

Summaries

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Background and range of the concept of trafficking in human beings in the Dutch context

M. Smit and M. Boot

After an overview of the international and historical background of the concept of trafficking in human beings (THB), the article focuses on the range of the concept, as defined in the new provision on THB in the Dutch Criminal Code. This article 273f (2005) expanded the human trafficking definition from exclusively exploitation of persons within the sex industry, to also include exploitation in other economic sectors. The broad and complex new trafficking provision does not precisely clarify what abuses in labour situations can be qualified as THB. The authors discuss the jurisprudence on the matter which, although scarce, gives an idea of the role and meaning of coercion and involuntariness in this context. They conclude that, as the approach of exploitation outside the sex industry is still in the making, and as exploitation in the sex industry still occurs on a large scale, a lot remains to be done.

Assistance to victims of human trafficking; human right or reward?

C. Rijken and J. van Dijk

In the Netherlands victims of trafficking in human beings are granted a temporary residence permit as well as protection and assistance only if they have officially filed a complaint against their traffickers and cooperate with the investigative and prosecutorial authorities. The authors argue that these conditions, though grounded in national and European law, are unwarranted. In most (European) countries both temporary residence permits and other assistance and protection measures for victims terminate when their stay is no longer required for adjudication purposes. This

model implies that migration status and supply of assistance and protection are fully determined by decisions taken in criminal procedure. This approach is contrary to a human rights based approach to THB as advocated by the European Union and does not fit in a state policy regarding crime victims based on the principle of solidarity. Therefore, it is argued to de-link criminal law and migration law and to offer victims of trafficking a customized *Victim Assistance and Protection Package (VAPP)*, including a residence permit, on humanitarian grounds. Decisions regarding the VAPP should be informed by objective indicators of the nature and seriousness of the crime's impact on the victim rather than by prosecutorial considerations. The authors offer a first attempt at the construction of a checklist, including indicators like multiple dependency/incapacity, restriction of liberty, labour conditions, abuse and nature and length of exploitation to determine a person is a victim or not. As relevant factors to determine the needs of victims are mentioned, amongst others: threat of retaliation in the Netherlands or elsewhere, status of minor, physical and mental condition and the need of information on employment in the legitimate sex industry.

The role of Nigerian madams in human trafficking into the Netherlands

D. Siegel

In recent years, the role of women in criminal organizations has become a hot topic. Yet, the debate on women trafficking is still dominated by the stereotype of women as victims of criminal organizations. In this paper the author argues that women sometimes play an active role in human trafficking. On the basis of specific cases of Nigerian female traffickers an attempt is made to analyze the role of these so-called madams in international trafficking networks. Explanations for their leading role can be found in specific socio-economic developments and changes in cultural perceptions of prostitution in Nigeria on the one hand, and the opportunity to acquire wealth in the Netherlands on the other.

Traffickers in women; backgrounds and modi operandi

R. Staring

Early 2007 Dutch police arrested a large women trafficking network. In this contribution the author answers the question to what extend

this specific case, which was labelled by the police as very brutal and highly hierarchical, is typical for women trafficking. More in general the author describes the social organization of women trafficking based on an analysis of large police investigations of organized women trafficking in the Netherlands. By employing theoretical network concepts as coordination, domination, and linkages, it is concluded that women trafficking gangs can be characterized as heterogeneous with respect to size, ethnic background, coordination and linkages. However, organized women trafficking seems to be more hierarchical than for instance human smuggling gangs. Furthermore, women trafficking gangs are characterized by the (manipulative) use of violence towards the trafficked women. Simultaneously it is argued that portraying the prostitutes solely as passive victims impedes a clear vision on women trafficking.

Lifting the general brothel ban; the consequences for trafficking in human beings?

A.L. Daalder

In the Netherlands in 2000 the amendment of the law that effected the lifting of the general brothel ban came into effect. On certain conditions the commercial exploitation of prostitution by prostitutes of age is legal, provided that they do their work on a voluntary basis and possess the legal residence permit required for employment. In this article attention is paid to the amendment of the law and the consequences of this amendment for trafficking in human beings, based on the results of the evaluation of the amendment. It appears that the number of foreign prostitutes working without a valid residence permit has decreased, due to stricter inspections and enforcement. However, involuntary prostitution is still a problem. No positive developments in the number of prostitutes working under some degree of coercion have been detected. Also there is no decrease in the number of prostitutes with pimps, which is worrisome in the context of the combat against the exploitation of involuntary prostitution.

Fighting loverboy methods

F. Bovenkerk and G.J. Pronk

In this article the authors state that pimphood is a typical economic niche for unprivileged minorities and describe the methods of so

called loverboys. In the Netherlands ethnic Moroccans and men from the Netherlands Antilles are overrepresented in loverboy statistics. After having concluded that combatting this phenomenon is difficult, the authors first focus on the possibilities of prevention. These can be, for example, giving information to potential victims of loverboys or trying to get ethnic communities involved in the fight against the phenomenon. Criminal law offers more and more possibilities to tackle loverboys, even if there is no crime being reported or if there is no direct evidence of use of force or coercion. Although on a national level the Public Prosecutors Office has stated that human trafficking is a top priority, on the local level the police doesn't really know how to deal with this difficult crime type and considers other problems to be more important.

A programmatic approach of trafficking in and smuggling of human beings; a research of *Sneep*

J. Kiemel and W. ten Kate

The Dutch Public Prosecutors Office intends to tackle the problem of trafficking in human beings more effectively with a so called 'programmatic approach'. This is an integral approach in which several (special) investigation services work together under the authority of the Public Prosecutors Office and in which also control services and the public administration participate. The aim is to throw up thresholds against criminal behaviour where ever this is possible. An example of this programmatic approach is the *Sneep* investigation which started in 2006, an investigation into a gang of organized traffickers in women operating in several cities in Holland, Belgium and Germany. The main emphasis was put on penal law in this approach; the investigations were focussed on so called barriers (entering, housing, identity, labor, financial flows). In this article the programmatic approach of *Sneep* is described and the first experiences are discussed. The investigation in court will start at the end of 2007, beginning 2008.

Poor labour conditions or 'modern slavery'; enforcing the prohibition of trafficking beyond the sex industry

H. de Jonge van Ellemeet

Exploitation does not only occur in the sex industry. People are also exploited in other sectors of the Dutch economy, such as agriculture and domestic work. The awareness of this type of

trafficking, also criminalised in the Dutch criminal code, is slowly growing. But the rights of victims of labour exploitation are not always respected and the scope of the trafficking clause in relation to non-sexual exploitation is not clear-cut. Yet, law enforcement agencies are investigating possible labour exploitation. Two cases have been tried in the first instance. All suspects were acquitted on the charge of trafficking. These judgments as well as the European Court for Human Rights' judgment in *Siliadin v. France* can be used to begin to draw a dividing line between bad labour conditions and exploitation as the trafficking clause aims to criminalise. This should lead to greater legal certainty and a more effective protection of the victims.