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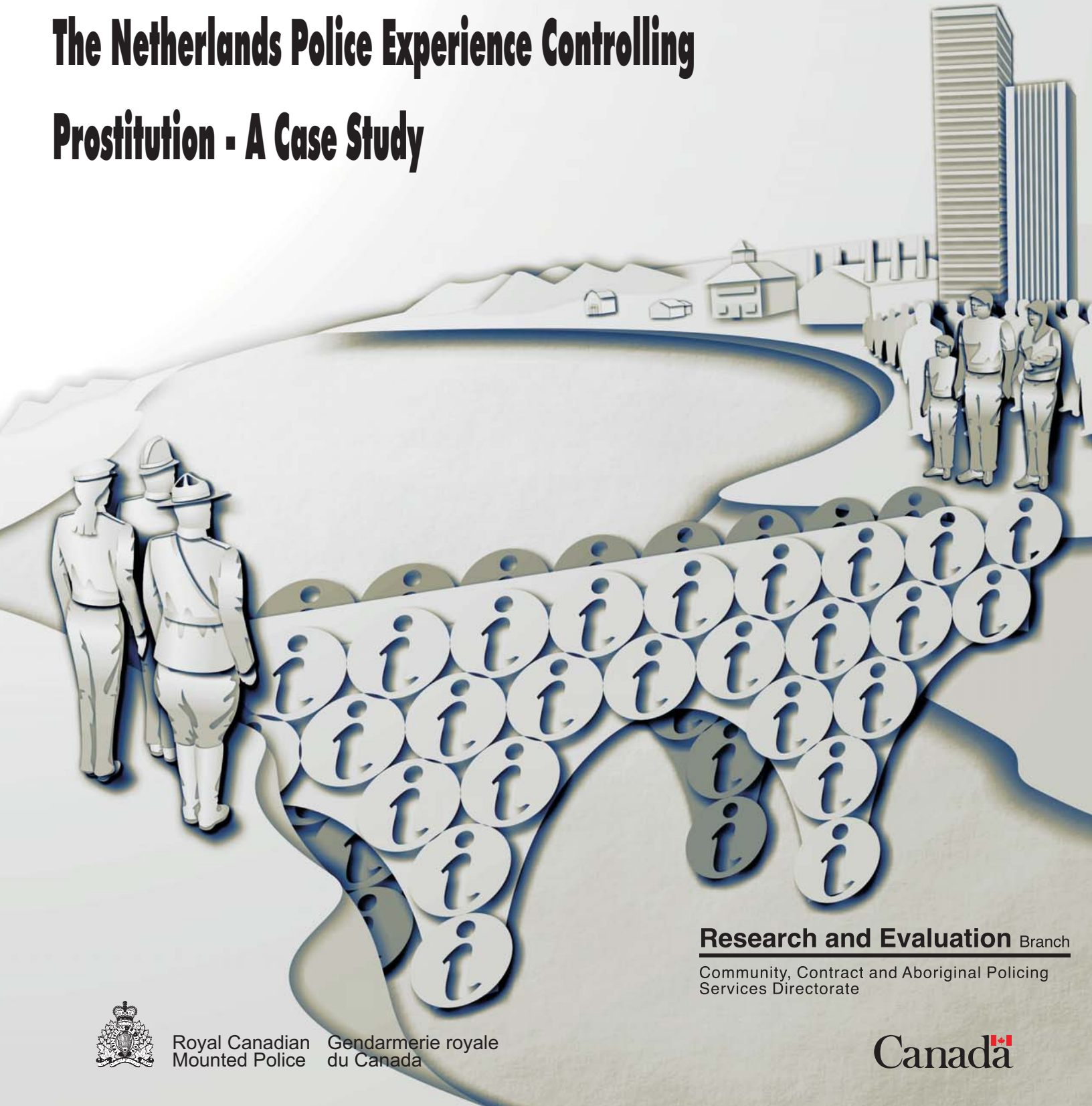
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# RCMP



ROYAL CANADIAN MOUNTED POLICE

## The Netherlands Police Experience Controlling Prostitution - A Case Study



**Research and Evaluation** Branch

Community, Contract and Aboriginal Policing  
Services Directorate



Royal Canadian  
Mounted Police

Gendarmerie royale  
du Canada

Canada

# **The Netherlands Police Experience Controlling Prostitution - A Case Study**

by

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2006

Opinions expressed are those of the author and do not necessarily reflect those of the Royal Canadian Mounted Police or the Government of Canada.

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Available on Infoweb at: [infoweb.rcmp-grc.gc.ca](http://infoweb.rcmp-grc.gc.ca)

Catalogue No.: PS64-37/2007E-PDF

ISBN 978-0-662-45147-1

## Table of contents

Executive Summary.....	4
Introduction .....	14
Law Enforcement Regulating Prostitution .....	14
Canadian Studies.....	14
Foreign Studies.....	17
Legal Options .....	21
Criminalization.....	21
Definition.....	21
Positive Effects.....	22
Negative Effects.....	22
Status Quo.....	24
Negative Effects .....	24
Legalization and Decriminalization of Prostitution.....	25
Definition.....	25
Positive Effects.....	26
Negative Effects.....	27
The Legal Situation in the Netherlands .....	28
Policies.....	29
Types of Prostitution.....	29
Rules.....	31
Monitoring of Prostitution.....	32
Administrative Inspections.....	33
Human Resource Issue .....	36
The Scope of the Prostitution Industry.....	38
Police Partners.....	39
Impacts of Legalized Prostitution.....	41
Summary.....	44
Prostitution Related Issues.....	44
Human Trafficking.....	44

Closed Circuit Television Cameras. ....	48
Illegal Behavior and Police Integrity. ....	49
Procuring. ....	49
Lessons Learned .....	50
References. ....	52

## **Executive Summary**

On November 2004, the Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness gave the Subcommittee on Solicitation Laws the mandate to examine prostitution laws in order to improve the safety of sex workers and of the whole community. The RCMP as well as many other witnesses were invited to appear before the Committee and to submit a brief. The Committee published its report in December 2006.

A study looked at prostitution from the police perspective and clarified what issues are at stake and the impact of the status quo, of legalization and/or decriminalization from a police perspective and more specifically for the RCMP and Community, Contract and Aboriginal Policing Services Directorate in particular. This report describes essentially the Netherlands prostitution experience six years after the country has ban the prohibition on brothels and pimps making sex work a regular occupation under certain rules. We were interested to evaluate with them the impact the legislation has had on daily police practices, and on related issues such as human trafficking.

## **Studies**

Studies on how law enforcement regulates prostitution are neither new nor unusual. It has been the object of numerous studies over the last past 25 years in Canada and abroad. A literature review covering Canadian studies as well as of foreign evaluation studies on prostitution shows that traditional law enforcement was not a deterrent to decrease street solicitation. The efficiency of law enforcement strategies may only be at the level of displacement of prostitutes from their usual working areas to unknown zones which may increase their isolation and vulnerability. They also show, that social services provided to prostitutes to leave prostitution or reducing the harms

associated with prostitution are solutions more adapted to their needs than traditional police action against prostitution. Where prostitution activities are legalized, the police still hold a law enforcement capacity in controlling the sector and is still involved fighting illegal prostitution.

### Legal options

The debate surrounding street prostitution as oppose to off street is essentially about two options

- legalized/decriminalized
- criminalization/status quo

### Legalization and decriminalization

Legalization or decriminalization means removing prostitution-related activities from criminal laws. The objective is to regulate prostitution to ensure that its activities do not interfere with or disrupt public life. Prostitution becomes a legitimate independent business for consenting sex workers of legal age, who operate freely as entrepreneurs within clear regulations and under licence.

Legalization may apply nationally as in Denmark or within restricted areas (“red light districts”) such as Amsterdam in the Netherlands. Forced prostitution by violence and coercion is always forbidden and penalized. Sex workers may require licences or, as in New South Wales, Australia, not require a licence.

### Positive Effects

- Legalization/decriminalization helps protect the health of vulnerable women and men by giving them access to health services. Occupational safety programs further improve the health and safety of sex workers.
- greatly decreases sexual procurement of under-age workers and discourages male sexual

exploitation

- treats sex workers as any self-employed trade person who pays taxes, thus helping remove the negative stigma attached to sex work

### Negative Effects

- Legalization of prostitution fails to alleviate the harms of prostitution to workers. It may create a culture of prostitution and increase the number of sex workers.
- sex workers do not stay in identified zones; some do not register because they are under age, use drugs or are illegal immigrants
- police make few checks on brothels and medical check-ups are ineffective
- pimping, organized crime and connections with illegal drugs persist

### Criminalization and status quo

One of the only country to criminalize prostitution recently is Sweden. The 1999 Swedish legislation defines prostitution as a serious social problem of violence of men against women. The law punishes buying of sexual services, not the sex workers themselves, who were given financial and social support to quit. Pimping, brothels and sex shows are illegal.

Similar but not the same is the status quo in force in such countries as the United States, Canada and the United Kingdom. In these countries, criminalization is directed at those who recruit prostitutes, customers who abuse prostitutes, underage prostitutes and those forced into prostitution. This is accomplished with penalties, stepped-up law enforcement and vigorous police patrols.

### Positive Effects

- In Sweden: Within five years, the visibility of prostitution was dramatically reduced.



- street prostitution was reduced by two-thirds
- clients (the primary target of criminalization) reduced by 80%
- virtually no foreign women were being trafficked into the country for use as prostitutes
- 60% of sex workers left prostitution permanently

### Negative Effects

- Criminalization forces both workers and customers to choose less visible ways of making contact, therefore criminalization may just push sex workers underground.
- In Sweden: Sex workers moved to apartment brothels, porn clubs, massage parlours and escort agencies; prices on the street dropped.
- workers were more frequently exposed to dangerous clients and disease
- police harassment increased
- clients no longer provided tip-offs about pimps because of the fear of being arrested
- workers robbed or blackmailed clients who were then afraid to report to the police.

In Canada: Laws against prostitution are rarely enforced as long as it is off the street (which accounts for 80% of activity). Owners of the sex industry (massage parlours, escort agencies, nude dancers, etc.) pay municipalities licence fees to conduct business, virtually creating a licensed off-street prostitution trade.

Women are disproportionately punished by law enforcement practices:

- they get sentenced to prison more often and get longer prison sentences than men (customers)
- they do not get probation as often as men and, if they do, the probation is usually twice as long
- they are not offered diversion programs such as “john school” nearly as often as men

In summary, decriminalization or criminalization of prostitution involves at the same time,

maintaining traditional law enforcement capacity against illegal prostitution and registered prostitution, developing new roles regarding planning and regulation of legal prostitution and establishing funding to face the new legislative reality by developing training and monitoring.

### The Netherlands experience

The Netherlands lifted the ban on brothels and pimps in 2000 making sex work a regular occupation. After almost six years of control, we were interested to see the impact the legislation has had on daily police practices, and on related issues. The information come from interviews and field work with police services and experts on prostitution from the Netherlands.

It is now legal to run a sex business where women and men from the Netherlands or European Union countries are voluntarily employed as prostitutes. Sex workers pay taxes. Brothels owners pay taxes and the social security of the workers working for their establishment.

Even though the ban on brothels covers the whole country, it has been left to local authorities to formulate and implement prostitution policies tailored to their own areas ( the type of prostitution, the number and location of sex establishments permitted, the licensing requirements and the conditions for operating establishments (safety regulations, health regulations, minimum size of working areas)). There are also several mandatory rules in the permit for the owners of sex establishments regarding working conditions (no sex workers under 18 years of age, no illegal workers, to do the job voluntarily, no trafficked women).

Monitoring of prostitution is the responsibilities of local authorities. Local monitoring is coordinated by the mayor, the public prosecutor and the chief of police. Most municipalities will control the administrative rules and deliver the permits and will delegate the administrative inspection to the police. There is no uniformity in administrative controls and law enforcement practices on the territory depending of the types of prostitution, the type of municipality and the size of police services.

### Human resource issue

The adoption of the law did not bring additional funding or human resources. Police forces had to spread out their capacity to legal prostitution (control of brothels, record checks of brothels owners) which represent most of their activity and illegal prostitution (trafficking, organized crime activities).

### Police partners

The police work with many partners who each have their own responsibility: city hall representatives, the justice department, the fire services, the building control department, the municipal medical & health services, the health and safety inspectorate, the tax and customs administration and NGOs (non-governmental organizations). The police have developed a new attitude to work and cooperate with NGOs which are still very active. They both look out for the best interests of victims.

### The scope of the prostitution industry

The scope of the prostitution industry is not known because there is no official statistics as to how many sex workers there are in the Netherlands since the police are not allowed to keep statistics on a legal profession. Estimates vary according to NGO's between 3 000 and 8 000 sex workers for Amsterdam only.

### Consequences of legalized prostitution

Legislation has both expected and unexpected consequences.

- The legalization of the sex industry provides a safe and regulated legal sector for sex workers.
- Sex establishment owners have taken the legislation very seriously by developing rules for their operations.
- There are advertisements for EU women to work in widows prostitution.
- Sex trade workers, without a valid resident permit, or with false documents, or who are the victims of human trafficking are pushed toward the illegal underground activity.
- New types of prostitution are emerging which are still difficult to control as they are operating at the limit of the law. These include
  - work with cell phone for escort services, or work in apartments
  - Illegal sex clubs in the country side
  - Lover boys: girls who work for a man they love
  - Partner Exchange clubs for regular couple open to prostitution.
  - Coffee houses in migrant communities.

Prostitution related issues

Human trafficking

What is the scope, how many people (mostly women) are involved? What can law enforcement do against human trafficking are all major issues in the Netherlands. The National Rapporteur reports cases known to the police, to NGOs. The structure allows to detect human trafficking and to identify the traffic (where they come from). Individuals are mainly from across national borders, hardly within the Netherlands. But much more is to be done since it is very difficult to know the extend of the problem.

Closed Circuit Television

There are CCTV in the red light district in Amsterdam. CCTV are mainly for preventive safety

purposes. Cameras had no impact on the behavior of customers in terms of refraining them to come to prostitution district.

### Police illegal behavior and Police Integrity

There is no relationship between legalized control of prostitution and the potential for illegal behaviour by police officers. The police have rules adapted to the specific work place hazards of prostitution while conducting administrative inspection. There also is the option for police officers to limit their stay with the unit to a certain numbers of years.

### Procuring

According to an expert, the original idea for lifting the ban on brothels was that procuring will not happen any more. However, the majority of research show that women, mostly immigrants, are dependant of pimps; estimations are between 60% and 90% . It is being researched now.

### Lessons Learned

- Policies are adopted at the local level. Therefore enforcement practices are not uniformed on the territory:
  - licenses are given for buildings recognized as a prostitution place or brothel;
  - numbers of licenses are limited;
  - escort services are provided via the Internet and are rather difficult to control;
  - coffee houses may attract prostitution from certain ethnic groups;
  - prostitution maybe centralized in a district, like the red light district in Amsterdam , where control is easy and violence is acted upon rapidly.

- Displacement of prostitution: it is not clear yet if the legal sector has displaced or influenced the illegal sector. It is yet to be determined.
- The economic perspective of prostitution : to be evaluated.
  - is the income of sex workers better now or does the obligation to pay taxes cause problems to sex workers (therefore influencing their migration to the illegal sector)?
  - Do circumstances in which there are better perspectives when it is legalized? Do people leave prostitution because of money issue?
- Identified Impacts on the police
  - New administrative rules have been developed to conduct administrative control in order to be able to conduct administrative inspections and criminal investigations at the same time;
  - It is a learning process to work, to exchange and to share with NGOs, and with the victims; it is their best interest which is at the center of concerns;
  - Following enactment of the new law police personnel have been redeployed (without new funding or additional personnel) according to how municipalities described and limit the prostitution industry in their territory;
  - There is still a focus on illegal prostitution, including forced prostitution, human trafficking and human smuggling.
  - Prostitution in the Netherlands must be understood in the context of the European Union where European citizens can cross national borders and work in member countries. Illegal sex workers and human trafficking may come from illegal foreign origin.
  - Following the Netherlands police experience it would be wrong to think that legalization of prostitution means less work for the police, or even an absence of control. We saw that the police has a new role of controlling legalized prostitution through an administrative process while still being responsible for the

enforcement of the criminal law. Also, contrary to what could have been expected with the legalization of prostitution the police is still involved with fighting an underground illegal sector.

## **Introduction**

On November 2004, the Canadian Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness gave the Subcommittee on Solicitation Laws the mandate to examine prostitution laws in order to improve the safety of sex workers and of the whole community. The RCMP as well as many other witnesses were invited to appear before the Committee and to submit a brief. The Committee released its report in December 2006 (Canada. Standing Committee on Justice and Human Rights, 2006). In the following months the RCMP started a study on prostitution from the police perspective to document issues at stake and the impact of the status quo, of legalization and decriminalization on the police (LeBeuf, 2006). At the same time, in order to evaluate the impact of decriminalization of prostitution on police action and roles, interviews and field work were conducted with police officers and non governmental organizations (NGOs) in the Netherlands in January 2006. This report is a summary of a case study on the Dutch situation .

## **Law Enforcement Regulating Prostitution**

Prostitution has been the object of studies with a variety of approaches over the past 25 years in Canada and abroad.

### **Canadian Studies**

At the end of the 1980s the federal Department of Justice sponsored an evaluation of the new section on street prostitution solicitation (Bill C-49) which was a response to this societal problem. A new section made criminal the attempt to communicate with or to stop a person in a



public place for the purposes of obtaining the services of prostitutes.

The evaluation tried to answer the following questions:

- Has there been a reduction in the number and visibility of street prostitutes and their customers?
- What have been the law's other effects?
- Have the police and court found the law easier to apply?
- Has the law been applied equally to male and female prostitutes?

Field studies were done in Halifax, Montreal, Toronto, Calgary and Vancouver. Data collected in 1987 came from police arrest reports, Crown files, interviews with police officers, Crown attorneys, defense lawyers, judges, prostitutes, pimps and customers. Results of the studies did not provide definitive answers to the questions because of too many uncontrollable variables, such as different law enforcement policies in different regions, the difficulty to gather data and to make comparisons among cities, etc. (For more details, see Graves, 1989; Department of Justice, 1989). Lowman (2005), commenting on this evaluation, says rigorous law enforcement, at considerable cost, did not reduce the incidence of street prostitution.

The 1990s were prolific in studies on Canadian prostitution. The Ottawa Task Force on Prostitution conducted a public consultation and published its report in 1992. Public disturbance was at the forefront of the study. The task force recommended more police presence, more law enforcement for "clients"<sup>1</sup> and by-law applications regarding noise, impaired drivers, procuring, rerouting traffic in certain areas, and encouraging people to create a safer neighborhood. The police role or impact was not evaluated in the study.

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<sup>1</sup>Arrested purchasers of sex may be invited to attend "John Schools", an alternative measure to fines or imprisonment, to educate people on the life of street prostitutes: pimps, drug addiction, health risks, etc. (Gibbs Van Brunschot, 2003; Wortley, Fisher, 2002).

Another report focuses on street prostitution in Vancouver where 42 prostitutes were murdered between 1985 to 1993. A policing inquiry was set up. There was also a major concern with juvenile prostitution. An ethnographic study examined the street prostitution law enforcement practices of three police services. These were: Vancouver Police Department's Vice intelligence Unit (eight officers); Surrey RCMP's criminal intelligence section (one full time officer); and Victoria Police Department's sex crime unit. Objectives were to find out their practices: identification, taking pictures, charging or not charging prostitutes, juvenile prostitutes, etc. The study shows that the vice squad focused exclusively on street crime. There were a few complaints to police about off-street prostitution, but this was not a great concern to persons making submissions to the Policing Inquiry. The study proposed the development of solutions with the people and organizations affected by these issues (Wilkinson, 1993).

A Federal-Provincial-Territorial Working Group on Prostitution, established in 1992, presented its interim report following a national consultation on prostitution in selected jurisdictions in 1995. The focus was on the prevention of youth (under 18 years of age) in prostitution and on violence. The report recommended making it easier to convict pimps, providing a mandatory jail sentence for customers, and increasing penalties for customers. The police position is absent from the interim report. The FPT Working Group published its final report in 1998. Recommendations focused on soliciting, especially by young persons, suggesting the creation of a new offence of procuring liable to imprisonment of a minimum of five years, and proposed special measures to help young people when they go on trial (Federal-Provincial-Territorial Working Group on Prostitution, 1998). Legalization of prostitution was not an option for the Working Group.

## Foreign Studies

An evaluation of a multi-agency project was published by the Home Office in the UK in 2004. The multi-agency project aims at reducing the number of young people and women involved in prostitution in a London borough (Hester, Westmarland, 2004). The rationale was that arrest and increased visibility will deter those involved in prostitution. The main objective of the project was directed at arresting and prosecuting the women involved in prostitution, on police crackdowns, on soliciting and “kerb-crawlers”, traffic management schemes and on the use of closed circuit televisions. The report describes a “revolving door” experience for prostitutes: when arrested for soliciting without providing any kind of support, they have to go back to the street to pay their fines. Traditional enforcement involving police crackdowns did not appear to reduce the disorder or nuisance factor for the local community. Some geographical displacement resulted, but this tended to be temporary and unpredictable. Displacement increased the isolation and vulnerability of sex workers in unknown and unfamiliar areas. Police crackdowns on “kerb-crawlers” similarly tended to reduce activity temporarily (p.53). A more positive outcome was achieved where a non-police community worker/officer conferred with both the local residents and the women involved in prostitution to agree on and reduce activity in more sensitive areas. The report said, “where police enforcement is being implemented, community liaison and support for women also need to be in place”. It is also said that “community mediation should be encouraged involving community-based rather than police officers”. As far as prosecutions of men was concerned, none of the adults abusing young people within the project areas was charged. This raises questions, said the authors about the willingness and ability of the police and CPS to pursue such cases. For them more training is needed for the police.

A few years earlier, a similar issue was addressed with an innovative arrest referral scheme targeting sex workers in Kings Cross, London. The sex market provided a core of high-spending

core buyers for the drug market, and the drug market drew in clients for the sex market (May, Harocopos, Turnbull, 2001:2). The project was tailored specifically to the needs of drug-dependent sex workers. Social workers, support, and information were provided to prostitutes. The preferred solution to prostitution in this case was a welfare approach rather than traditional law enforcement.

A White Paper was issued in July 2004 in England and Wales to prompt a public debate on how to deal with the concerns raised by prostitution (Home Office, 2004). The White Paper was meant to develop a coordinated strategy for prostitution aimed at reducing the associated harms experienced by those involved and by those communities in which they occur. It is one of the most well done and comprehensive reports on prostitution issues and legislation. The role of the police is described as detection, protection and prevention, which are traditional activities. There is no proposal that the police should withdraw from its traditional role while fighting prostitution.

In October of the same year, the Association of Chief Police Officers from the UK published “Policing Prostitution”, its holistic comprehensive policy strategy for prostitution (street and off-street). The strategy aims at reducing prostitution and exploitation of children. It is mainly an operational guideline consolidating law enforcement practices such as traditional police enforcement, intelligence gathering, and sharing and implementing partnerships with agencies and the community to help prostitutes exit prostitution. For the authors of the strategy, alternative solutions from other jurisdictions are, on closer inspection, illusory ( Brain et al, 2004:5).

As a response to the White Paper, a strategy was published in January 2006 to challenge the view that street prostitution is inevitable, to reduce street prostitution, to improve safety and quality of communities and workers and reduce sexual exploitation (Home Office, 2006:4). The strategy includes

- prevention tactics so that individuals will not get involved in prostitution
- responses to communities’ demands for a safe environment
- proposed routes out of prostitution

- assurances that those who exploit individuals and commit violent offences will be brought to justice
- plans to tackle off street prostitution in particular for young and trafficked individuals.

The report does not consider or propose legalization of prostitution for the UK context.

From another perspective, there has been evaluation of legislation where prostitution has been legalized. The Attorney-General's Street Prostitution Advisory Group from Victoria (Australia) (2002) conducted a review of street prostitution and the operation of the sex industry in the city of Port Phillip. Street prostitution is illegal there and predominantly conducted by women. The Advisory Group noted that their review of international approaches to street prostitution provided no evidence that a strict law enforcement strategy, emphasizing prohibition, has been effective in reducing street sex activity (p.46). Law enforcement strategies can only be effective when employed as part of a harm minimisation approach they said (p.48). They also concluded that where zones of tolerance have been established, it has been easier for governments to police the street sex industry (p.47). The Advisory Group recommended the establishment of tolerance areas in Port Phillip. It also recommended the establishment of street sex workers' centres (brothels) to provide secure venues for them, and additional resources for enforcement of illegal prostitution and related offences such as noise, littering from a motor vehicle, etc. A welfare approach was also part of the strategy to help sex workers leave sex work, and it included as well as an educative and communications strategy (support services group, feedback from the community, etc.).

The Queensland Crime and Misconduct Commission conducted an assessment of legislation three years after the parliament legislated the licensed brothel industry in 1999<sup>2</sup>. Sole operators are legal. However the following circumstances are still illegal:

- street prostitution;

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<sup>2</sup> Following the new legislation, a prostitution licensing authority was established to regulate prostitution (Queensland Government, 2003).

- two workers working together (if not established as brothel);
- two workers at a single location;
- a network of people with mobile phones pretending to be sole operators (escort).

According to the report, illegal prostitution has continued despite the increase in policing activities. The Commission listed the following explanations as to why there is still illegal prostitution:

- it is difficult to provide effective law enforcement for an industry that is highly fragmented, decentralized and mobile;
- penalties are ineffective;
- the cost of operating a legal brothel is high (between \$17,000 and \$20,000 per annum for the licence);
- the demand for escort services is considerable (escort services are illegal);
- workers earn less income when working in brothel because they have to pay the booking fees charged by the brothel; also legal brothels require sex workers to pay taxes (Queensland, Crime and Misconduct Commission, 2004a: 81).

The conclusion of the Queensland Crime and Misconduct Commission was that an increase in prostitution-related offences since the enactment of the new legislation reflects increased police-enforcement activity, but not necessarily an increase in prostitution activity (Queensland, Crime and Misconduct Commission, 2004a: 80).

An evaluation of the Netherlands experience by the Norwegian Ministry of Justice and Police Affairs (Norway, 2004) shows that an effective and coordinated enforcement of the criminal provisions and the administrative legislation is considered necessary in the fight against involuntary prostitution, prostitution of underage persons, and trafficking in human beings. One major conclusion of the report is the following: “as legalization opens up for freedom of trade, it is not enforcement of the criminal law which is the central issue, but the statutory and administrative controls under the municipal authorities” (p.51).

In summary, studies conducted in Canada or in the UK focused on street prostitution. They show that traditional law enforcement was not a deterrent to decrease street solicitation. The effect of law enforcement strategies appears merely to displace prostitutes from their usual working areas to unknown zones, which may increase their isolation and vulnerability. They also show that social services provided to prostitutes to leave prostitution or reduce the harms associated with prostitution are solutions more adapted to their needs than traditional police action against prostitution. Other studies show that where prostitution activities are legalized, the police still have a responsibility to control the sector and are still involved in fighting illegal prostitution.

## **Legal Options**

Essentially two options emerge : the criminalization of prostitution and the status quo and the decriminalization and legalization of references to crimes in criminal laws. There is often confusion in the terminology used in the literature because of specification from different jurisdictions in the world. We will examine each option and how they impact on the police role.

### **Criminalization<sup>3</sup>**

#### **Definition**

One current and recent instance of criminalization of prostitution in the world took place in Sweden. In 1999, the Swedish adopted legislation to define prostitution as a serious social problem of violence of men against women. The objective was to stop making criminals out of prostitutes and instead to target the men who abuse them (Carvel, 2005). The legislation does not criminalize sex workers, but rather the purchase of sexual services. Pimping, brothels and sex shows are illegal. The aim is to reduce the number of people involved in the industry and

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<sup>3</sup>This information was retrieved from reports and articles on the topic.

encourage sex workers to retrain in another field of work. The main argument is the following: “...even if prostitution in itself is not a desirable social activity, it is not reasonable to prosecute the party that, at least in most cases, is the weaker party, exploited by others to satisfy their sexual drive....also prostitutes are to be encouraged to get help to leave prostitution”.

A similar line of thought is from Real Women of Canada (2005:10) who recommended to prohibit prostitution itself, and the activities surrounding it, meaning to criminalize the buying and selling of sex, which are not prohibited by the Criminal Code provisions. They also recommended increasing penalties for those sexually exploiting children and to make S.213 (solicitation) a summary or indictable offense that would allow police to fingerprint and photograph offenders.

#### Positive Effects

- an observable decrease in the number of women overtly involved in prostitution (Kilvington, Day, Ward, 2001).
- in five years Sweden has dramatically reduced the number of its women in prostitution
  - street prostitution has been reduced by two thirds
  - clients reduced by 80 per cent
  - the number of foreign women being trafficked is virtually nil (De Santis, 2005).
- between 2001-2004, 60 per cent of sex workers have left prostitution permanently (new funds helped develop a program for prostitutes to leave prostitution (Ekberg, 2004:1204 ).

#### Negative Effects

- the legislation may have diverted Swedes to neighboring countries (Kilvington, Day, Ward, 2001:85)
- the local industry becomes more dominated by migrants who avoid contact with police, health and social workers (Kilvington, Day, Ward, 2001).



- workers and customers choose less visible ways of making contact, therefore it may have forced sex work to go underground
- negative effects on sex workers are<sup>4</sup>:
  - prices on the street have gone down and the fear of violence has increased (Norway, 2004: 49)
  - workers are more frequently exposed to dangerous clients while the serious clients are afraid of being arrested (Norway, 2004: 19)
  - workers have less time to assess the client
  - there are many clients with peculiar tastes
  - they are exposed to violence and sexually transmitted diseases
  - harassment by the police has increased; clients no longer provide tip-offs about pimps because of the fear of being arrested
  - demands for unprotected sex
  - new crime appeared: workers rob the clients who don't report to the police (Norway, 2004: 20); or prostitutes threaten to report clients
  - statistically the police could not prove that there had been a reduction in other crime associated with prostitution (Norway, 2004: 22 ).
- targets of the legislation were men buying from the street; now sex workers operate out of apartment brothels, porn club, massage parlors, escort agencies (Ekberg, 2004:1193)
- Legislation required extensive funds for police enforcement (\$1 million in the first year for technical undercover work) and three years later \$4.1 million was spent to combat prostitution and trafficking. These have become a major responsibility as well as a focus of violence against women (Ekberg, 2004:1193; Sweden, Ministry of Labor, 1999: 2,5 6; Norway, 2004).
- enforcement has been focused on street prostitution (Norway, 2004: 50) - enforcement was difficult because of unclear wording of legal texts
- enforcement in the indoor market has a very limited effect, as two thirds of the

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<sup>4</sup> The report from Canadian HIV/AIDS Legal Network (2005a:13) arrived at similar conclusion for the Canadian situation.

- prostitution takes place indoors
- the legislation has caused the expenditure of extensive funds to develop and give training to the police at all ranks and to prosecutors to change their attitudes and focus on the new philosophy of the legislation (De Santis, 2005).

A similar version of the criminalization model is : Status quo.

Maintaining status quo or prohibiting prostitution fall into the same category because essentially the argument is that prostitution and related activities are a threat to communities and must be prohibited. There is demand to prohibit prostitution itself (for example to make it a summary or indictable offences that would allow police to fingerprint and photograph offenders) and the activities surrounding it either by an increase of law enforcement, or increase of penalties for clients of under age workers or, those who recruit, etc.

The main argument is to stop prostitution and to stop customers from buying services. The criminalization of activities is expected such as for those who recruit, customers who abuse prostitutes, under age prostitutes, forcing people into prostitution (Carvel, 2005; Matte, 2005). It is also about stopping the drug market and the use of drugs by prostitutes. Increased penalties, increased law enforcement, and increased police patrols are seen as the main tools to control and remove prostitution from the public eye (Real Women of Canada, 2005).

Negative effects

- Even though the avowed aim of laws and policies was to criminalize profiteers, agents and managers on the model of those profiting from slavery, it was and is often the workers, and particularly women, who suffer (Kilvington, Day, Ward, 2001:79)

Arguments to maintain the status quo are about moral issues whereas arguments to support

legalization are often in reaction against the status quo and are based on health and safety issues for the workers as will be discussed.

## Legalization and Decriminalization of Prostitution

### Definition

Legalization and decriminalization means removing prostitution related activities as crimes from the criminal laws. The aim of the legislative action is to make sure that prostitution activities do not interfere with or disrupt public life while attention is being paid to public health concerns and the safety of sex workers. Prostitution becomes a legitimate independent business for legal age and consenting sex workers who operate freely as entrepreneurs if they respect the rules.

Legalized, controlled prostitution is synonymous for regulation. It may take place in restricted areas regulated by licensing municipal by-laws (red light district) (ex. Amsterdam, Victoria (Australia), Nevada (USA), Denmark, Brussels and Antwerp (Belgium)). In a decriminalized environment prostitution offences are removed from the criminal laws. The criminal laws will respond to all types of violence, of exploitation, of abuse of minors. Involuntary prostitution through violence and coercion are always forbidden and penalized (Anonymous, 2005a; Bindel, Kelly, 2003; Maxim Institute, 2003; New Zealand, 2005; 2003a, 2003b).

- Sex establishments and/or sex workers register to obtain a license. However, in some jurisdictions, individual workers do not require licences (e.g. South Whales, Australia, the Netherlands). In New Zealand, street prostitution is decriminalized.
- Conditions of licenses<sup>5</sup> specify:
  - the cost of obtaining a licence
  - permitted age for sex workers

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<sup>5</sup> Not all conditions apply in all jurisdictions.

- hours and locations
  - minimum wage and requirements for local residence
  - public health requirements such as mandatory visits to a medical doctor, mandatory use of condoms,
  - registration of sex workers for tax purposes only
  - the requirement to rent premises to carry on business
- 
- Sex workers are covered for health and safety, medical and rehabilitation costs (New Zealand, Denmark) or accident compensation (New Zealand), have access to unemployment benefits (Denmark, the Netherlands) and pay income tax (Denmark, Nevada, Germany, the Netherlands). In Germany, health check-ups are required but workers have no access to health insurance (New Internationalist, 1994).
  - Even though they are described as workers, in some jurisdictions they are not allowed health insurance or unemployment benefits or retirement benefits (Nevada) or are not covered by insurance if they become pregnant in the course of employment (New Zealand).

### Positive Effects

- This approach helps protect the health of vulnerable women and men (Kilvington, Day, Ward, 2001).
- They have access to health services for checks for sexually transmitted diseases, information on the mandatory use of condoms, and on HIV
- They have access to occupational safety programs. The health and safety of sex workers has improved through access to these services.
- It prevents sexual procurement of under age workers
- It stops male sexual exploitation
- They pay taxes
- By allowing prostitution in certain designated areas it provides a clean and safe working

environment<sup>6</sup>. They can receive peer support and on-the-job training, sex practices are easier to monitor, panic buttons are provided in rooms, they can expect protection from physical attack, and law enforcement back-up in case of trouble)

- There is no evidence of pimps involved in the brothel industry (Brents, Hausbeck, 2005; Carvel, 2005; Farley, Kelly, 2000; Todd, 1997).
- To treat sex workers as any self-employed trade person is in itself seen as a major change in their social status. It removes the negative stigma attached to sex work (Norway, 2004).
- The legislation enables the normalization of some forms of sex work (Kilvington, Day, Ward, 2001).

#### Negative Effects

As said by some advocates of the anti-legalization perspective, the negative effects of prostitution are not eliminated. It is rather difficult to see whether their information is based on studies or on any other literature. They say:

- All forms of prostitution boomed in Victoria, New South Wales and Sweden (30 years ago) (Real Women of Canada, 2001, 2005). Unregulated prostitution is increasing faster than legalized prostitution. In Victoria, it is estimated that there are four times as many illegal brothels as legal ones (Jeffreys, 2005:7). In New Zealand, a year after the new act came into force, 2003), there were still many street prostitutes who could not be restricted under the act (Decriminalize Prostitution Now Coalition, 2000-2005).
- Sex workers do not stay in identified zones;

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<sup>6</sup> Legalized brothels have been established in Victoria. In Nevada 28 legal brothels do not operate in towns' streets or even in towns. Most are on major truck routes or at the end of dirt roads (Anonymous, 2005a, 2005b). Germany has Eros Centers, a closed area serving as a kind of supermarket for pornographic items, where workers and clients meet (Brisbane Institute, 2002; Sommer 2000; New Internationalist, 1994). Amsterdam has made the red light district part of its official tourist attractions.

- Some sex workers do not wish to register because they are not eligible (they are under age, use drugs, or are illegal immigrants) (Kilvington, Day, Ward, 2001);
- Police made few checks on brothels;
- Organized crime controls the entire industry and the drug market has increased;
- Outside the brothel, sex workers are treated like cattle;
- Medical check-ups are not effective;
- Red light districts increase the usage of prostitution;
- Pimps continue to operate;
- The legalization of prostitution fails to alleviate the harm of prostitution to workers. It creates a culture of prostitution (Jeffreys, 2005).

We will now turn to the Netherlands situation and focus our attention to its impact on the police.

### **The Legal Situation in the Netherlands**

Information for this section come from interviews<sup>7</sup> with Dutch police officers, experts on prostitution, and official documentation from the Dutch government.

In October 2000 the ban on brothels and pimping was lifted in the Netherlands to achieve better control and regulation of prostitution without moralizing (Dutch National Rapporteur, 2005a:14).

The objectives of the legislation are

- to control and regulate the employment of prostitutes through a municipal licensing system;

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<sup>7</sup> Information for this section come from interviews and official government papers. Interviews and field observations were made possible with the police in Amsterdam, Rotterdam and with the Netherlands Police Institute in the Hague. Experts in prostitution issues and individuals from NGOs were also interviewed. We would like to thank them for their contribution.

- to protect the position of prostitutes;
- to protect people from being coerced into prostitution;
- to protect minors against sexual abuse;
- to reduce prostitution by foreign nationals residing illegally in the Netherlands;
- to sever the links between prostitution and crime (The Netherlands Ministry of Foreign Affairs, 2005: 2).

It is now legal to run a sex business where women and men over the age of consent are voluntarily employed as prostitutes (The Netherlands Ministry of Foreign Affairs, 2005). All forms of exploitation (trafficking, slavery, forced prostitution, under age prostitution) are still prohibited under the criminal law. This will be discussed later.

## Policies

Prostitution is a normal occupation. Dutch nationals can work as sex workers. Nationals from the European Union (EU) countries may also be sex workers providing they follow Dutch laws. Visitors and individuals who do not have a valid residence permit are not allowed to work in the Netherlands. The Dutch government made the decision not to allow eight of the ten future states that acceded to the EU in 2004 to come to work as salaried employees in the sex industry. Under certain conditions they can work as self-employed persons (p. 94). Sex workers have the same rights and obligations as other workers. The only exclusion is when someone is looking for a job, he/she can never be forced to accept jobs in prostitution as employment.

## Types of Prostitution

In the Netherlands, even though the ban on brothels covers the whole country, it has been left to local authorities to formulate and implement policies tailored to their own areas. The National

Rapporteur<sup>8</sup> noted that there is no provision in the Dutch municipal act to prohibit prostitution within municipal boundaries on moral grounds. Therefore they say, “we can deduce from jurisprudence on this subject that there is no scope for municipalities to make a moral judgment on whether the protection of morality justifies the ban on brothels” (Dutch National Rapporteur, 2005a:14). In other words, each municipality may set its own conditions concerning

- the type of prostitution and the number of sex establishments permitted within their jurisdiction, where brothels will be located (no sex clubs near schools but allowed in industrial areas, in the centre or out of town)
- the set up and licensing requirements (brothels might be licensed to operate, owners must meet the rules to get a permit).

In most municipalities the legislation also applies to escort services and in half the municipalities to home workers too (Dutch National Rapporteur, 2005a: 87). It is the task of municipalities to control brothels. They can delegate their task to the police. This is what often happens in practice. This issue will be discussed further.

Since each municipality can have its own stipulations regarding what kind of prostitution they try to regulate (escort services, massage parlors, sex clubs, brothels) there is no national uniformity regulating the sex industry in the country. There is the risk, as noted by the National Rapporteur, of “widely diverging policy at the local level” (Dutch National Rapporteur, 2005a:14). A booklet of general guidelines has been developed by the association of Dutch municipalities to achieve a degree of uniformity.

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<sup>8</sup> Since April 2000, the Netherlands has had a National Rapporteur on Trafficking in Human Beings. Sweden also has a national rapporteur on human trafficking. The Rapporteur reports to the government on the national situation of victims, on enforcement of prostitution, on public prosecution as well as on international developments.



## Rules

Policies and regulations set by municipalities are about

- the location of brothels: should there be a red light district or not?, noise and intrusion of neighborhoods
- rules for safety regulations: availability of panic buttons, emergency exits (fire safety regulations),
- health regulations: hygiene, availability of hot and cold running water, condoms must be provided
- the minimum size of working areas.
- There are also several rules in the permit for the owners of sex establishments regarding working conditions:
  - no sex workers under 18 years of age,
  - no illegal workers (from EU or the Netherlands, not trafficked)
  - workers must do the job voluntarily
  - The integrity of owners of sex establishments can be inspected in detail (past criminal records).

The municipalities had a considerable backlog of license applications in 2001 as described in 2002 and mentioned during our interviews in 2006.

The permit is called “commercial organization of prostitution” or “running of brothels”. The permit is given under the aegis of the civil law. In criminal law, owners are citizens. Brothel owners pay taxes for the building.

There are differences if sex workers are working for the brothel as employees or if they call themselves self-employed.

- In the first case, the brothel owner must also pay taxes as part of the social

security base and has civil law responsibility.

- In the latter case, they are renters of rooms only, and do not have the same legal responsibilities.

In 2006 there was a major evaluation study sponsored by the Dutch Department of Justice to determine what the consequences of the legislation are. Three research institutes have been commissioned by the justice department to do the scientific work. Results were expected in the fall 2006.

### Monitoring of Prostitution

As mentioned above, monitoring of sex establishments is an administrative matter under the responsibility of local authorities.

Local monitoring is coordinated by

- the mayor,
- the public prosecutor and
- the chief of police.

Monitoring of sex establishments involved

- the police,
- the fire services,
- the building control department,
- the municipal medical and health services,
- the health and safety inspector,
- the tax and customs administration.

In practice, in most municipalities, the police are appointed as supervisors to oversee compliance with the municipal by-laws applying to sex establishments and criminal law. They may also

oversee street prostitution.

### Administrative Inspections

- It is easier for the police to control the industry with the new legislation because they know where to do the checks.
- Police officers do regular inspections at licensed sex establishments mostly brothels, where they check the identity of workers, their age, and determine whether there are signs of forced work.
- Administrative inspections are both announced and unannounced.
  - Owners and/or managers are obliged to allow officers access to their establishment because they must respect the rules in the permit for their establishment (legal workers, valid right of residence for non-Dutch nationals, full age, valid passports, no forced work).
- Special rules allow the police to go into a brothel as agents of the mayor. Otherwise controls would not be possible, because sex work is a civil law matter. There is an obligation to authenticate the identity of sex workers in their search for possible human trafficking victims. It is the only exception with work related laws in the Netherlands.
- During the administrative checks, if they see a criminal offence they will act upon it. This is a sore point. “Some lawyers do not like that,” police say. They say we are using the control for two systems”. There have been several court cases where the judges from civil and criminal courts have looked at this practice and allowed it. In other words, the police wore two hats at once: one for the control of the administrative regulations for the mayor through an administrative inspection, and the other when they carry out criminal investigations for criminal offences while inspecting sex establishments.
- A code of conduct has been developed at a national level for police officers carrying out inspections. The code is both a guarantee for the integrity of police activities and for the protection of officers.
- From a police perspective, it is not their responsibility to enforce safety, fire, health

regulations.

### Other Services

- Escort services are more difficult to control, especially if they do their business over the Internet and with freelance workers. Escort services must be licensed in the municipality where they are located but this is difficult if it only advertises and does not have a permanent address. Therefore an inspection is not possible. According to one police officer, “Workers work from a hotel or the client’s home; they use a cell phone, the Internet, ads, and work everywhere on the territory. It becomes very difficult to control the identity of the workers in person and their willingness to work”. For a police officer, “it is very complicated to check illegal or underage workers with only copies of the identity of workers kept by the agency. An agency can always argue that workers are freelancers and in that case they have no registration obligation”. According to another police officer, “for us to do more in that sector, we need a change in the law to be able to provoke prostitution... I can’t do this here.”

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### The Amsterdam Police Inspection System

Sex related crimes are investigated by a unit of 45 detectives, divided in to three teams; Each team has 12 detectives, under a lieutenant and each has a special task. The first handles rape cases, slavery ,etc. The second is focused on abuse of children, incest, runaways; the third team on commercial vice, issues involving sex and money; child prostitution, child pornography pedophile networks, and trafficking of human beings. The sex crime police is responsible for the whole city. They have a system that rotates all the detectives through every type of sex crime investigation. Each team assigns five officers in turn to a response unit which is available 24 hrs when a woman is sexually assaulted or a child is missing or to press charges. They act as first responders in a case. After they start an investigation they find out who is responsible for this area and pass the case on to that team. For daily police activities, each team has seven individuals on rotation.

Since the Amsterdam police do not have enough staff to control the sex crime problem, one solution put forward was to try to connect with the police stations in the neighborhood where there is visible prostitution like in the Red Light District where sex workers advertise themselves overtly. The specialized teams try to collaborate with those police

teams and to see where they can assist them because it is part of their daily job to keep the street safe. A small unit of uniform police officers were trained to do legislation enforcement for the sex crime team. Their rationale is that these police officers work every day in the same neighbourhood and are regularly checking the brothels. They are more active locally and they can build trust with the people and those responsible for renting the windows. The challenge for the lieutenant of those stations is to select officers who can work well with prostitutes while covering the issues of the sex crime unit, and to get a good mix between young and old, male and female members. It is not possible to send them on the detective two-year training program even though the police know the risks of assigning them to work with sex workers in a sexually liberated environment.

As the officer in charge explained, prostitution was already a responsibility of the sex crime police. With the new legislation, the police has had to divide its capacity further.

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- Sex clubs are a little bit different in the sense that the owners rent space to independent workers. Therefore they do not have the same legal responsibilities as brothel owners.
  - An area not covered by the police is when sex workers decide to operate from their own home. Police cannot control illegal brothels in apartments. There are no legal instruments to act unless they get a signal to respond. When a police officer thinks there is a non-licensed brothel<sup>9</sup> the officer reports to city hall to address the situation and double checks the permit records.
  - Street prostitution does not require licenses, therefore sex workers are not the object of administrative inspections. Street prostitution is seen as an option available for drug-addicted prostitutes who are not connected to a brothel. However, violence, tensions between workers and fights lead to the closing down of these districts in many municipalities or to consideration of closing them. In Amsterdam for example, sex workers were allowed to go to a coffee house to have coffee and to shower. “Every night 100 workers worked there. It looked like a race circuit where guys used their cars all night. There were spaces where to park the cars and have sex with the women and then

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<sup>9</sup>There is a limited number of licensed sex establishments in Amsterdam. There is no plan from the city to give additional permits.

leave. It caused a lot of trouble for the neighborhood. It didn't work out because drug-addicted women were not able or did not want to leave downtown. Two major police raids in 2003 terminated this practice. Illegal workers were sent back to their countries.”

- Controls for smaller regional police forces take a different perspective.
  - Depending on how extensive the prostitution is, they had to adjust their workload and practices. There are now special units looking after legalized prostitution in teams of four or five police officers. When this was instituted, it meant that only few police officers knew about the people working in the industry. Before legalization, every police officer was expected to investigate prostitution in the territory.
  - It may also happen that a regional police service serves in municipalities that do not have the same rules for the prostitution industry (one allows certain types of prostitution, another allows others). Therefore police officers must adapt to these regional disparities.

As we can see there are disparities in administrative controls and law enforcement practices in the territory. There does not seem to be uniformity in how to control the different types of prostitution allowed in a municipality, the type of municipality and the size of the police service.

### Human Resource Issue

Before the new law, the focus was only on illegal prostitution. When the new law was adopted, there was no additional funding or new human resources added to the current work force. For example, at the time of the interviews, the vice crime unit at the Rotterdam Police was building up a new team of 22 people with new tasks to fight illegal prostitution. It meant that other units were losing officers, since the police did not get extra people. With the new legislation, police forces must divide their capacity between legal and illegal enforcement. For an officer in charge, since the control of brothels is now part of their job as delegated by municipalities, this means

the police have less capacity to address different issues. For example, “city hall is responsible for handing out the permits and administering of the controls. For instance, they ask the police for advice regarding new brothel owners or new associates of brothel owners. A brothel owner must not have a police record or any past convictions. City hall will come to the police and ask for a record check. Any individual could check the system at much less cost than the police.” It may happen that the “police will advise them not to allow an individual to work in the brothel, but city hall will give the permit anyways”. For the police “there is a need for the police and city hall to learn to work together as a team.”

If police officers are faced with apparent trafficking or organized crime activities, they will report to the district attorney who will tell them what elements are needed to prove there is forced work, or violence, or that a sex worker has been taken against her will, etc. These elements and the police capacity to investigate will help to make a decision. However, as said, one problem they face is that victims do not want to cooperate with the police to report the traffickers. They do not trust the police because of their experience in their country of origin, or because they are afraid that their family might be threatened and suffer in their country, etc. “The police have to convince victims to report crime, which is often a time consuming business”.

What is the percentage of the work time dedicated to legal prostitution issues compared to the illegal<sup>10</sup> ones? Because the police know more of the legal side, they spend more time on it than investigating the illegal side. Some would say that 10 to 15 per cent of their time is for the illegal investigations. Now they must spread their capacity to cover the legal and the illegal sex trades which is harder to find and to control. Only when they have suspicions or they find an offence occurring they can start investigating illegal prostitution, we were told.

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<sup>10</sup>Illegal is either not conforming to civil rules, or practice of prostitution outside of what the legislation describes as legal prostitution.

Officers working at the sex crime unit of the Amsterdam Police went through a rigorous selection process. The officer in charge has to select the right person and to provide them with additional training.

A strong selection process makes sure that officers will be able to do the job correctly. One of the things they are looking for especially is experienced police officers with a positive moral attitude to the problems they will see. Officers do not have to agree with the issues they face but they must understand them. They try to find open-minded people that have to be able to work with victims and with perpetrators.

They pass psychological tests and integrity tests. After working some time with the units, they are sent for special training sessions in a two-year program at the police academy. They spend one or two days every two weeks at the academy. They get assignments to do in real life, go back to the academy and continue with the next step. They sometimes work with actors, experts, professors, NGOs.

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### The Scope of the Prostitution Industry in the Netherlands

- There is no official figure as to how many sex workers there are in the Netherlands.
- The police are not allowed to keep statistics on a legal profession.
- While controlling brothels, they are not allowed to write down the names of the workers unless there is a problem. It cannot be compared, for example, to a traffic stop where a police officer will ask the driver to show his drivers license.
- At present, there are no reports for each inspection carried out – the number of inspections, the number of victims of trafficking found, the number of illegal and underage prostitutes, the extent to which the regulated sector is decriminalized. For the Dutch National Rapporteur, it means that there is no general understanding of the nature and extent of the problem in the regulated sectors at the national level (2005a:88).
- Estimates vary according to NGOs between 3,000 and 8,000 sex workers for Amsterdam only. Police officers say they see a lot of coming and going of sex workers in sex clubs



when they do enforcement. “They do not stay long in a club. For many it will be less than a year. They get a better appointment, better pay so they move on”.

- The number of illegal workers is much harder to establish. The police do not know. There is no way to know. Estimates from those supporting prostitution are low, whereas those who despise prostitution give very high numbers. “If a sex worker decides not to work in the legal sector, the police do not know what goes on. If there are suspicions they investigate, but as said “we have to have someone telling us”.

### Police Partners

In controlling legal and illegal prostitution, the police work with many partners who each have their own responsibility: city hall representatives, the justice department, the fire services, the building control department, the municipal medical and health services, the health and safety inspectors, the tax and customs administration and most NGOs.

The police, as one of the main players in controlling prostitution, are not able to fight the problem alone because their workforce capacity is insufficient and also because prostitution is a global economic problem<sup>11</sup>. Therefore the police have to work with as many partners as possible, such as NGOs .

Before the legislation there were NGOs working with an understanding that women working in prostitution needed help. NGOs were there to help, to give support and to provide a reference point to speak about issues. They received funding from the municipalities. The situation has not changed with the 2000 legislation. They are still very active. What has changed over the years is the close work and cooperation between NGOs and the police. From a more or less adversarial

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<sup>11</sup> One comment that surfaced during an interview was, if the biggest threat for brothel owners is to lose his permit if he does not comply with the legislation, then prostitution must not belong to the police sex crime unit but rather to the economic crime unit.

position in previous times, they have learned to work with each other. The biggest change is that police officers have developed a new attitude considering the best interests of the victim, an approach that is very different from that of regular investigators.

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#### Police Partnership with NGOs

In order to build mutual trust, these two groups hold regular, formal and informal meetings where they talk about problems, how to connect to each other, etc. These meetings seem of value in making and maintaining contact among partners; in developing trust; and in seeing how deeply far each partner can be involved without compromising their basic mission, values and principles.

Both parties realized that working together produces better results. For example, when the police have a victim in need of support, NGOs quickly find a reliable shelter for the person. In another example, by providing support to victims and creating trusting relationships, NGOs help the police persuade victims to press charges against traffickers.

A new help and advice centre for female sex workers is planned to open in 2007 to improve the care to provide to them. Also an expertise centre where the police NGOs, lawyers, immigration officers will meet with victims to lower their fear and create trust is also planned to open the same year.

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A less desirable form of cooperation is with the staff at the tax and customs administration. The inspectors from the tax department tend to take advantage of their administrative inspections to check the identity of workers and to make sure they pay taxes. The police see their role as building trust with the sex establishments and workers so that “if something goes wrong they will talk to us”. But “if they know that the tax collector inspectors, or those from the welfare benefits are with us, it will not work”. For the police there is a conflict of interest at stake.

## Impacts of Legalized Prostitution

Legislation has both expected and unexpected consequences.

According to all interviewees met, the legalization of the sex industry has been better for sex workers. If women chose to work in the legal sector they work in a safe and regulated environment. They pay taxes and do not have problems with anybody they say. If the sector was not legalized, every activity would be illegal.

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### Legalized Prostitution Permits Public Initiatives

In Amsterdam, the Prostitution Information Centre (*PIC*) was started in 1994 within the red light district by a former sex worker to provide a space where people could come and ask questions. Sex workers can enquire about employment benefits, income tax, etc, while government organizations, lawyers, media, visitors, get clear and direct information about the whole situation. Lectures and presentations are regularly given. As said, many of these people come from countries where prostitution is a crime and seen as the source of many problems. The PIC provides information to around 25,000 people a year. Self-funded through the sale of souvenirs and other articles related to the red light district, PIC keeps its independence from municipal and national governments. PIC has also a web site: <http://www.pic-amsterdam.com>

From a global perspective, there is an International Committee on the Rights of Sex Workers in Europe which aims at linking sex workers and allies across Europe, furthering social acceptance and respect for sex workers, and guaranteeing their civil rights. The organization held a conference on sex work, labour and migration in Brussels in October 2005. A Declaration of the Rights of Sex Workers in Europe was signed by an Italian politician. Current information is provided on line: <http://www.sexworkeurope.org>

There is also an online information group, Network of Sex Work Projects, that promotes health and human rights. Member organizations are from more than 40 countries. The website gives information and web addresses on laws, on health and safety, ethics, events etc. and on the Canadian situation- <http://www.nswp.org>

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It seems that the legalized sector is taken very seriously.

- For example, in many cities there are signs looking for EU women to work in windows prostitution because sex establishment owners cannot find women to work. As an interviewee said, “it has never been seen before because if they are not from the EU it is impossible to get a working permit and to work legally”.
- Brothel owners have started the Society of Room Exploiters in the Netherlands. With the legislation they thought they might develop their own rules for their operations. They comply with the law and try to meet the regulations. They keep contact with each other and meet once in a while if something concerns them. They act as a very well-organized interest group. Many of them are not just in the Netherlands but in other EU countries as well.

However, the people who do not meet the criteria for the regulated sector are being pushed further underground. It concerns mainly women who are, without a valid resident permit, or without valid documents, or who are the victims of human trafficking. Conditions for this group have worsened with legislation.

New types of prostitution are emerging which are still difficult to control as they are on the limit of the law. Here are some examples.

- Those who work with cell phones for escort services; those who try to get a place in an apartment and work from there. They are unwilling to pay taxes or do not have the right papers.
- Illegal sex clubs in the countryside are also an option for illegal workers coming from

different countries outside of the EU.

- A huge problem are men who prey on young girls encouraging them to fall in love with them and then inciting them to work as prostitutes for them. Since the girls do it out of “love”, they do not feel forced to work. They do not need a license since they are doing it of their own free will<sup>12</sup>.
- Another type is the partner exchange clubs for couples. It used to be for regular couples only but now prostitution is part of these clubs. These clubs are usually not located in cities.
- There are also coffee houses in migrant communities. Coffee houses are known as places to find all kinds of information about illegal jobs, etc. Prostitution is now also part of the information exchange within the coffee houses.

At present it is hard to compare the percentage of legal workers with illegal workers.

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<sup>12</sup>One solution has been to have information sessions for girls in school on how it works. Also, the media provide information and family stories to help raise awareness of the situation.

## Summary

- Legalized prostitution shows definitive benefits for legal sex workers.
  - It is not seen or defined as a moral discussion any more. It is an economic issue.
  - Experts would say that it is still difficult to say whether or not legalization has improved the situation. There are no clear answers to this question yet.
- One of the big issues is the difference between municipalities and with neighboring countries.
  - There is displacement of workers between municipalities which have different prostitution practices and across the national borders.
  - Also the controls put into practice in these different places are very different.
- There is a major evaluation project being done at the time of writing this report. The process is being taken rather seriously. When the law was established an evaluation was planned every four years. There has not been any research done on what legalization of prostitution means for the police. This issue will not be included in the major evaluation project being done.

## Prostitution Related Issues

A question worth asking in the current context in the Netherlands is, should crime involving prostitution be seen as a sex crime or as an economic crime?

## Human Trafficking<sup>13</sup>

The national Rapporteur in the Department of Justice reports cases known to the police, to NGOs. What is the scope, how many people (mostly women) are involved? What can law enforcement do against human trafficking<sup>14</sup>. These are all major issues in the Netherlands.

Experts would say that the Rapporteur reports only a small part of the activities because it is very difficult to know the extent of the problem. The Rapporteur allows investigators to detect human trafficking and identify the source. Individuals are mainly from across national borders, the Netherlands, but much more needs to be done.

Information about human trafficking comes from different sources:

- During administrative controls of sex establishments, police officers may suspect that some of the girls are in an illegal situation (not the right papers, no fixed address, sometimes they have lost their passport). The police may start an investigation. Or, these information are given to the specialized units which look after illegal trafficking. Then, the police get information over the telephone, or use physical surveillance, cameras, or technical devices, such as bugs in the vehicle. They can also use search warrants to search apartments, to get additional information from computers.
- Information may come from police officers walking the beat and talking with the sex workers, etc.

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<sup>13</sup> According to one RCMP human trafficking awareness coordinator, the global Canadian situation remains relatively unknown to law enforcement agencies. How many individuals are involved, how big is the problem, how to document the situation, where do they come from, what are they doing while in Canada are questions that need to be addressed.

<sup>14</sup> The Dutch National Rapporteur makes a clear distinction between human trafficking and human smuggling following the Palermo Convention; for more details, see Fourth Report, 2005a.

- There is an anonymous phone line, “Report Crime Anonymously”, where people can report information anonymously about a trafficking situation for example, without giving their names or identification.

For the police, most sex workers are legal because the owners of sex establishments do not want to lose their permit, which in many cases represents a fair amount of money. Therefore only few of these girls can be found in the clubs.

Identified problems:

- Among problems faced with human trafficking is the difficulty to detect human traffickers. They often work from abroad and send many women into the country before a judge becomes aware.
- During investigations police officers have to be careful to develop trust with sex workers so that they are not afraid of the police and they will talk to them. Victims who report to the police get a temporary residence permit and income support for the time they are in the legal process. But until August 2006 they were sent back to their country of origin once the process is completed. Now, following the Belgium model if traffickers are convicted, trafficked individuals will be allowed to remain in the country<sup>15</sup>.
- The police have the option to investigate even if there are no complains from the women. However, police officers would say they do not have a strong case in the court if the woman, afraid of the traffickers and insecure about her own illegal situation, says it is her

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<sup>15</sup> In Canada, since June 2006, the temporary residency permit program for victims of trafficking (introduced by Bill C-49) provided trafficked persons with easier access to various services. It is expected that these permits will make it easier for victims to testify. For more details see Canada. Standing Committee on Justice and Human Rights, 2006:18, Chap. Two.



choice to work as a sex worker of her own free will. The judge will not convince the traffickers easily.

- For the police, the best thing is to have written testimony from a victim who wants to press charges. But such a statement needs to provide clues for police to work with. If there are several statements from women showing it is not just one story, it is much more difficult to deny.

Critics may say that the police are not putting enough effort into looking at the criminal structure behind what is happening in the brothel. As commented a different type of police work is required when investigating human trafficking. There is now a centre of expertise established by the police for human trafficking and smuggling. The police try to build up their expertise and train regular police officers.

Critics have also said that “there are a lot of myths circulating about human trafficking....in the Netherlands nobody knows the details but only one story got out of proportion...it is certainly one of the issues surrounding prostitution...”.

Even though police will confirm that these cases are difficult to solve, there have been several cases investigated in the last 10 years. As said “Human trafficking cases are really the subject of investigations of all sex crimes units in the country. We know it is a problem here” .

An important issue is whether or not lifting the ban on brothels has had an effect on human trafficking. According to the Third Report of the National Rapporteur “the effect cannot be measured<sup>16</sup>”(Dutch National Rapporteur, 2005a:183) for the following reasons:

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<sup>16</sup> In December 2005, an international conference held in Italy discussed the best methods to monitor and measure trafficking in human beings in light of absence of uniform definitions, the difficulty to collect information, and the major challenge of gathering statistics on the problem.

- the situation before the new legislation was unknown;
- the legislation has not been enforced uniformly at the national level by municipalities;
- it is virtually impossible to obtain a precise understanding of the situation, because trafficking in human beings is a crime carried out in secret and victims do not report it in all cases;
- other actors (not mentioned) may affect the nature and extend of trafficking.

The Rapporteur noted that the number of investigations started by the police has increased considerably, from 37 to 79, but “the average number of persons arrested fell after the ban was lifted” (Dutch National Rapporteur, 2005a: 184).

#### Closed Circuit Television Cameras (CCTV)

In the Netherlands, town councils decide to allow the installation of CCTV. They then have to inform the public about their presence as prescribed by the legislation. There are also public signs that cameras are being used for surveillance.

There are CCTV in the red light district in Amsterdam. CCTV are mainly for preventive safety purposes. The objective is not to take pictures of customers visiting the red light district. (This would be illegal since visits to a sex worker is legal). Cameras are on 24 hours a day at the police station. Several people have been appointed to operate the cameras. Several cases involving criminal or violent incidents have been solved with the help of the cameras. It is always possible to look at the tapes and see if the individual can be identified, what he looks like, etc. Tapes are also used for other sorts of crimes like pick pocketing, bike theft, etc. “Cameras are an efficient way of using the small number of police officers we have”.

According to interviewees, cameras had no impact on the behavior of customers in terms of restraining them to come to the district. Customers would not like to be contacted by their license plates if something happens.

## Illegal Behavior and Police Integrity

Is there a relationship between legalized control of prostitution and the potential for illegal behavior by police officers? Since there is always a risk for those investigating the sex industry, the police have rules adapted to the specific workplace hazards of prostitution. For example, police officers never work solo, there may be combination of men and women officers, they are always working together and stay together while investigating sex establishments, they provide their business card on demand, are always clear about the purpose of their visit to the establishment, etc. They also have the option to limit their stay with the sex crime unit to a certain number of years. They are discouraged from developing and keeping too close contacts with troubled women.

Police services tend also to ask their police officers not to visit a sex worker for personal business in the same city where they work, but this is a request that can't be mandatory.

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### The Rotterdam Police

The Rotterdam police sex unit has developed 15 rules that police officers must read and sign when they join the unit. They must also conform with them.

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According to interviewees, there is no indication that corruption would be or is actively in the control of prostitution. They do not think that illegal practices are happening.

## Procuring

The argument regarding procuring is the following: if it is their own choice to work as sex workers, then they have to arrange their own security. They can hire men who will work for them. According to an expert, the original idea for lifting the ban on brothels was that procuring will not happen any more. However, she said that the majority of research shows that women, mostly immigrants, are dependent on pimps; estimations are between 60 and 90 per cent . Explanations are that many women are completely dependent and afraid; they are afraid to contact the police; they do not know the whole situation and cannot judge what it means by themselves.

### Lessons Learned

- The ways in which policies are implemented in practice show local and regional disparities. As described enforcement practices are not uniformed:
  - licenses are given to building recognized as a prostitution place or brothels;
  - numbers of licenses are limited;
  - escort services is done over the Internet and rather difficult to control;
  - coffee houses may attract ethnic type prostitution;
  - prostitution maybe centralized in district, like the red light district in Amsterdam , where control is easy and violence acted upon rapidly<sup>17</sup> .
- Displacement of prostitution: it is not clear yet if the legal sector has displaced or influenced the illegal sector. This has yet to be determined.
- The economic perspective of prostitution :
  - is the income of sex workers better now or does the obligation to pay taxes causes problems to sex workers (therefore influencing their migration to the illegal

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<sup>17</sup> In the red light district in Amsterdam there is a panic button in most rooms that a worker can use in case of emergency- an alarm will ring in the street.

sector)?

- Do prostitutes' circumstances improve when prostitution is legalized? Do people leave prostitution because of money issues?
  
- Identified Impacts on the police:
  - new administrative rules have been developed in order to be able to conduct administrative inspections and criminal investigations at the same time;
  - it is a learning process to work, exchange and share with NGOs with a focus on the victims' best interests;
  - following the enactment of the new law, police personnel have been redeployed (without new funding or additional personnel) according to how municipalities describe and limit the prostitution industry in their territory;
  - there is still a focus on illegal prostitution, including forced prostitution, human trafficking and human smuggling.
  - following the Netherlands police experience it would be wrong to think that legalization of prostitution means less work for the police, or even an absence of control. We saw that the police has a new role of controlling legalized prostitution through an administrative process, while still being responsible for the enforcement of the criminal law.
  - Contrary to what could have been expected with the legalization of prostitution the police are still involved with controlling a legal sector and its offshoot, an underground illegal sector which is rather difficult to address.
  - Prostitution in the Netherlands must be understood in the context of the European Union where European citizens can cross national borders and work in member countries. There are still illegal sex workers and human beings trafficked coming from foreign countries making law enforcement very challenging.

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