

## A Return to Morality Politics? The Renewed Debates on Women's Body Issues in the Netherlands

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Paper prepared for the First European Conference  
on Gender and Politics (ECPG)  
21-23 January 2009  
Queen's University Belfast

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## **A Return to Morality Politics? The Renewed Debates on Women's Body Issues in the Netherlands<sup>1</sup>**

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### **I Introduction**

Generally it is assumed that the Netherlands has been successful in pacifying two major contentious issues concerning the right to bodily integrity of women, the right to abortion and the legalisation of prostitution. Abortion was legalized in 1981, and reform of the prostitution regime took place in 2000 with the repeal of the ban on brothels. Women's movements' demands, framed mainly in terms of self-determination and autonomy, were more or less fulfilled, making abortion a woman's decision and recognising prostitution as sex work. However, in recent years both issues have returned to the political agenda. New developments, such as prenatal screening and stem cell research, are reopening the debate about the status of the embryo and provide an opportunity for right-to lifers to call the legalization of abortion into question. At the same time, the persisting problems of forced prostitution and criminal activity in the prostitution business are pressuring government authorities at various levels to rethink the legal reforms of 2000.

The renewed debates can only be partly ascribed to campaigning by opponents of abortion and legal prostitution. Changes in the party system in the Netherlands since 2002 have been more important. 2002 was the year of the Fortuyn revolt and the landslide victory of the Lijst Pim Fortuyn (LPF) in the national elections, offering new windows of opportunity to challengers of what had become the status quo on abortion and prostitution and other 'moral' issues such as same-sex marriage, the status of the embryo and the euthanasia settlement of 2001. Particularly since the last national elections of 2006, which led to an unprecedented coalition of Christian Democrats, Social Democrats and Christian Union members (cabinet Balkenende IV), many left-wingers and convinced seculars are contending that we are witnessing a return to old-style morality politics. These were traditionally the preserve of the religious political parties, and these left wing libertarians perceive renewed state intervention in the private life of Dutch citizens.<sup>2</sup> They also point to the continuous disapproval of the religious parties to homosexuality and same-sex marriage. Supporters of the conservative element in the incumbent cabinet welcome the reassessment of previous 'moral reform' and hope that the current government will end the usual politics of 'gedogen' (condoning) by the authorities endemic in situations of ethical pluralism. For the various

feminist movement groups and organisations hard-won victories about women's right to bodily integrity and sexual self-determination in the past appear to be at stake. This paper aims to show if and how recent debates are affecting the previous policy settlements by charting recent events and assessing potential policy changes. How has the party system changed over the last years, providing a new opening for challengers in the political opportunity structure? What are the changes in the discourses on both issues, and are these leading to new policy on the issues in the Netherlands? In how far are these calling previous feminist gains into question?

## **II The Party-System Change**

In a recent article Pellikaan, De Lange and Van der Meer (2007) have contended that the victory of the LPF in 2002 has established a *new conflict line of culture* that abruptly restructured party competition in the Netherlands. This transformation stands in contrast to the gradual change in party systems in other European countries generated by the rise of right wing popular parties mobilizing on immigration and national identity. Previously, the Dutch party system was shaped by the left-right divide centring on economic issues and state intervention, by the religious- secular divide, (which Pellikaan et al. label the 'ethical line'), and a corporatist-communitarian versus individual interests divide (2007: 288). For years these lines proved resistant to change, absorbing new issues such as the environment or gender equality into the existing cleavage structures. The political parties managed to ignore popular dissatisfaction with multiculturalism for a considerable period, but Fortuyn set migration and multiculturalism at the top of the political agenda, turning the party-system into a highly polarized one along the line of culture.

This new line of conflict eclipsed the older lines of conflict. According to Pellikaan et al (2007: 291), the ethical line had become obsolete when the Purple Coalitions (VVD-Liberals, D66 - Social Liberal and PvdA -Social Democrats) (1994-2002) legalized euthanasia, same-sex marriage and adoption by lesbians and gays, practically erasing the ethical line. The *Christen Democratisch Appel* –CDA (Christian Democrat Appeal) accepted the ethical status quo and left opposition to the minority orthodox Protestant parties. The CDA also changed the content of its communitarian ideology, emphasizing norms and values, the family and social cohesion (2007: 292). Fortuyn also seized on these, but converted these to the societal level, emphasizing the importance of one national culture as opposed to multiculturalism. This created the new line of culture conflict which since then determines the party system along with the time-honoured left/right divide<sup>3</sup> (noot over plaatsing LPF),

making the Dutch party system two-dimensional (2007: 297). Despite the fact that in the 2003 elections the LPF was reduced to eight seats, the structure of party competition has changed irreducibly.

The older structure of the Dutch party system had enormous impact on the history of the legalization of abortion (Outshoorn, 1986, 2000) and prostitution (2004a, 2004b). In the Dutch multi-party system no political party is able to form a majority government by itself, so coalitions are inevitable. The CDA (and its predecessors) alternately ruled with either the PvdA or VVD, and could thus veto any change on issues central to its religious beliefs. Both issues were framed as moral issues under the Morality Laws of 1911 and both were 'frozen' until 1967, when the religious parties lost their parliamentary majority. This provided the opportunity for a secular alliance to repeal the 1911 enactment. After a prolonged struggle, a far-reaching abortion reform bill was adopted in 1981, with support of a majority of Christian Democrats in parliament. The bill legalized a liberal abortion practice emerging in the early 1970s which had given women the right to decide on an abortion (Outshoorn 1986, 2000). It went into effect in 1984. Since 1985 abortions are also refunded by national health insurance. The ban on brothels in the Morality Laws survived the repeal of the Morality Acts in the 1960s and 1970s, but under pressure of local authorities and feminist interest groups it was lifted in 2000 (Outshoorn 2004b). The vote in parliament was a perfect split along the religious/secular divide, with liberals and socialists in favour and all religious parties opposed to the reform. The repeal bill distinguishes voluntary and forced prostitution, making the latter an offence but creating space to regulate voluntary prostitution as sex work.

The elections of 2002 saw a landslide victory of the LPF, with 26 seats in the new Second Chamber. The major losers were the parties of the preceding Purple Coalition. All the same, the VVD became part of the new governing coalition (cabinet Balkenende I) with the LPF and the CDA. For the Christian Democrats the coalition negotiations were the opportunity to introduce a clause in the coalition pact on 'medical ethical' issues. The 1984 Abortion Act was to be evaluated (along with the more recent law on euthanasia) on the compliance to the terms in the practice of abortion (Regeerakkoord 2002: 11-12). The coalition pact also maintained the existing prohibition on the use of embryos for research, save those remaining after IVF. These moves aimed at pacifying the religious right wing of the party who had had to accept the 1981 compromise. The dissent never quite disappeared, as evidenced by parliamentary questions on incidents and events relating to abortion. The demand for the evaluation had already been voiced in the Second Chamber by Clémence Ross (CDA) during the Purple Cabinet. It was also a move to secure the allegiance of those voters

taking a right to life position in the competition with the more orthodox religious parties, who had never accepted the 1984 Act. Moreover, the CDA wanted to reclaim some of the ground it had lost during the ‘amoral’ Purple cabinets of the preceding decade. There was no mention in the coalition pact of the issue of prostitution or trafficking of women. Ross became junior minister of Health, Welfare and Sports and she stayed in this position during the cabinets Balkenende II and III.

The new cabinet fell apart after nine months, mainly caused by the instability and infighting of the LPF. New elections in 2003 delivered a victory for the Christian Democrats and a sharp defeat of the LPF. This enabled the formation of a right wing cabinet (cabinet Balkenende II) of the Christian Democrats with the VVD and D66, but without the LPF. During the election campaign prime minister Jan Peter Balkenende (CDA) contended that the Abortion Act was being disregarded in practice (NOOT?) In the new coalition pact, the intended evaluation of the Abortion Act was announced again, now under the heading of ‘immaterial issues’. The pact also called for the ‘scrupulous maintenance of the norms around termination of a pregnancy’, and for ‘special attention to alternatives, such as adoption’ (Regeerakkoord 2003: 9). It also retained the 2002 ban on creating new embryos for research purposes. During the negotiations both the Liberals and the Christian Democrats promised not to enact any major changes in medical-ethical policies, irrespective of the coalition outcome. There was again no mention of prostitution or trafficking.

When one looks at the results of the most recent national election in 2006, it becomes obvious that the cultural line has produced further polarisation. On the right, the new Freedom Party (*Partij voor de Vrijheid* -PPV) of Geert Wilders entered the Second Chamber with nine seats, and on the left the Socialist Party (SP) went from nine to 25 seats. Both parties are Eurosceptic and, while the PPV is blatantly anti-immigration and anti-Islamic, the SP has always taken a moderate if critical position on migration. The elections also meant that the CDA and VVD no longer had a parliamentary majority<sup>4</sup>, but that this also was the case for an alliance between Christian Democrats and Social Democrats. A majority could have been engineered by taking the left wing Socialist Party (SP) on board, but the CDA feared a left-wing majority in the cabinet and opposed the alliance. A majority cabinet could now only be constructed by taking along the Christian Union (*ChristenUnie* -CU), one of the orthodox Protestant parties in parliament.

The CU was opposed to the legalisation of abortion and prostitution, so this was a golden opportunity to fulfil its longstanding demands on both issues. It was willing to join a new cabinet, but exacted its price. The outcome of the coalition negotiations was that the

terms of the Abortion Act were accepted, under the proviso of its scrupulous maintenance. But the new coalition wanted to extend its conditions to abortion pills used for very early pregnancies (16 days), notably that these also fall under the legal requirement that a woman should take a five-day 'waiting period' into consideration before having an abortion (Regeerakkoord 2006: 42). It also wanted a new protocol for abortion decisions and research on the socio-psychological effects of abortion. All these points had been contested in the previous debates and could now return to the political agenda (see par. III).

The new composition of the cabinet provided the window of opportunity for those dissatisfied with the legalisation of prostitution. The coalition pact noted that prostitution was still a 'breeding place' for criminality and the cabinet proposed targeting clients of under-age and undocumented prostitutes and setting up exit programmes for women wanting to quit sex work (Regeerakkoord 2006: 35). The latter can be seen as an abolitionist move, while the former suggests moving into the direction of client criminalisation.

### **III Changing discourses on abortion?**

The Abortion Act of 1984 had come to be accepted by most political parties and by the public at large. In due course only the religious right wing of the CDA and the orthodox Protestant parties remained opposed; parliamentary questions about abortion in the years after nearly always came from these quarters. Recent public opinion research on abortion is lacking (itself an indication of non-contestation); figures of the late 1990s show that around 13,4 % of the population was strongly opposed to abortion and that 50% is in favour of the woman deciding on an abortion<sup>5</sup>. These hardly differ from earlier results in the national election surveys over the previous decades, making for a very stable public opinion (Outshoorn 2000: 146). The Act had left the decision for an abortion to the woman and her doctor and did not specify any objective criteria to justify an abortion; if a woman states that the pregnancy creates an 'emergency situation' (*noodsituatie*) for her, it is sufficient ground for the abortion to take place. The Act makes no distinction between early or second-term abortion, save for the fact that the latter have to take place in a clinic or hospital with a special licence. Abortion is allowed until viability of the foetus outside the mother's womb, but is not defined in a number of weeks; generally 24 weeks of gestation is observed as the upper limit. The 'morning after pill' is exempt from the terms of the Act, as it can not be established if there was indeed a pregnancy which was being terminated.<sup>6</sup> The most controversial part of the Act was the five day 'waiting limit' a woman has to observe before having an abortion, to think things over and so ensure 'conscientious decision-making'. This clause was derided by feminists and the

secular political parties as extremely patronising and it was generally regarded as a measure to prevent women from abroad coming to the Netherlands for an abortion. The costs for an abortion are covered by national health insurance. The prevalence of abortion is low; in 1990 the Netherlands had the lowest abortion rate in the world (5.2 abortions per 1000 women between 15-44 years). Since then the figure rose steadily to 8.7 in 2002 and has now stabilised around 8.6 in 2007 (Jaarrapportage 2008: 13). The increase is mainly due to a higher incidence of abortion among migrant women in the Netherlands (Jaarrapportages IGZ CHECK). The overall rate is still one of the lowest rates world-wide.

In the period under study, three issues made it to the political agenda with potential consequences for the abortion settlement. Firstly, there was the Christian Democrat demand for an evaluation of the Act, which became part of the coalition agreement of the Balkenende I cabinet in 2002. Secondly, a new Embryo Act had been passed in 2002, which had to be evaluated by 2007. Thirdly, technological advances in the area of prenatal screening increased the opportunities for selective abortion. Although the Abortion Act allows for selective abortion (a woman can be in an 'emergency situation' because of a defect in her foetus), it led to new calls for state intervention. We shall see that the most recent political debate on pre-implantation genetic diagnostics touched on both the status of the embryo and prenatal screening.

#### *The evaluation of the Abortion Act*

The Act itself had not been evaluated before, although it was monitored extensively on a yearly basis by the Inspection for Public Health (*Inspectie voor de Gezondheidszorg – IGZ*), a requirement stipulated in the Act itself. The need for its evaluation therefore was political, serving mainly to meet the demands of anti-abortion politicians in the CDA who held that the terms of the Act were not being observed and that the 'emergency situation' as ground for an abortion was being interpreted far too liberally. The coalition agreement provided them with an opportunity to introduce 'objective criteria' for an abortion in the Act. In the past the CDA had attempted to do so at several points in time, but these failed through lack of consensus about their definition (Outshoorn, 2000: 143; 2001: 219-220). Opponents were also quick to point out that differing interpretations among the medical professions would lead to inequity under the law. As soon as the cabinet Balkenende II took power (in May 2003), the new junior minister of Health, Welfare and Sports, Clémence Ross (CDA) commissioned the evaluation. Its central question was: "How are the terms of the Abortion Act and the *Besluit afbreking zwangerschap*<sup>7</sup> implemented in practice? What troubling points and problems are

there, also in the light of new developments? Do these findings give reason for changing the Act or the *Besluit*, given the purposes of the law envisaged by the lawmaker?" (Evaluatie 2005: 11; translation JO).

The evaluation was carried out by a team from the medical faculty of the University of Amsterdam and was completed in 2005. It concluded that in general the Act was being well observed and the goals of the act – availability and accessibility of abortion for women who have an unwanted pregnancy and the respect for human life guaranteed by its procedural conditions, were well met (Evaluatie 2005: 12). As to the crucial concept of ‘emergency situation’, the report stated there is no reason to reconsider it or to define it any further (*idem*, 13). The five-day waiting period was also being observed and the report suggested that it need no longer be defined in a number of days, but to make it flexible depending on the situation (*idem*, 13). Several minor problems were noted, the most important of which were the very early abortions in the first two weeks of pregnancy that are not covered under the terms of the Act<sup>8</sup>. It recommended extending the Act to cover these incidences. The report also advised improving the counselling for women and suggested further research on the decision-making process (*idem*, 15). In view of new developments the report recommended that abortions induced by medical drugs (which can be used in general practice) should remain under the terms of the Act. On line offering of abortion pills were seen to be well-covered by the Act, and in this way the authorities can continue to control abortion practices.

In 2006 the cabinet Balkenende II decided to follow the recommendation to extend the act to the early abortion pill, justifying this by the technological innovation for establishing early pregnancies. But it rejected making the five-day ‘waiting period’<sup>9</sup> flexible, as it is part of the procedures in the law to protect ‘unborn life’ (TK, 2005-2006, 30371, nr 2, Brief Staatssecretaris VWS aan TK, 28 april 2006). Both letters were of the opinion that the law would not have to be changed to accommodate the extension to the early abortions. The cabinet also intended to commission research on the interpretation of the ‘emergency situation’ and on the psychological after-effects of an abortion, a favourite issue of the pro-life front. All these points led a series of questions in the Standing Committee for Public Health, Welfare and Sports, with the secular parties opposing both major points. The orthodox Protestant parties asked no less than 46 questions in an effort to the Act more restrictive (TK, 2006-2007, nr 7. Verslag Schriftelijk Overleg Vaste Kamercommissie VWS, 12 december 2006). The CDA backed the position of the cabinet.

As mentioned, the recommendation about the early abortion pill became part of the new coalition pact of the Balkenende IV government (CDA-PvdA-CU). When parliament

finally debated the evaluation in 2008, it was after the new cabinet came into office. Medical-ethical issues were in the remit of the new junior minister of Health, Welfare and Sports, Jet Bussemaker, a PvdA MP and a committed feminist. The debates focused heavily on the extension of the 1984 Act to the early abortion and the five day waiting period (TK 2007-2008, 30371 nr 16. Verslag van een algemeen overleg op 19 maart, 16 april 2008; TK 74 (2007-2008), Afbreking Zwangerschap, 9 april 2008). The Liberals, Social Liberals, Labour party and the Green Left doubted the wisdom of the extension and noted that it would mean that the five day waiting period would also be required for early abortion, severely limiting access to this relatively simple intervention. The Christian Democrats stuck to the coalition pact in the main, as did the CU, although both worried about the upper limit to abortion (24 weeks) and the definition of the emergency situation. The orthodox SGP remained opposed to the 1984 settlement.

Notable are the party positions of the two secular parties SP and the new extreme right party of Geert Wilders, the PPV (*Partij voor de Vrijheid*, Party for Freedom). The SP was opposed to making the five day waiting period flexible and supported the extension of the Act to the early abortions, arguing that this requirement makes reflection and tranquillity in the whole procedure (TK 2007-2008, 30372, nr 16, p. 8). The party did express its commitment to women's rights to choose and was against defining the 'emergency situation'. The PPV had no standpoint on abortion in its party programme, and the debate delivered the first indication of its stance on abortion. The spokesperson Fleur Agema was in favour of limiting abortion only up to 8 weeks of pregnancy, and was opposed to funding abortion. She also opposed women coming from abroad to have an abortion in the Netherlands, as well as wanting special measures to 'contain the explosive growth' of the number of abortions among Moroccan women (TK 2007-2008, 30371, nr 16, p. 9). Both party standpoints mean that the party line up on abortion is no longer as predictable as in the past: the SP breaking ranks with the Liberals and the Left, and the PPV joining the ranks of the opponents of abortion by limiting abortion after eight weeks and refusing funding.

The junior minister Bussemaker stated her intention to come with a letter which would extend the Act to early abortion, but without the requirement of the five day waiting period. She also came out in favour of maintaining the waiting period for all other abortions (TK 2007-2008, 30371, nr. 16, p. 9; TK 74, 2007-2008, 9 april 2008, p. 5192) She stuck to the promises of the coalition pact on future research on the 'emergency situation' (adding that she was not in favour of the state looking into the deliberation of a woman with an unwanted

pregnancy and her doctor) and the psycho-social effects of abortion in later life (pointing out this will necessarily take time to come up with results).

To date this letter has not yet been submitted to parliament. It is very likely that the politics of postponement are being employed, a time-honoured way of coping with contested issues around abortion (and other ethical matters) (Outshoorn, 1986).

### *The 'embryo debate'*

Since the abortion debates the status of the embryo had become highly controversial, and for many of a more orthodox religious persuasion, embryos have the same status of unborn life as foetuses in general. This potential extension of the right to life was contested by feminist- and other pro-choice groups and organisations, as it could make early abortions (including the 'morning after' pill<sup>10</sup> and even IUDs impossible). It was also contested by most of the medical profession, as it also ran counter to their research interests, interests they successfully redefined as being in the general public interest. In 2000 the Minister of Health, Welfare and Sports in the second Purple cabinet (Kok II), Els Borst (D66), submitted a bill on the use of embryo's to Parliament (HTK 2001-2002, 27423, 4 October 2000). It allowed medical research on embryo's remaining after IVF treatment (the so-called 'left over' embryos). But the Act forbade the creation of new embryos for research purposes; the cloning of humans, sex selection, cross-species (human-animal) experiments, and the changing of DNA in gametes, for five years. This prohibition would then be reconsidered in the light of medical and technological advances in these research areas. The Second Chamber passed the Act in 2001-2002; the First Chamber debated it after the cabinet's resignation in April 2002 and the stormy May national elections, passing it in June 2002. In both houses of Parliament voting followed the usual religious-secular dimension, the seculars in favour, the religious opposed.

An evaluation of the Act in 2006 showed little was amiss (Evaluatie Embryowet 2006) and therefore the cabinet Balkenende II decided not to change the provisions of the Embryo Act, maintaining the prohibition of the creation of embryo's for research purposes (HTK 2006-2007, 30486, nr 3, Brief Staatssecretaris VWS aan TK, 5 October 2006). This decision was confirmed when it became part of the coalition pact of 2007 for the new cabinet Balkenende IV. It was acceptable for the PvdA, as its party programme for the 2006 elections did not go beyond the prohibition (for the programme: Pellikaan et al 2006: 339). In line with the pact, both the Second and First Chamber of parliament voted in favour of an amendment to the Embryo Act, which removed the five year limit, retaining the prohibition for at least the

period of the tenure of the incumbent cabinet (TK 2006-2007, 31046, 3 July 2007).(CHECK VOTING OF SP AND PPV).

*The debate on prenatal screening (PNS)*

Prenatal screening had become a possibility with the advances in medical technology since the 1970s. Detecting Down's syndrome and neural tube defects was possible in the late second trimester of pregnancy, with the option of abortion in the case of deformity of the foetus. Abortion for such cases is legal as a woman can plea the 'emergency situation' and have an abortion. This was contested by many, not just the pro-life groups, but also by organisations of people with a handicap (Groenewoud 2005). There was also a consensus among conservatives that the state should retain control of new reproductive technologies as they had bearing on issues of life and death. In 1991 the cabinet Lubbers III (CDA-PvdA) permitted offering prenatal diagnostic testing on Down's and neural tube defects to all women *aged 36 or older*, given the very much higher incidence of Down among older women. But the prenatal diagnostics can lead to spontaneous miscarriage, so earlier and safer screening procedures were developed. In 1998 the Minister of Health, Welfare and Sports in the second Purple Cabinet (Kok II), Els Borst (D66) asked the *Gezondheidsraad* (Health Council), one of the major medical advisory commissions to government (and also a powerful lobby of the medical profession), for a report on prenatal screening. This report recommended using the so-called 'triple test' for early screening purposes for *all pregnant women* (Gezondheidsraad 2001). In the Council, PNS was not regarded as degrading for humans, but it emphasized the state always retains its responsibility for those with a handicap. Informed consent is a prerequisite for PNS, but the Health Council did worry about 'information overload' for the pregnant woman who might have to take the decision to have an abortion.

The extension to *all* women causes opposition from organisations of parents of children with a handicap and from the VBOK (*Vereniging ter Bescherming van het Ongeboren Kind* – Association for the protection of the unborn child) a well-established right-to-life lobby group who insists of the right to life of all unborn children (Groenewoud, 2005: 30-31). The major medical organisation, the KNMG (*Koninklijke Nederlandse Maatschappij voor Geneeskunst*– Royal Netherlands Society for Medicine), acknowledged the *right not to know*, and confirmed a women's right to choose as the central issue. It was also quite critical about the quality of the screening tests. Given the contested nature of PNS and the unreliable tests, Minister Borst, who is a much respected medical doctor herself, postponed the decision about the extension, hoping for better early screening tests in the

meantime. She was also aware that she would need parliamentary support to proceed. However, before the decision was taken, the cabinet fell in April 2002.

Her successor, Ross (CDA), had been very critical of the Purple cabinet when she was a MP and had accused it of ‘lacking a moral conscience’ (Groenewoud 2005: 33). She was of the opinion that a diagnosis of Down in itself is not a criterion for defining an ‘emergency situation’ justifying an abortion, but if a woman perceives it to be one, then it is a legal ground for abortion. She refuted the idea that PNS and abortion always go hand-in-hand and confirmed that the individual woman is the only person to decide whether to have an abortion or not (HTK, 3 december 2003). There appears to be a tension with her party’s position on new reproductive technologies during the election campaign of 2003. The CDA sees the protection of human life as the cornerstone of its ethical position and thinks the state should protect ‘vulnerable life’ and strictly monitor existing legislation (CDA 2002: 73). The state should play an exemplary role in this respect by *not* establishing programmes for PNS. ‘Normalising’ abortion was to be avoided, and only ‘emergency situations’ could provide justification for such a procedure (Groenewoud 2005: 37).

Ross remained in office in the new cabinet Balkenende II. The disagreement among professional medical organisations and interest groups on the issue of offering PNS to *all* women was complicated by a debate on its costs and legal intricacies about patients’ rights to health care and the law on population screening. Ross maintained the age distinction for offering prenatal diagnosis. She justified it by pointing to the higher incidence of Downs above the age of 36 years, the inaccuracy of the available tests for younger women and the need to avoid ‘the medicalisation of pregnancy’ (HTK, 21 November 2003). She argued that informing *all* women about the tests is not legally required; this is only necessary if a woman runs a well-defined risk of deformity of the foetus.

Her decision caused a storm of protest from different sides of the political spectrum. The secular side opposed the decision as paternalistic and as a form of class injustice as only women who are knowledgeable about PNS will demand a preliminary screening. Her own party rejected the offer of testing as it regarded it as a moral judgement of people with a handicap (Groenewoud 2005: 39). During the ensuing parliamentary debate the VVD, PvdA, D66 and the Green Left demanded offering the test for *all women*, not just the 36+ category, but the Socialist party supported the Christian Democrats (Groenewoud 2005: 47), breaking ranks with the secular side. Ross maintained her original position, which included offering testing to those with a medical indication for deformity (and receive funding of it by the national health insurance) (HTK, 2003-2004, 26-27 November 2003).

After much public debate and intervention by various professional groups such as the gynaecologists and midwives, a new report by the Health Council, Prenatal Screening (2) (Gezondheidsraad 2003) repeated its recommendation to offer PNS tests to *all women* regardless of age, but advised the use of more accurate tests. The Second Chamber summoned Ross to defend her position, but during the debate in June 2004, she stuck to her guns (TK, 2003-2004, 7-8 juni; 28-29 juni 2004 COMPLETE REF) and remained opposed to a general screening of the whole population on deformities. Much of the parliamentary debate was highly technical and focused on the quality of the PNS tests and the legal contest between patients' rights and the legal requirements for population screening. CHECK POSITIE SP HIER

On the basis of her interviews with civil servants from the Ministry of Health, Welfare and Sports, Groenewoud contends that Ross and her civil servants were well aware of the explosiveness of the issue in terms of ethics and the polarised abortion debates of the past, (Groenewoud 2005: 94). They took care to present the issue in technical terms, disconnecting it from the references to abortion. Stressing the ethical aspects was also deemed risky, as it meant stepping outside the dominant consensus around abortion (idem, 102). In 2004 the Second Chamber did not politicise the ethical dimension either (idem, 100-101, 104) (CHECK in TK).

This strategy is in line with other analyses of Dutch politics on zero-sum ethical debates and can therefore only be resolved by depoliticising and the tactics of delay (Daalder 1966; Lijphart 1968; Outshoorn 1986). However, the debate on PNS became framed in terms of equal access and equal rights for individual citizens to information and testing, which most people support. Interestingly both sides to the debate invoked women's right to choose. The secular parties and the Health Council invoked women's right to choose to obtain testing for *all* pregnant women, while Ross and her supporters it was about the right of women *not to know* about the foetus and to reject testing and abortion if they chose to do so. The paternalistic take on the issue that women might suffer from 'information overload', disappeared as the debate polarized: women do appear as full subjects capable of giving informed consent and taking morally reflective decisions.

After the publication of a new report of the Health Council, Ross maintained her position in a letter to the Second Chamber (TK 2005-2006, 30300, nr 136. Brief Staatssecretaris VWS aan TK, 10 mei 2006). However, there was no formal cabinet position on the issue and the letter was not debated by parliament. When the new cabinet of Balkenende IV took power, the new junior minister of Health, Jet Bussemaker (PvdA) put an

end to the policy of offering only the 36+ category of pregnant women PNS (HTK, 29323, nr 31, 7 September 2007). CHECK nr brief, DEBAT?) OOK POSITIE sp). For her and her party it was an important opportunity to prove that the PvdA was not succumbing to the religious pressure of the other coalition partners and was true to its own ethical position.

But the tension on medical ethical issues in the cabinet exploded in the spring of 2008, when Bussemaker wrote to the Second Chamber she was permitting the extension of pre-implantation genetic diagnostics (PGD) on embryos in cases of women who have a genetic composition with a very high probability of breast cancer (HTK, 2007-2008, 31200, nr 147, 26 May 2008). PGD had already been applied in the Netherlands since 1996 and had been regulated by a decision on clinical genetic research and hereditary counselling (Planningsbesluit 2003), which allowed the University Hospital of Maastricht to offer PGD. It was permitted for a number of hereditary diseases; women and their partners can then resort to IVF and have the embryos selected on their genetic makeup and then only implanting those with a 'safe mix' of genes. Bussemaker, however, had not consulted her colleagues in the cabinet, infuriating the CU, who promptly accused her of breaching the coalition pact. The press at first called Bussemaker's move politically naïve (highly unlikely, as she had been a prominent MP for the previous eight years). It is more likely that she intentionally forced the issue. She managed to redefine the protest as a typical example of religious despotism which denied couples screening opportunities when they were running an extremely high risk of passing on the breast cancer genes. It won her renewed support from the secular press and public. She did have to retract the letter, replacing it by a new one approved by the cabinet (HTK, 2007-2008, 29323, nr 46, 27 June 2008). In fact this second letter confirms her earlier position, permitting PGD in the hereditary breast cancer cases – a position for which there is a potential majority in parliament. The episode allowed the PvdA once more to position itself as a party of principle not bowing to the religious views of its coalition partners. In the parliamentary debate the opposition attacked her on her move, but the substance of the debate was not at issue (CHECK votes on motions for position of PPV and SP). The parliamentary debate CHECK POS SP EN WILDERS.

#### *Abortion – an intermediary conclusion*

Two important points can be drawn from the analysis. First of all, it can be observed that there have been no major changes *in policy* on any of the three issues, and that the three major parties, CDA, Liberals and Social Democrats, accept the status-quo around abortion, prenatal selection and the status of the embryo in practice. Women's rights to abortion are not in

danger. The only venture beyond the status quo was Bussemaker's move on PNG, and she may stick out her neck again on early abortion, but even if her party will follow her in stretching the coalition pact, she will be three seats short of parliamentary majority if it comes to a vote<sup>11</sup>. Attempts from the CU and the SGP to alter policy on any of these issues stand little chance as long as the CDA continues to support the status quo. It still the CDA who dictates the space for policy debates on these issues.

Secondly, there are shifts in party positions on the religious-secular divide. Both the PPV and SP no longer are natural allies for the seculars on the abortion debates. The SP actually supported the CDA on the evaluation debate as well as on the PNS debate and did not attempt to stop the moratorium on embryo research (CHECK POS). The PPV only came into parliament in the 2006 elections, so had not voted on previous debates. In its party programme medical-ethical issues are not mentioned at all (Pellikaan et al, 2006: 407-10). It came out as morally conservative on the evaluation of the Abortion Act (CHECK their record on PNS and moratorium embryos). Although SP and PPV differ in terms of how they stand on the state intervention/market economy issue which defines the left-right divide, they aligned on the ethical dimension. Pellikaan et al. (2007) argue that the ethical dimension has been eclipsed by the cultural line, but if one forgets about the ethical dimension, the shift of the SP and the coming out of the PPV on ethical issues would be overlooked.

#### **IV Changes in the prostitution debates**

Prostitution was legalised in the Netherlands in 2000 when the ban on brothels was lifted and living off the earnings of a prostitute (pimping) was also dropped as an offence from the Penal Code. The debate on the legalisation had started in the 1970s, and at first local municipalities were the principal lobbyists for repeal, as they had to deal with irate citizens faced by the growth of the sex industry. But it was also the women's movement who supported the lifting of the ban, as many feminists saw this as necessary for improving the position of prostitutes. Its distinction between voluntary and forced prostitution and recognition the former as sex work, became the dominant framing and the cornerstone of the repeal (Outshoorn 2004a). The legalisation was complicated by the need to revise the Penal Code articles on the trafficking of women, for which a stricter definition of the offence and higher penalties were enacted in 1993. The repeal bill advocated a 'realistic approach without moralism' (HTK 1996-97, 25437, nrs 1-3); its aims were to control and regulate prostitution to rid it of crime, fight forced prostitution more effectively, protect minors from sexual abuse and 'protect' (not 'improve') the position of prostitutes. The legalisation was a pragmatic solution characteristic

of morality politics in the Netherlands and should not be regarded as libertarian in any sense. It was a policy to regulate the industry; as long as the ban had been in the Penal Code, it was not possible to regulate prostitution (Outshoorn 2004b). The vote on the repeal neatly split along the religious-secular divide in both the Second and the First Chamber. A future evaluation of the effects of the new regime was part of the reform.

After two years, there were the first signs that the reform was not meeting its aims. Although the first interim evaluation (Daalder 2002) was moderately optimistic, it emerged that councils ‘froze’ the number of brothels in their precincts, not allowing new competitors to the market. Other councils, notably in orthodox Protestant communities, were reluctant to licence at all. Entrepreneurs found it hard to obtain credit, prostitutes were hardly aware of their new rights. Trafficking of humans was still in evidence (Mensenhandel 2002); the Netherlands ratified the new UN Trafficking Protocol in 2001 and adjusted its Penal Code articles on the offence accordingly in 2004 (Mensenhandel 2007: 15-25). The crime-free scene the proponents of reform had envisaged did not appear to be developing. There was not so much a displacement of prostitution from licensed brothels towards street prostitution as a burgeoning of escort services and services provided by sex workers in their homes. Both were beyond the new regulation. Rotterdam and Amsterdam also had notorious zones for street workers where organised and petty crime was rife and numerous signs indicated that many of the prostitutes working there were undocumented and sometimes victims of trafficking. Both city councils wanted to close them.<sup>12</sup> When one of the aldermen of Amsterdam was recognised while visiting the zone for private purposes, he had to resign his office in 2004 – not for buying sex (which is legal) – but for giving a bad example as he could not have been unaware of the incidence of forced prostitution in the zone.

#### *Developments in Amsterdam- the return of the victim*

The incident of the wayward alderman prompted Karina Schaapman, a PvdA member of the Amsterdam city council, to come out of the closet as an ex-prostitute by publishing a book about her past that same year (Schaapman 2004). In her book she made the case that most prostitutes do not choose to go into prostitution, but are more or less pressured into it because of drug addiction, debts or a past of (sexual) abuse. She took up the issue in the city council, researching the prostitution situation in Amsterdam and publishing a policy paper for the PvdA with her councillor colleague Amma Asante (Asante and Schaapman 2005). The report offered a renewed framing of prostitution which denied the existence of voluntary prostitution (save for a very small group of sex workers, *idem*, 3). Although the authors stressed they did

not want to change the 2000 repeal, they explicitly declared the repeal to be ‘bankrupt’ and proposed a new law for licensing escort services. Their other major recommendations were to criminalise pimps once more as traffickers of humans and to raise the age of consent for sex work from 18 to 21 years. Better registration of sex businesses and victims of trafficking, research on clients and sensitizing them about traffic in women. In a new book two years later Schaapman returned to the issue of clients (Schaapman 2007), framing the buying of sexual services as ‘not normal’ and casting further doubts on what she saw as a too liberal prostitution policy.

### *The ‘loverboy’ scare*

A new ‘moral panic’ around pimping was developing around the same time, framed as the threat of ‘loverboys’ (Bovenkerk et al 2006). In the emerging discourse, these were portrayed as young men, often of Antillean or Moroccan descent, who set out to talk young white girls into prostitution. Their method was supposed to be special: they would first contact likely victims at local schools, befriend them and then make them fall in love with them by presenting them with gifts and loving attention. The girl would then be isolated from family and friends and the ‘loverboy’, by pleading that he was in financial difficulties, would convince her to earn money by selling sex. Incriminating photographs would be used to blackmail the girl to submit and keep her in the sex business. ‘Loverboys’ and victims of trafficking received wide publicity in the media; Bovenkerk and Pronk (2007) counted no less than 32 television programmes on the topic since 2000, specially by the Evangelical Broadcasting Company (*Evangelische Omroeporganisatie*- EO). Bovenkerk and his co-authors acknowledge the existence of pimping, but deconstruct the ‘loverboy’ framing, noting that pimping is no longer the preserve of white men (who have moved to more prosperous crime such as hard drugs and *Nederwiet* - the Dutch home grown variety of cannabis). Pimping has become a niche for deprived young migrants for making a career in crime. The researchers point out that with the new 2005 article 273a of the Penal Code it is already possible to prosecute this modern variety of pimping<sup>13</sup>. (Bovenkerk et al 2006: 90). It has not deterred new demands for criminalisation of pimps.

### *The City of Amsterdam’s ‘new policy’*

The renewed debate in Amsterdam suited the City authorities extremely well. Although the red light district (the ‘*Walletjes*’) is a major tourist attraction, the authorities wanted to upgrade the district and attract a ‘better’ (more affluent) money type of tourist than the lager-

louts from the budget air carriers frequenting bars, coffee shops (cannabis) and the red light district. The framing of Schaapman of prostitutes as victims of forced prostitution, the unmistakable flow of trafficked women (see the various reports of *Mensenhandel*) and the uncontrolled escort services became part of a new discourse to cleanse the *Wallen* from sleaze and crime. The major instrument the City has its disposal is the BIBOB law<sup>14</sup>, which allows city authorities to withdraw licensing of a brothel, bar or hotel if the owner does not have a clean slate and cannot prove his investment derives from legal sources. The burden of proof is on the owner, an unusual reversal contested by many in the legal profession. Up to now the City has successfully refused a license to the top-market brothel Yab Yum, and has bought a number of houses and ‘windows’ from reputed criminal sex bosses. The official justification is *fighting crime*, such as putting an end to forced prostitution and money-laundering. In December 2008 the City presented the new overall policy paper for the inner city area (Coalitieproject 1012, 2008), named after the postal code of the area. The cleaning of the *Walle* is generating a heated opposition by a curious coalition of business men, the Amsterdam VVD and the gay male community, who all accuse the City of ‘vertrutting’ (prudery) and conservatism.

The City has two other potential instruments. One is its own strategy, outlined in the Nota Prostitutie, *Oud beroep, nieuw beleid* – old profession, new policy (2007).<sup>15</sup> Although this policy paper acknowledges that not all of the sex industry is criminal and a considerable part of the sex workers work independently in decent circumstances, it notes that the prostitution business is still crime ridden and that forced prostitution still exists. Sex work is still not regarded as normal work, and ‘misstanden’ (wrongs) abound. The paper focuses on combating human trafficking, licensing of all escort services, facilitating clients to report suspicion of forced prostitution anonymously to the police – *Meld misdaad anoniem* – a quite successful project, which runs counter to client criminalisation) and lobbying the national government to raise the age of consent for sex work to 21 years. In addition research on the position of prostitutes and clients will be commissioned.

The section on perpetrators of forced prostitution distinguishes three groups. There the internationally organised traffickers, Eastern Europeans dealing in women from Eastern Europe, Nigerians dealing in West African women (2008: 13) and pimps or ‘loverboyes’ from the Netherlands, ‘mainly young men of migrant descent (Moroccan, Turkish, Antillian, Surinamese)’ (idem, 13)<sup>16</sup>. The proposed measures aim at discouraging the three groups by raising a series of barriers to enter the sex trade (legal measures, financial and taxation penalties) and influencing the supply of sex workers (idem 21) by raising the age of consent,

support services (including exit options) and a pass requirement for women working in the escort services.

The other is lobbying the national government on the draft proposal for a Framework Law on prostitution (*Kaderwet prostitutie*, see next paragraph). The City is pressing for raising the age of consent for sex work, the licensing of the escort business and the pass requirement for women working in the escort services

### *Back to the national political agenda*

There are at least three major factors which led to the renewed interest in prostitution at the national level. First of all, there was considerable concern about the persistence of trafficking after 2000, not surprisingly as with its open borders the Netherlands was an obvious transit point for any illegal trade. The Netherlands already had a national reporter on this offence since the early 2000s, following the EU the Hague call on trafficking in 1997 and the yearly reports of the National Reporter (*Mensenhandel 2002 -2008*) show little decline of the numbers over the years.<sup>17</sup> Trafficking is generally regarded as the prototypical case of forced prostitution, and its media portrayal has crystallised into a standard discourse of poor white young girls from Eastern Europe or the ‘Third World’ tricked into sex work by unscrupulous middlemen who promise them work in the entertainment business (for this classic portrayal, Hopkins 2005). Academic research (e.g. Janssen 2007) have shown the phenomenon to be much more intricate: many women from abroad working in the sex industry are illegal migrants on temporary visa or using human smuggling intermediaries to come to the Netherlands to earn money to maintain their families back home. A subsidized sector of aid to trafficked women has sprung up, using exaggerated figures to denounce trafficking of women as an infringement of human rights (which it is) and to indict the new prostitution regime which is seen to lead to more victims of trafficking.

Secondly, the second evaluation of the 2000 repeal showed that many things were still amiss in the sex industry (Daalder 2007a; 2007b). In her report, Daalder concluded that the aims of the 2000 repeal have been only partly achieved, such as the disappearance of under-age prostitutes and undocumented workers in the licensed part of the sex industry. But the rights of sex workers have not improved, as research by the Red Thread had proven earlier (Altink and Bokelman 2006). The report disputed that there has been a shift from the licensed to non-licensed prostitution, but did observe that forced prostitution and pimping are still recurring phenomena, despite the fact that trafficking had become more difficult by better legal enforcement. Sex workers with a pimp were found in the escort services, in window

prostitution and among women working from the home –all types of sex work in which it is easy to control women, and the number of sex workers with a pimp does not seem to have declined. A major loophole in the new regulations that non-licensed sex clubs and escort services can easily move to local areas where licensing requirements are non-existent or lenient, and the existence of shady businesses such as massage parlours, swinging clubs and sauna clubs. Daalder did not rule out that the market was shifting to internet or was in decline because of the weaker economy.

Thirdly, adjusting the repeal had become part of the coalition pact of 2007, which, as mentioned, called for targeting clients of under-age and undocumented prostitutes and setting up exit programmes for women wanting to quit sex work (Regeerakkoord 2006: 35). The Ministry had already been working on a *Kaderwet* (frame law) to harmonise local policies, and this gave the new Minister of Justice, the Christian Democrat Hirsch Ballin, a golden opportunity to push for a reform of the repeal. (He had been minister before and had sabotaged an earlier attempt to lift the ban on brothels in the early 1990s, mainly because of his opposition to recognising sex work) (Outshoorn 2004a: 194). In May 2008 he announced his plans (TK 2007-2008, 25437, nr 56. Brief Minister aan TK, 16 mei 2008). Although he accepted the conclusions of the evaluation, he defined as major problem the still existing human trafficking. There a number of causes, such as the differences between local communities in their regulation of prostitution and in their monitoring and maintenance of the rules, the existence of footloose prostitution such as escort services and internet, the shady scene of pimping and other intermediaries, the lack of control over the non-licensed sector and the lack of improvement of the social position of prostitutes.

Sketching the outlines of the new law – to be submitted to parliament in 2008 -he proposed a licensing regime for all forms of prostitution with uniform regulation across all communities, allowing these to ban prostitution altogether (the so-called ‘zero-option’), and the registration of prostitutes (idem, 4). Licensing would also be required for escort services. The Minister did not intend to raise the age of consent for work in the sex industry to 21, nor was he in favour of an additional measure against pimping, as it was already adequately covered by law. But he is considering client criminalisation if they use the services of non-documented workers, making the client ‘personally responsible’. He rejected a more liberal regime for allowing non-EU residents to work in the sex industry, on the grounds that it would make for more trafficking. To improve the position of prostitutes he proposed several measures to enable prostitutes to work independently, as it is often unclear whether they are employed or not. Sex bosses try to get out paying taxes and social insurance dues by holding

the women are not his employees (while at the same time they are treated as such). Finally he wanted extra measures for exit-options for those who wanted to leave prostitution.

Support for his proposal is as yet unclear. The parliamentary Standing Committees of Justice and Home Affairs have debated the letter in the summer of 2008 (TK 2007-2008, 25437, nr 63, Verslag van een Algemeen Overleg, 4 September 2008). While all parties are in favour of harmonising regulation, the licensing of the escort branches and 'improving the social position of prostitutes, many other innovations are unlikely to gain a majority. This goes for raising the age of consent, registering prostitutes and criminalizing the client of undocumented prostitute. The religious-secular line divides those who think the repeal was a failure and those who still support it, but think it should be repaired, along quite predictable lines. Client criminalisation, raising the age of consent, further measures against pimping and the zero-option are on the main supported by the religious parties, although the CDA did not take a stand on the pimping and against the registration of prostitutes – in line with the position of their Minister. The religious parties also support funding exit programmes more widely. The VVD was very outspoken about fighting trafficking and chasing crooks and pimps, and while supporting the legalisation, now did not take a stand on registration, the zero option, the age of consent and client criminalisation. On the prostitution issue the SP remains solidly on the secular side, although it did not take a position on pimping.

It is on the prostitution issue too that the PPV is coming out on the conservative side of the ethical line. Its spokeswoman, using the traditional abolitionist discourse stressing poor young girls falling victim to unscrupulous loverboys (she insisted on using the term even it is not in the Penal Code) (idem 12), disapproved of the 2000 reform and was in favour of for raising the age of consent and extra measures against pimping.

The revised bill was supposed to have been submitted to parliament in December 2008, but to date this has not taken place. Disagreement in the cabinet might be the cause of the delay. It also remains to be seen if the Amsterdam City lobby will have effect – its position being more repressive than the colleagues in the parliamentary party.

#### *Prostitution – an intermediary conclusion*

Analysing the debates on prostitution, a shift in the framing of the issue springs to the fore. In 2000 the distinction between voluntary and forced prostitution, the recognition of prostitution as sex work and the need to regulate the sex industry accordingly, was the predominant take on the topic. Since then, the emphasis has shifted towards women as *victims* of organised crime, with the call for tougher measures to fight criminals, protect women and help them to

exit prostitution, indication of the underlying abolitionism in the religious parties. Perpetrators are seen as mainly foreigners or non-white Dutch men: Eastern Europeans, Nigerians and second generation migrants. But while a general tightening of the regulation on escort services and trafficking will pass, the legalisation of 2000 is not at issue. Moreover, it remains to be seen if the controversial amendments will actually gain a parliamentary majority. As to women's rights, cracking down on forced prostitution will enhance these, women's rights, but the call for the registration of sex workers will increase the stigma of prostitution and make their work more difficult. We can also note that the traditional religious-secular divide is very much in evidence. The only significant change here is the new PPV, who is coming down on the religious side with its rhetoric and support for repressive amendments.

## **V Conclusions**

Since the seminal elections of 2002, the Dutch party system has increasingly polarised along the cultural line that Pellikaan et al (2007) argued was eclipsing the religious-secular divide. This has made coalitions between the three traditional centre parties on the left-right dimension more difficult, as none of the possible combinations had a parliamentary majority any more. This meant that a potential cabinet has to find extra allies; the new Balkenende IV cabinet could only be formed by taking the CU on board. This gave the conservatives on ethical issues a fine opportunity to set their favourite issues on the political agenda, and to include them in the coalition pact.

On the issue of abortion this has not led to the dominant discourse changing or to policy measures going beyond the earlier consensus on abortion. The embryo and PNS debate have also not brought about shifts in the dominant discourse. Both were depoliticised by debating them in medical and technical terms, but the right of a woman to choose remained the point of reference. We do see that the terms of the debate on prostitution are changing, with the return of the victim along with the criminal and the pimp. But there is a substantial majority in parliament which supports the legalisation of prostitution, but is in favour of stronger regulation to combat trafficking and license escort services. For more repressive measures such as criminalising the clients of undocumented sex workers, the registration of prostitutes and a higher age of consent, there is no majority in parliament. However, it will depend on the PvdA what will happen. Will its ministers stick to the coalition pact in face of a parliamentary party which is opposed to the repressive measures? Or will the parliamentary party be willing to cross over the religious-secular to preserve the cabinet?

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## Notes

<sup>1</sup> The research presented here is part of the research project ‘Sexual and Bodily Citizenship and Feminist Body Politics in a Multicultural Europe’, a sub-theme of the FEMCIT project (full title: ‘Gendered Citizenship in Multicultural Europe: the Impact of the Contemporary Women’s Movements’.), financed by the 6<sup>th</sup> Framework Programme of the European Union, Priority 7, Networks of Excellence and Integrated Projects: Citizens and Governance in a Knowledge-based society, 2007-2011. The author thanks Pauline Vincenten MA and Drs Sanne Rijkhoff, research assistants at the Department of Political Science, Leiden University, for their help with the parliamentary sources.

<sup>2</sup> The incumbent cabinet is also taking an activist stand on Dutch drug policy with its distinction between soft drugs such as cannabis (the use of which is condoned) and hard drugs (prohibited); alcohol abuse, specially by young people, and health issues such as obesity and smoking of tobacco.

<sup>3</sup> Pellikaan et al (2007:: 296-97) point out the importance of the two-dimensional structure of the party system: if one resorts to collapsing it into a left-right one-dimensional-model, one cannot explain the difference in party position between the Socialist Party, or the LPG from the other parties.

<sup>4</sup> D66 had quit the cabinet of Balkenende II in June 2006 after the debate on the nationality of MP Ayaan Hirsi Ali, leaving a caretaker cabinet Balkenende III to prepare the new elections.

<sup>5</sup> Unpublished data Sociaal en Cultureel Planbureau, Culturele Veranderingen, 1998. With thanks to Saskia Keuzenkamp (SCP) for supplying the figures. CHECK for MORE RECENT ONES

<sup>6</sup> Nowadays a pregnancy can be detected very soon after conception, a reason why the authors of the Evaluation report (2005) recommend placing it under the terms of the Act.

<sup>7</sup> The Act was passed in 1981, but could only take effect after a separate decision- a *Koninklijk Besluit* (Cabinet decision), not requiring parliamentary approval) - settling some politically contested ‘loose ends’, in 1984. See Outshoorn 1986: CHECK.

<sup>8</sup> These had not been included as in the 1980s these could not be detected by the prevailing pregnancy tests, so there was no proof of a pregnancy. By the 2000s, the tests have become more sensitive and can show a pregnancy after a couple of days of amenorrhoea.

<sup>9</sup> Suddenly called the ‘*beraadtermijn*’ instead of the usual ‘*bedenktijd*’ – the former is reminiscent of the very strict German abortion law on compulsory counselling (TK, 2005-2006, 30371, nr 2. Brief Staatssecretaris VWS aan Tweede Kamer, 28 april 2006; TK, 2005-2006, 30371, nr 3. Brief Staatssecretaris VWS aan Tweede Kamer, 29 juni 2006. CHECK FIRST OCCURRENCE WORD

<sup>10</sup> The morning after pill was not covered by the Abortion Act, a decision confirmed by the *Hoge Raad* (High Court) in 1995.

<sup>11</sup> PvdA, VVD, Green Left and D66 only have 73 seats, in a Second Chamber of 150 seats.

<sup>12</sup> Amsterdam was closed in December 2003; Rotterdam in September 2004.

<sup>13</sup> This article was introduced in 2005, following the ratification of the UN Protocol on Trafficking by the Netherlands.

<sup>14</sup> *Wet BIBOB, Wet Bevordering Integriteitsbeoordelingen door het Openbaar Bestuur*, passed on 20 June 2002.

<sup>15</sup> The policy paper was preceded by an advisory paper written by Marieke van Doorninck and Bob van Schijndel, both members of two *deelraden* (lower city councils) for the Green Left, and both advocates of the sex work position. They recommended improving the social and labour market position of sex workers and zoning in the Inner City area (*Nieuwe Kansen voor hervorming Amsterdamse seksindustrie* 2006).

<sup>16</sup> The paper is not consistent in its terminology. The City commissioned the Bovenkerk research, but there was a dispute about the findings, which according to Bovenkerk, did not prove the existence of this ‘new phenomenon’ (Bovmekerk et al 2006: CHECK P. NUMBERS.

<sup>17</sup> Figures on trafficking are hard to come by because of under reporting and varying definitions of the offence (Mensenhandel 2007: 15-25; 285). The National Reporter on the trafficking of humans provides yearly figures based on those of the Foundation Against Trafficking of Women (since 2006 Comensha) and police records:

2001 284 cases

2002 343

2003 257

2004 403

2005 424 (Mensenhandel 2007: 69).

The most recent figure is from 2006: 579 cases (Mensenhandel 2008: 9). This much higher figure is due to the broader definition of the offence since 2005, when the Netherlands adjusted the Penal Code in line with the UN trafficking protocols. Figures now include incidences of forced labour in other economic sectors, such as horticulture and the restaurant business.