study into the position of prostitutes reveals that five per cent of the interviewed prostitutes in the licensed sector began working in the sex business when they were younger than 18 years. At present young starters mainly work in the escort business. More than half of the prostitutes who work in the escort business were younger than 20 years when they started and more than ten per cent was even younger than 18 years.

The available data does not enable any informed judgment on any development in the scale of the number of underage prostitutes through the years.

Protecting the position of prostitutes

The employment relationships in the licensed businesses have scarcely changed in the past years; there has been no significant improvement. There is still confusion in the sector about the form of the employment relationship. Prostitutes and operators continue to insist to the Tax Authorities that prostitutes are self-employed, but at the same time the large-scale involvement of operators in the activities of prostitutes is such that there are in fact employer-employee relationships. The legal position of prostitutes is not good. Under current practice, despite the actual existence of employer-employee relationships, the risks of being unable to work are fully passed on to the prostitutes. Improvements cannot be expected to take place automatically in the sector. Perhaps setting mini-

imum requirements in respect of the employment relationships and linking these requirements to the licensing policy could be a way of bringing about improvements.

In the area of employment conditions few real abuses were found, but there are large differences in the conditions under which the prostitutes perform their work. Prostitutes partly respond to this situation by leaving a business if the conditions are bad and going to work for a business with better conditions. However, the degree of emotional wellbeing of prostitutes on all measured aspects is lower than in 2001 and the use of sedatives has increased.

Within the framework of protecting prostitutes it is important that prostitutes have sufficient options for leaving the sex business if they wish or have to stop working. On being asked, only six per cent of the municipalities reported that attention has been paid to the subject of leaving the sex business.

Cutting the ties between prostitution and related crime

Related crime was only revealed indirectly in this evaluation. An effective review during the licensing process is important for cutting the ties between prostitution and related crime. The Public Administration Probity Screening Act, hereinafter “BIBOB”, can play an important role in that context. Under this act administrative bodies may refuse to issue a licence (or withdraw it) if there is a grave risk that it will also be used to commit criminal offences or obtain financial benefit from criminal activities. The majority of the municipalities have not yet used the act, but it is being increasingly used in the sexual services sector. In 2006 the authorities in Amsterdam began to use the integrity tests, provided under BIBOB, to evaluate licence applications for the prostitution sector. At the time of this study, this resulted in the Amsterdam authorities deciding to withdraw, pursuant to the BIBOB, a large number of licences of a very limited number of operators for window brothels. The outcome of any appeal proceedings will first have to be awaited before any conclusions can be drawn on the effectiveness of using the BIBOB proceedings to cut the ties between prostitution and related crime.

Reducing prostitution by illegal foreign nationals

The number of prostitutes from Russia, Romania, Bulgaria and Latin American countries (who, as a rule, do not have the required documents) has decreased. There was found to be an increase in prostitutes from East European countries that fall under the EEA in all sectors in the regions investigated in depth. They seem to partly replace women from the previ-

ously mentioned countries. The number of women who apply for a job at clubs without having the required documents has decreased. The provision of foreign prostitutes to clubs by intermediaries has also decreased. Moreover, the number of violations found during inspections has decreased, in particular in the area of foreign prostitutes working without the required documents. Both operators and prostitutes indicate that the implications of the change in the law have been the greatest for women who do not have a valid residence permit for the purpose of employment. All in all, the conclusion would seem to be justified that the number of foreign prostitutes working without a valid residence permit for the purpose of employment has decreased in general. Stricter inspections and enforcement have contributed to this development.