

## Foreword

Take an everyday session of the children's court. There are three cases: a request to remove young children from the custody of parents who are being held on suspicion of human trafficking, a petition for the placement in a closed shelter of a 14-year-old girl with 'indications of problems with a loverboy' and a request for placement in a closed shelter of a 16-year-old boy who had bought a weapon out of fear for his sister's loverboy. Sessions like these are not isolated incidents and illustrate that human trafficking is not solely a matter of criminal law and calls for wider expertise than has been accumulated in criminal law. The phenomenon has a far wider impact and consequently threatens to become uncontrollable. Anyone can be confronted with human trafficking in one of its various manifestations, even organisations and professionals that one would not normally think of in connection with the problem. This is what makes efforts to tackle human trafficking so complicated.

This seventh report is thicker than ever and covers a wide range of subjects. It also contains 47 recommendations for various actors. The recommendations differ in terms of their urgency and complexity. I would like to mention just a few of them.

In my view, providing adequate care for victims remains an area of concern. Concern about the lack of capacity and at the delay in starting the pilot project with category-oriented shelter. Besides creating sufficient capacity, the type of shelter and care provided for each distinct group of victims is very important. Regardless of where they come from, victims are entitled to shelter and care and should be treated as victims. In other words, they should not be held, even temporarily, at Schiphol, by the Central Agency for the Reception of Asylum Seekers (COA, in aliens detention centres, in tents or at police stations. Special facilities should also be created for Dutch victims who are minors, usually victims of loverboys, either as part of the pilot project or separately. After all, a national strategy for caring for this category of victim should have been formulated long ago embracing key aspects such as a pedagogical climate, safety, small groups and education. In my view, primary responsibility for this lies with the Minister for Youth and Family and there should have been no delay due to problems in securing agreement between ministries.

For the first time extensive research has been conducted into the case-law concerning exploitation in the sex industry. One thing that has clearly emerged from this research is that the subject is complex, and not merely the legal aspects. Hence the recommendation that judges should specialise in this area, as the public prosecution service and the police have already done. Success in tackling human trafficking does not stop at prosecution.

The judiciary should also engage in a dialogue on the appropriate sentences for this very serious offence. In the *Sneep* judgment, one of the few judgments in which a specific benchmark has been mentioned, the judge adopted a sentence of eight to ten months in prison for each victim and described a period of exploitation of nine months as relatively short. Do we find that short? It seems to me that it is at least debatable. Another question worth considering is whether the Dutch prostitution policy influences decisions on whether or not the victim entered prostitution of her own free will. That is the impression to emerge from the judgments that were studied and it is worrying.

The last two reports devoted special attention to the development of case-law concerning exploitation in sectors other than the sex industry. The trend is very important for the investigation and prosecution of this type of human-trafficking case. This report includes an analysis of the twelve judgments rendered in this type of case up to now. Although the jurisprudence is not yet fully fleshed out – the Supreme Court will probably issue its first ruling on other forms of exploitation at the end of November of this year – a number of trends are emerging. A striking feature is that more subtle forms of compulsion, such as abuse of a vulnerable position, seem to cause the most problems. This falls under the English term *coerced labour* by contrast with *forced labour*, which involve more serious forms of compulsion or violence. But even the more subtle forms of coercion are covered by article 273f of the Dutch

Criminal Code. As already mentioned in the sixth report, decisions in these cases should be guided by international legislation.

Of the three Ps, prevention, prosecution and protection, prevention remains the most relevant, since every victim is one too many. But prevention is also the most difficult P. There are projects dedicated to prevention and schools are increasingly coming to the realisation that they also have a responsibility in this regard, but it remains difficult to put it into practice. It is important to focus heavily on developing projects geared to prevention, but unfortunately that has not proved adequate up to now. More needs to be done. In my view, particularly in loverboy cases the police and the public prosecution service should concentrate more on the ‘grooming’ period, the period when victims are recruited, by actively prosecuting attempted human trafficking and so preventing the exploitation from actually taking place.

This report also refers to a fourth P: the P for *partnership*. Partnership with private organisations, particularly in fighting and raising awareness of human trafficking outside the sex industry, with NGOs and, at EU level, with countries outside the European Union. The *Koolvis* case is a good example of a successful partnership between the Netherlands and Nigeria, the country of origin of both the defendants and the victims in the case. Nevertheless, a word of caution is appropriate here. With a human rights approach to tackling human trafficking, the possible effect measures could have on human rights must be considered before any steps are taken and collateral damage must be avoided as far as possible.

In April 2010, the BNRM will celebrate its 10<sup>th</sup> anniversary. The occasion will be marked next October on the European Day against Human Trafficking. Unfortunately, ten years of work by the BNRM does not mean that the phenomenon is declining or disappearing. It is however becoming more visible. This report shows that tackling human trafficking is a priority in the Netherlands, that a lot is being done to prevent it and some success is being achieved. But human trafficking remains extremely difficult to control, both in the sex industry and in other sectors and the 48 recommendations that are made indicate that there is still a lot that can and must be improved in the fight against human trafficking. I hope that my report and my recommendations will help to achieve that.

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