



National Rapporteur on Trafficking in
Human Beings and Sexual Violence
against Children

Vulnerability up Close

*An exploratory study into the vulnerability
of children to human trafficking*



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Acronyms and abbreviations

CKM	Centre against Child Trafficking and Trafficking
COA	Central Agency for the Reception of Asylum Seekers
CoMensHa	Coordination Centre for Victims of Human Trafficking
CSR	Corporate Social Responsibility
CT Infobox	Counterterrorism Information Centre
DCC	Dutch Criminal Code
DSM-V	Diagnostic and Statistic Manual of Mental Disorders V
EMN	European Migration Network
ECLI	European Case Law Identifier
ERRC	European Roma Rights Centre and People in Need
EU	European Union
Europol	European Union's law enforcement agency
FIOD	Fiscal Intelligence and Investigation Service
FIU	Financial Intelligence Unit
GGD	Municipal Health Service
GRETA	Group of Experts on Action against Trafficking in Human Beings
ILO	International Labour Organization
ICMPD	International Centre for Migration Policy Development
ICSR	International Centre for the Study of Radicalisation and Political Violence
ICRW	International Center for Research on Women
ILO	International Labour Organization
ISCR	International Corporate Social Responsibility
IND	Immigration and Naturalization Service
IOM	International Organization for Migration
ITUC	International Trade Union Confederation
ISIS	Islamic State in Iraq and Al-Sham
LEC EGG	National Centre of Expertise on Honour-based Violence
LHBT	Lesbian, gay, bisexual and transgender
MIVD	Military Intelligence and Security Service
Movisie	Netherlands Centre for Social Development
NCTV	National Coordinator for Security and Counterterrorism
NGO	Non-Governmental Organization
OECD	Organization for Economic Cooperation and Development
PPS	Public Prosecution Service
Rutgers WPF	Rutgers World Population Foundation

SCP	Netherlands Institute for Social Research
SER	Social and Economic Council
SOMO	Centre for Research on Multinational Corporations
TIP Report	Trafficking in Persons Report
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
UN	United Nations
VNG	Association of Netherlands Municipalities
WFP	World Food Programme
WODC	Research and Documentation Centre of the Ministry of Security and Justice's
WTO	World Trade Organisation

Foreword

Essentially, human trafficking is the abuse of a person's vulnerable position for purely personal gain. In this report, I analyse abuse of the vulnerability of children. Of the many children fleeing from conflict zones around the world, of children who grow up in poverty and who work from a young age making products for our market, and children who happen to belong to a minority group and whose marginalized position makes them ill-equipped to defend themselves against abusers. Although these children are not all victims of human trafficking, the question of what factors make some more vulnerable than others is more pressing than ever, since it is not only the direct victims of human trafficking who suffer, but also their parents, families and friends.

Gathering information about the factors that make children vulnerable is essential to efforts to prevent and combat their exploitation. That knowledge is crucial in order to correctly identify the groups that need protection. There is international agreement that measures should be taken to address the factors that make children vulnerable and it must not be left at good intentions. As long as we as a society are incapable of recognizing that thirteen-year-old Roma children who steal are possible victims of human trafficking, and instead see them as criminals, we are failing them. Whereas these children currently face the threat of prosecution, they actually need our protection. And what about Syrian child brides who come to the Netherlands? My concern is that some of these girls disappear out of sight behind the front door of their home, making them vulnerable to exploitation. Like every child in the Netherlands, these girls are entitled to enjoy the liberating power of our values.

These and other groups of children who could be vulnerable to human trafficking are the focus of this study. A study that differs from what you are accustomed to from me in that its primary purpose is not to contribute to the monitoring of existing policy in relation to human trafficking, but rather to explore the phenomenon from the perspective of human trafficking and sexual violence against children in order to determine whether there is cause for concern. For this report, I have selected seven groups of children that have recently been mentioned in relation to trafficking in human beings and investigate whether there is evidence of their potential vulnerability.

The multiplicity of forms that human trafficking has assumed in recent years highlights the fact that we have to remain alert to the emergence of new manifestations of the offence. This is particularly true where minors are involved. Take, for example, the reports of the possible exploitation of Eritrean children during their journey to Europe or of Vietnamese children disappearing from shelters [in the Netherlands?] and possibly being forced to work in cannabis plantations. We must remain constantly alert to human trafficking, maintain the capacity and willingness to examine new and existing phenomena

from the perspective of human trafficking and, by increasing public awareness, enhance society's resilience against human trafficking.

Numerous individuals and agencies helped in the writing of this report. I would also like to thank the many people who were willing to read and comment on it and the staff of my office for their efforts. I would especially like to mention the contribution by Sjoerd van Bommel.

C.E. Dettmeijer-Vermeulen,
National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children

1.1 The expansion of the concept of human trafficking

A young boy aged twelve who sets up his uncle's stall every morning; an eight-year-old girl who begs on the street; a boy of fourteen who steals under the watchful eye of his grandfather. These examples could all have one thing in common: human trafficking. Few people are likely to have considered examples like these at the time the international definition of human trafficking¹ was first formulated in 2000, and even the legislature could not have anticipated the myriad guises that human trafficking could take in the Netherlands, including forms of exploitation outside the sex industry.²

The definition of human trafficking has expanded in the last few decades. In addition to the growing attention to forms of exploitation outside the sex industry, in recent years the spotlight has also turned to child victims of human trafficking. Greater awareness of human trafficking, fostered at every level of government, has created a clearer picture of where human trafficking occurs and the forms it takes, but has also presented the Netherlands with a sad reality. Human trafficking is far more prevalent in our society than could have been imagined almost two decades ago. New forms are emerging, many of them involving underage victims. These cases are a particular source of concern, since children can be regarded as inherently vulnerable to human trafficking. They are, by definition, dependent on adults, and we must therefore remain particularly alert to human trafficking involving minors, especially forms of human trafficking with which we have had little or no experience.

'Right now, there's a young boy, in a brick factory, covered in dust, hauling his heavy load under a blazing sun, thinking if he could just go to school, he might know a different future, but he doesn't think anybody is paying attention. Right now, there is a girl, somewhere trapped in a brothel, crying herself to sleep again, and maybe daring to imagine that some day, just maybe, she might be treated not like a piece of property, but as a human being. And so our message today, to them, is – to the millions around the world – we see you. We hear you. We insist on your dignity. And we share your belief that if just given the chance, you will forge a life equal to your talents and worthy of your dreams'
[Barack Obama, 25 september 2012].

1 Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (New York, 15 November 2000), Bulletin of Treaties. 2001, 69 and 2004, 35 (hereinafter: Palermo Protocol).

2 Parliamentary Documents II 2003/04, 29291, 3, p. 18. See also the exploratory study by Van der Leun and Vervoorn into forms of exploitation outside the sex industry in 2004, which was commissioned by the then Minister of Justice to learn more about their prevalence in the Netherlands.

That is the context in which the publication of this report has to be seen. This initial exploratory study concerns groups of children³ about whom there have recently been reports of human trafficking, but who have received little attention in relation to it. Seven specific groups have been selected. It is not a random selection; the groups have been chosen because they have been mentioned in other exploratory studies, in cases before the courts and in media reports or in warnings that have reached the National Rapporteur from professionals in the field. In light of the exploratory nature of this study, it was decided to adopt a low threshold for the inclusion of particular groups, so further research was carried out even if the information about the relationship between these groups and human trafficking was sparse.

The seven groups covered in this analysis are:

- Syrian child brides;
- Roma children;
- Children living illegally in the country who have to work in households;
- Children working in production chains;
- Children with the eating disorder anorexia nervosa;
- Lesbian, gay, bisexual and transgender children;
- Children who join (or wish to join) ISIS.

This report focuses primarily on human trafficking, but since the National Rapporteur's mandate also extends to sexual violence against children, it also addresses children's vulnerability to sexual violence. It is suspected, or is likely given the nature of human trafficking, that in some cases the possible exploitation is preceded or accompanied by sexual violence.

1.2 Vulnerability

There is no clear, uniform definition of vulnerability in the context of human trafficking.⁴ The term 'vulnerability' in this sense was first used in 2000, in the Palermo Protocol,⁵ where 'abuse of a position of vulnerability' is defined as one of the means by which a person can be trafficked. The term has since also been used in most of the principal international instruments relating to the suppression of human trafficking.⁶ Generally speaking, vulnerability in this context refers to a person or group's heightened susceptibility to becoming a victim⁷ due to factors that can be exploited by a trafficker.⁸ This automatically

'I have come to understand trafficking as systematic exploitation of vulnerabilities. However, these vulnerabilities create an arena that makes exploitation possible, and one that traffickers can manipulate to keep their victims in a situation where continued exploitation is possible' [Tyldum, 2011].

3 In this study, children are persons below the age of eighteen. The term 'youths' or 'young people' refers to *underage* youths, unless otherwise stated. 'Minors' is used as a synonym for children.

4 UNODC, 2013.

5 Palermo Protocol, 2000.

6 See, for example, Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA; European Commission, 2012; UNODC, 2013.

7 UNODC, 2013.

8 UNODC, 2013; Tyldum, 2011.

implies that the existence of factors that make a person or group vulnerable does not, by definition, lead to their victimization.⁹ In addition to factors that cause vulnerability, there are other, protective factors that can influence a person's vulnerability, such as a close family, strong ties to the local community and the existence of effective policies to preventing victimization.¹⁰

In various international legal instruments the term 'vulnerability' is used in combination with the stipulation of obligations to adopt measures to prevent human trafficking. The Palermo Protocol and the EU Human Trafficking Directive,¹¹ for example, explicitly stress the importance of providing information and advice for vulnerable groups. It is therefore essential to know what it is that makes a particular group of persons, in this case children, vulnerable.¹²

To gain a clearer understanding of the factors that can make children vulnerable to human trafficking, this study adopts the 'clusters' of vulnerability introduced by the European Commission, namely (1) individual vulnerability, (2) familial vulnerability, (3) socio-economic vulnerability and (4) structural vulnerability. The factors affecting individual vulnerability are connected with the child's personal situation and history. Past abuse, for example, increases the likelihood of a child becoming a victim of human trafficking, as does impaired cognitive and emotional development. Other factors that can increase the risk of a child becoming a victim of human trafficking are an unstable family situation or poor financial management in the household (*familial*) or membership of a marginalized population group and lack of access to care and justice (*socio-economic*). Finally, an example of *structural vulnerability* is the absence of a government that is adequately equipped to identify vulnerability and to provide protection to children who become or could become victims of human trafficking.

The classification adopted by the European Commission is idealistic in nature. In practice, it is not easy to determine a child's vulnerability on the basis of these four clusters, since it is difficult to evaluate risk factors in isolation. They influence and can reinforce one another. However, the European Commission's clusters do provide a clear conceptual design for reflecting on the various factors that influence a person's vulnerability. Accordingly, the summaries preceding the analyses of the seven groups covered in this report are based on those clusters.

'[...] the extent to which a child is vulnerable to trafficking is only rarely determined by one particular factor. Rather, children are usually exposed to a combination of circumstances which result in them becoming victims of trafficking' [European Commission, 2015].

⁹ UNODC, 2013; European Commission, 2015.

¹⁰ Protective factors are essentially the mirror image of risk factors; i.e., factors that make children *less* vulnerable to human trafficking (also referred to as *resilience factors*). Given the scope of this report, the National Rapporteur has confined the analysis to factors that make children vulnerable.

¹¹ EU Directive (2011/36/EU) on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA of 5 April 2011, OJ 2011, L 101/1.

¹² The European Commission carried out its study in preparation for the EU Strategy towards the Eradication of Trafficking in Human Beings 2012 – 2016. To investigate the factors contributing to vulnerability, in-depth interviews were conducted in various member states and stakeholders at European level were also interviewed. Stakeholders from the 28 member states then discussed a detailed list of possible risk factors. Finally, professionals who work with child victims of human trafficking were asked to comment on a new list and to present evidence and concrete examples to substantiate the risk factors. The research did not in fact only cover factors that make children vulnerable, but also protective factors (European Commission, 2015: p. 27).

1.3 Research questions

The seven groups discussed in this study have all recently been mentioned in connection with human trafficking and have been analysed in order to gain greater insight into their vulnerability. With a better understanding of their vulnerability, it could ultimately be possible to take the correct measures to prevent the members of these groups from becoming victims of human trafficking. Accordingly, the key objective of this report is:

to acquire insight into vulnerability with the aim of improving efforts to address the factors leading to vulnerability and ultimately preventing and combating the exploitation of children.

To learn more about the vulnerability to human trafficking of the groups covered in this report, two specific questions were addressed:

- (1) *To what extent is there evidence that these groups of children are vulnerable to human traffickers?*
- (2) *To what extent is there evidence that human traffickers specifically target these groups?*

For the sake of clarity, the answers to these two questions are presented in accordance with the model shown in figure 1.

Figure 1. Model to determine possible follow-up measures



The model in figure 1 comprises four categories. The extent to which groups are vulnerable and human traffickers actively target them is expressed by the 'scores' of strong or weak. In [Chapter 6](#) each of the groups is assigned to one of the categories on the basis of the exploratory analysis, which shows whether, and to what extent, the group that was discussed is vulnerable and whether any actual evidence has been found that human traffickers target them. The classification in this diagram helps to identify what further steps need to be taken. The nature of the follow-up measures depends on the extent of a particular group's vulnerability and on whether human traffickers actually target it. As regards a group whose score is 'strong' on both scales, the response should logically take the form of concrete measures. If there is no evidence of actual victimization, but the members of the group are very vulnerable, further investigation is needed into whether additional research is required or whether preventive measures need to be taken to prevent human traffickers from exploiting the identified risk factors in the future.

The descriptions of each of the seven groups are preceded by concise answers to the two research questions, together with the category in the diagram to which the group has been assigned. The analyses of each individual group are followed by an overarching analysis in [Chapter 6](#), in which the above model is used to compare the seven groups and to show at a glance which groups of children should receive priority. This overall analysis also includes a brief explanation of the reasons for assigning a group to a particular category and explains what further action could and should be taken.

1.4 Constraints

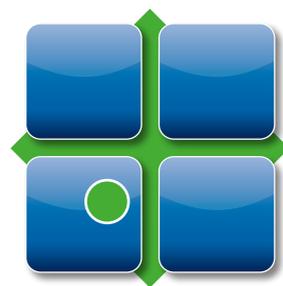
The principal constraint in this report is that the subjects discussed in the following chapters are not covered exhaustively. That fact immediately indicates the limited pretence of this report, the purpose of which is to draw attention to groups of children that might be vulnerable to human trafficking and to guard against what Chuang calls exploitation creep¹³ (the steady expansion of the definition of the concept of human trafficking by extending it to include phenomena that cannot realistically be comprehended under the term). It sometimes seems to be assumed that the concept of human trafficking is unlimited, the ultimate effect of which is to deprive the concept of its authority and undermine the effectiveness of efforts to combat it. In that respect, investigating vulnerable groups requires a balancing act. On the one hand, it is important, and even essential, to be alert to current developments in society that could be linked to human trafficking. On the other, it has to be realized that there are limits to the concept.

13 Chuang, 2014.

Domestic human trafficking and potentially vulnerable children

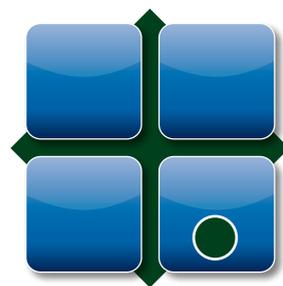
LHBT children

On the basis of this initial study, the group of lesbian, homosexual, bisexual and transgender (LHBT) children is estimated to be moderately to reasonably vulnerable to human trafficking, with the proviso that homosexual and bisexual boys and transgenders are regarded as more vulnerable to human trafficking than lesbian and bisexual girls. The vulnerability of homosexual and bisexual boys and transgenders is mainly connected with *individual and socio-economic factors*. It did not appear from this study that human traffickers target LHBT children on a large scale. On the basis of this initial study, the group of LHBT children, with particular emphasis on homosexual and bisexual boys and transgenders, are assigned to the category '**research and prevention**'.



Children with the eating disorder anorexia nervosa

On the basis of this initial study, children with the eating disorder anorexia nervosa are regarded as slightly vulnerable to human trafficking. Their potential vulnerability could be connected with *individual factors*. The members of this group that might be most vulnerable to human trafficking are the girls who suffer from anorexia and go online in search of fellow sufferers. However, the indications in this initial study that human traffickers target this group are very weak. On that basis, this group of children is assigned to the category '**vigilance**'.



2.1 Introduction

Children are vulnerable to human trafficking.¹ However, only a small proportion actually become victims. Which groups face a greater risk than others has been the subject of research for some time.² Recent research into domestic human trafficking has focused mainly on factors that make children vulnerable to sexual exploitation, the relationship between a victim and the perpetrator and the personal characteristics of the victim and the perpetrator. Although the research into the factors that make children vulnerable to sexual exploitation is still relatively new, more has been learned about them over the years. For example, it has been found that children who have been abused, bullied or neglected are at greater risk of becoming victims.³ The same applies for children who are mildly mentally handicapped.⁴ The fact that one or more of these risk factors applies to a child does not imply that he or she will actually become a victim of human trafficking.⁵ That would be too simplistic an assertion. Nevertheless, knowledge about these factors is important so that more can be done in the way of prevention. For example, institutions in the Netherlands that work with mildly mentally handicapped children know that they need to be particularly watchful for signs of human trafficking and have to know what to do if they have any suspicions. In short, with knowledge about sources of vulnerability, it is possible to design prevention programmes and offer protection.⁶

To further map the population of children at risk, this analysis starts with a review of the statistics. In 2014, 1,561 possible victims of human trafficking were reported to the Coordination Centre for Victims of Human Trafficking (CoMensha). Of this total, 283 were minors, a large proportion of whom were Dutch girls.⁷ The National Rapporteur has also analyzed the sectors in which minors were exploited in the period 2008 – 2012. According to the reports that CoMensha received, 58% were sexually exploited and a further 27% had not yet worked during that period.⁸ However, those figures were not broken down by nationality.

With respect to domestic human trafficking, the greatest concern in recent years has been for Dutch girls who are sexually exploited. Not surprisingly, therefore, there has been a great deal of research on this group. These studies have concentrated mainly on the *loverboy method*, an approach used by boys to manipulate Dutch girls, under the guise of a loving relationship, to earn money for them by performing sexual acts with clients for payment.⁹ The angle taken in the exploratory analysis of the two groups discussed in this chapter is different, focusing not on the method adopted by the human trafficker but

1 European Commission, 2015.

2 Ibid.

3 Van Dijke et al. 2012; European Commission, 2015; Reid and Piquero, 2014; Reid, 2014; Reid, 2012; Reid, 2011; Estes and Weiner, 2005; Tyler et al. 2001; Klatt et al. 2014.

4 Reid et al. 2015; Van Dijke et al. 2012; Verwijs et al. 2011. See also the EO television programme on 3 October 2015, available at <http://visuals.eo.nl/zwakbegaafde-meiden-in-instelling-geronseld-voor-prostitutie/>, consulted on 9 November 2015.

5 The European Commission says on this point: *'The analysis of risk and resilience factors revealed that the extent to which a child is vulnerable to trafficking is only rarely determined by one particular factor. Rather, children are usually exposed to a combination of circumstances which result in them becoming victims of trafficking. It should be noted that the factors alone do not cause trafficking. Trafficking happens because of the demand for the services of the victims and the goods produced through their exploitation, generating huge profits'* (European Commission, 2015: p. 8).

6 European Commission, 2015.

7 National Rapporteur, 2014a: tables 5.1 and 7.1.

8 Ibid: table B4.1.21.

9 See, for example, National Rapporteur, 2009; National Rapporteur, 2013; Verwijs et al., 2011; Van Dijke et al., 2012.

on the potential vulnerability of lesbian, homosexual, bisexual and transgender boys¹⁰ and children who suffer from anorexia nervosa.

These two groups were chosen because they have been mentioned in connection with sexual exploitation in the last two years and because too little is known about them to be able to confirm or rebut this connection. As mentioned in chapter 1, this chapter attempts to answer two questions: (1) To what extent is there evidence that this group of children are vulnerable to human trafficking? and (2) To what extent is there evidence that human traffickers specifically target this group?¹¹ This section contains an initial study. Since little research has been conducted into these two groups from the perspective of human trafficking, the information in it is based on exploratory studies, anecdotal material¹² and warnings received by the National Rapporteur from the professional field.

The research also explicitly covers the vulnerability of these two groups to sexual violence.¹³ It is likely that when exploitation of members of these two groups occurs, it will often be preceded or accompanied by sexual violence.¹⁴ To properly identify and prevent exploitation, it is important to investigate this interconnectedness.

2.2 LHBT children

2.2.1 General risk factors and Dutch policy

'The 20th century is also characterized by the emergence of the gay emancipation movement,' the Minister of Education, Culture and Science said in a letter to the Dutch parliament on 10 May 2013.¹⁵ The letter outlined the growing attention being devoted to the emancipation of lesbian women, homosexual men, bisexuals and transgenders. The government's first letter to parliament on 'government policy and homosexuality' dates from 1988. It set out the aim of creating a situation where everyone, whether homosexual or heterosexual, 'can take part in every facet of social life on the basis of equality'.¹⁶ Since then, there has been growing attention to the emancipation of the LHBT community in the Netherlands, one of the aims being 'to prevent discrimination and combat violence against this vulnerable group'.¹⁷

It is not known precisely how many young LHBTs there are in the Netherlands. It also depends on how one defines a person's sexual orientation. 'Sexual orientation is usually seen as a relatively stable characteristic of a person that can be expressed through sexual behaviour or self-identification as gay, bisexual or heterosexual. It refers to the extent to which an individual is sexually and romantically oriented to-

10 For the sake readability, the report uses the terms children and youths. Both terms refer to minors, unless otherwise specified.

11 The vulnerability of a particular group and the extent to which its members are targeted by human traffickers with a view to exploiting them often coincide, but not necessarily. See also [Chapter 1](#).

12 The anecdotal material is often taken from the media.

13 Although this report focuses on human trafficking, the National Rapporteur's mandate also extends to sexual violence against children.

14 'Despite the strong evidence that victimized youth often experience multiple victimizations, researchers and practitioners treating maltreated youth tend to focus on and treat one particular type of victimization (e.g., sexual abuse, witnessing domestic violence) and fail to take into account the reality that many victimized children experience more than one type of abuse' (Reid et al. 2015: p. 3). See also Finkelhor et al. 2007.

15 *Parliamentary Documents* 2012 – 2013, 30420, no. 180.

16 *Ibid.*

17 *Ibid.*

wards men, women or both'.¹⁸ In a survey carried out for the report from roughly 9% of the respondents¹⁹ described themselves as gay or lesbian or bisexual. In the survey, more men also described themselves as gay than bisexual and more women as bisexual than lesbian.²⁰ The term 'transgender' is reserved for persons whose gender at birth, gender identity and gender expression do not correspond.²¹ There are no reliable estimates of the size of this group.²² The government reported that in 2013 there were a million lesbians, homosexuals, bisexuals and transgenders in the Netherlands.²³

Although there is a high level of acceptance of homosexuality in the Netherlands,²⁴ there are still concerns. For example, it is less accepted in orthodox religious communities²⁵ and it has also been found that young people take a more negative view of homosexuality.²⁶ LHBT emancipation is also certainly not regarded as complete and a range of measures have therefore been adopted over the years. One of them is that tackling homophobic violence is a priority for the police and public prosecution service (PPS).²⁷ Legislation is also constantly being amended in order to reverse any legal inequalities between LHBTs and heterosexuals.²⁸

There is also an emphasis in policies on the emancipation of young LHBTs in non-Western migrant communities. For example, the government is exploring possibilities of creating a dialogue about homosexuality and strengthening the position of LHBTs within these communities. It is also looking at the psychological problems faced by young LHBTs and has found it necessary to adopt specific measures to prevent suicide among members of this group.

In addition to the fact that young LHBTs seem to be more vulnerable to (sexual) violence, psychological problems, discrimination and stigmatization, in recent years they have also been mentioned on several occasions in terms of a particular vulnerability to human trafficking. This has emerged from exploratory studies, news reports and signals that have

'LGBT persons face elevated threats of violence and discrimination in employment, healthcare, and educational opportunities. Some family members have ostracized LGBT relatives from their homes. The cumulative effects of homophobia and discrimination make LGBT persons particularly vulnerable to traffickers who prey on the desperation of those who wish to escape social alienation and maltreatment' (Office to Monitor and Combat Trafficking in Persons, 2014).

18 'The size of the group differs depending on whether one bases it on attraction, sexual behaviour or self-protection (Rutgers WPF, 2013a: p. 7). See also Sell, 2007.

19 The respondents were selected from online research panels and were between the ages of 15 and 70 (Rutgers WPF, 2013a: p. 11).

20 'Of the men, 3.6% described themselves as gay and 5.5% as bi. Of the women, 1.4% described themselves as lesbian and 7.4% as bi' (Rutgers WPF, 2013a: p. 13).

21 Bockting et al. 1998.

22 This applies for both adults and minors. Rutgers WPF, 2013a: p. 14. See also Kuyper, 2012.

23 Parliamentary Documents 2012 – 2013, 30420, no. 180.

24 'Whereas 85% of Dutch people had a positive attitude towards homosexuals in 2006, in 2010 the percentage had risen to 91% (Parliamentary Documents 2012 – 2013, 30420, no. 180).

25 Ibid.

26 SCP, 2011: p.32.

27 Moreover, the maximum sentence is higher for certain offences with a discriminatory aspect, while efforts are being made to reduce the reluctance of teachers to raise subjects such as sexual orientation and how they can make greater use of existing teaching materials.

28 'The Netherlands ranks sixth in Europe in terms of equal treatment in law of LHBT persons (Parliamentary Documents 2012 – 2013, 30420, no. 180 and is based on the ILGA-Europe Rainbow Index, May 2012, available at <http://www.ilga-europe.org/rainboweurope/2012>, consulted on 2 March 2016).

reached the National Rapporteur.²⁹ In the United States' *Trafficking in Persons* report in 2014,³⁰ LHBTs were even described as a group requiring specific attention. The *Federal Strategic Action Plan on Services for Victims of Trafficking in the United States* for the period 2013 – 2017 specifically mentioned the need to gather information about LHBTs in order to provide them with better protection against human trafficking. This exploratory analysis looks in more detail at the information that is known about underage LHBTs in relation to human trafficking, including a review of their possible vulnerability and indications that could suggest that young LHBTs in the Netherlands are exploited by human traffickers.

This section focuses on three specific factors that increase vulnerability to human trafficking that have emerged from exploratory research and which could apply to young LBHTs:

- I. Minority stress and possible vulnerability to human trafficking
- II. Psychological problems and possible vulnerability to human trafficking
- III. Sexual violence and possible vulnerability to human trafficking

These three possible relationships are discussed individually. Nevertheless, they usually coincide and have to be understood in conjunction with each other to understand the potential vulnerability to human trafficking.³¹

This exploratory study concludes by looking at what is known about the possible exploitation of young LHBTs in the Netherlands. Because exploratory research has highlighted the difficulty of identifying members of this group who might be exploited, this section also reviews what is known about young LHBTs who have sex for payment and who work in prostitution, since it is to be expected that if young LHBTs are sexually exploited, they will belong to this group.

2.2.2 Minority stress and possible vulnerability to human trafficking

As mentioned above, young LHBTs can be vulnerable in a number of respects. One factor that makes them particularly vulnerable is *minority stress*,³² which Meyer defines as 'additional stress that you might experience if you are a member of a minority. It consists of various components: experiencing upsetting events, anticipating them, internalized homosexual- or trans-negativity, hiding one's identity and a lack of social support'.³³ Meyer writes the following about the factors underlying minority stress:

29 See, for example, Los, 2014; Martinez and Kelle, 2013; Polaris, 2015; Secret Garden, 2012. See also the website of LGBTQ –nation, an organization in the US that keeps records of reports of LHBT persons who have been exploited (available at <http://www.lgbtqnation.com/tag/human-trafficking/>, consulted on 4 February 2016) and the statement in 2014 by the Office to Monitor and Combat Trafficking in Persons in the United States, which referred to this as an area requiring special attention (available at <http://www.state.gov/documents/organization/233940.pdf>, consulted on 4 February 2016).

30 TIP report, 2014.

31 See Chapter 1.

32 Movisie, 2012; Meyer, 2003; Kuypers and Fokkema, 2011.

33 Rutgers WPF, 2014a: p. 28; Rutgers WPF, 2013a.

Minority stress and underlying factors

'In developing the concept of minority stress, researchers' underlying assumptions have been that minority stress is (a) unique—that is, minority stress is additive to general stressors that are experienced by all people, and therefore, stigmatized people are required an adaptation effort above that required of similar others who are not stigmatized; (b) chronic—that is, minority stress is related to relatively stable underlying social and cultural structures; and (c) socially based—that is, it stems from social processes, institutions, and structures beyond the individual rather than individual events or conditions that characterize general stressors or biological, genetic, or other non-social characteristics of the person or the group.'³⁴

One of the characteristics of minority stress is that it is linked to membership of a group with distinctive characteristics and arises from social interaction. The European Commission says in its report that belonging to a group that is socially excluded and/or marginalized is a contributory factor to vulnerability to human trafficking.³⁵ Marginalization, as defined by the European Commission, relates to social groups that are discriminated against, have a lower socio-economic status and have fewer opportunities in society.³⁶ The LHBT community in the Netherlands does not meet all of these criteria. The concerns about the LHBT group relate mainly to the areas of discrimination and social acceptance. The vulnerability of LHBTs will therefore probably also depend to a large extent on the degree of stigmatization and marginalization experienced by the group. Although attitudes towards LHBTs are generally positive in the Netherlands, there are also some concerns.

Social acceptance of LHBTs in the Netherlands

In general it seems that youths and young adults have positive attitudes towards LHBTs. In 2012, 72% of young adults said their attitude was positive³⁷ and 6% said they had a negative attitude.³⁸ 'Among both pupils and young adults, girls and young people who are not religious are far more positive than boys and religious young people. Non-Western pupils are also more negative,³⁹ as are secondary students with a lower level of schooling'.⁴⁰ Four in ten of the young LHBTs⁴¹ who were interviewed in the study by the Dutch Institute of Social Studies (SCP)⁴² said that they had had at least one negative experience⁴³ in the previous year because they were LHB. 'More serious

34 Meyer, 2003.

35 See also Chapter 1, where there is a brief discussion of the research methods used by the European Commission for its report.

36 European Commission, 2015.

37 In 2006, 61% of young people said this (SCP, 2015).

38 In 2006, 18% of young people felt this (SCP, 2015). As regards views towards about transgenders, 45% of young people are positive, 11% are negative and the rest are neutral or don't know (SCP, 2015: p. 26).

39 For example, research by Amsterdam's municipal health service shows that 'more than a fifth of the young people in Amsterdam have negative views about LHBT schoolmates'. According to the same study, 'more than four to five times as many Turkish and Moroccan as Dutch students have a negative attitude [towards homosexuality than native Dutch pupils]' (Amsterdam GGD, 2012: p. 35).

40 SCP, 2015.

41 In the same study by the SCP, lesbian girls and homosexual and bisexual boys were asked about their experiences. Transgenders were not included in the study.

42 The young LHBTs were questioned in 2013 (SCP, 2015: p. 48, table 3.6).

43 'Homosexual and bisexual youths experienced this more often than girls (47% versus 34%). This could be related to the finding that attitudes towards homosexual and bisexual boys are more negative than towards girls'. Half of the LHBT youths who had told someone had had a negative experience (SCP, 2015: p. 48 – 49).

forms of negative reactions such as threats, sexual harassment or fighting occurred less often, but were still mentioned by roughly one in twenty LHB youths'.⁴⁴ Young LHBTs are also bullied on a weekly or even daily basis four times more often than heterosexual youths.⁴⁵ They generally feel less comfortable at school and take days off more often than young heterosexuals.⁴⁶ 'Of the transgressors who have "come out" and go to school, a quarter experienced violence in the year preceding the study [2012]'.⁴⁷

Although social acceptance of young LHBTs in the Netherlands has improved in recent years, there are still concerns,⁴⁸ which relate mainly to young LHBTs who grow up in orthodox religious communities and in migrant communities.⁴⁹ Research also shows that there are concerns about the treatment of young LHBTs at schools⁵⁰ and in the home.⁵¹

It is known that young LHBTs use the Internet to establish contacts more often than young heterosexuals, often with the aim of meeting people with the same orientation outside their own social environment.⁵² It has also been found that young homosexuals and male bisexuals have contact of a sexual nature or sex on the Internet or with a person they have met online relatively more frequently than lesbian and heterosexual youths.⁵³ Gay and bisexual youths also transmit materials of a sexual nature via social media more often.⁵⁴ Although the Internet can play an important role in establishing contact with peers⁵⁵ and is a useful source of information, it can also make young LHBTs more vulnerable to sexual violence and human trafficking, particularly when they open themselves up to individuals whose mo-

44 SCP, 2015: p. 49.

45 SCP, 2015: p. 67. The study by Van Dijke et al. also indicates a possible link between bullying and the risk of becoming a victim of human trafficking (Van Dijke et al. 2012).

46 'The number of LHB pupils who had occasionally played truant in the previous four weeks is more than twice as high (21% versus 9%), for example' (SCP, 2015: p. 67). See also SCP, 2014a.

47 SCP, 2012.

48 *Parliamentary Documents* 2012 – 2013, 30420, no. 180.

49 See also § 2.2.1. 'Some parents use violence against their children if they observe that they are lesbian, gay, bisexual or transgender. This can happen, for example, in traditional (migrant or refugee) families that are concerned about the family honour. This violence is also known as honour-related violence' (Movisie, 2015: p. 5). See also Brenninkmeijer et al. 2009; Cense, 2013.

50 SCP 2014a; SCP, 2015.

51 In the SCP study, LHB youths say they receive far less support from parents than heterosexual youths say they do. 'For example, they are less able to talk about their problems and receive less emotional support than they need' (SCP, 2015: p. 72).

52 Rutgers WPF, 2013a, p. 43; Pingel et al. 2013; Dehaan et al. 2013; Van Lisdonk and Van Bergen, 2011.

53 Homosexual and bisexual youths [have] sexual contact on or via the Internet more often, for example by displaying something sexual in front of the webcam themselves, sending photos or films of a sexual nature, or having sex with a partner they have met on the Internet. This applies for 58% of homosexual and bisexual youths compared with 28% of heterosexual youths. This is a significant difference. This study looked at 'differences in sexual problems and risks among youths aged between 17 and 24' (De Graaf et al. 2012: p. 43 – 44). See also Bauermeister et al. 2014. The research population in the latter study comprised young people aged between 18 and 25.

54 De Graaf et al. 2012; Bauermeister et al. 2014.

55 'Having a LHB[T] network probably offers protection against problems, because knowing like-minded people provides support and a positive frame of reference to counter the sometimes negative public views and prejudices' (SCP, 2015: p. 42). See also Meyer, 2003.

tives are unknown to them and when they share sexually explicit material with others.⁵⁶ Research by Dank et al. has shown, for example, that young LHBTs between the ages of 18 and 24 experience violence, including sexual violence,⁵⁷ significantly more often than their heterosexual contemporaries.⁵⁸ Although the question of whether young LHBTs who seek contact with other persons on the Internet face an increased risk from human traffickers has not been investigated, it is not inconceivable. For example, it has repeatedly been found that human traffickers also search for vulnerable young people online⁵⁹ and use material of a sexual nature that they acquire in this way as a means of coercing young people into a situation in which they can exploit and maintain control over them.⁶⁰

Young LHBTs from religious and ethnic communities appear to face a higher risk of marginalization and social exclusion than other LHBTs.⁶¹ For example, the parents of three in four young Moroccan and Turkish LHBTs regard it as a problem. The figure among Antillean and Surinamese parents is one in three, compared with one in six among native Dutch parents.⁶² According to the Netherlands Centre for Social Development (Movisie), these young people face ‘a three-fold problem’. The first problem faced by ethnic LHBTs⁶³ is ‘an inner conflict between homosexual feelings and loyalty to their family and religion. The inability of ethnic [LHBTs] to give expression to their feelings can lead to a series of psychological and somatic problems (isolation, parasuicide, dropping out of school, unsafe behaviour, unwanted pregnancies, etc.)’.⁶⁴ If they can accept their sexual orientation, a potential problem is that their social environment will not accept their sexual preference. It can therefore also be difficult for young ethnic LHB persons to discuss their sexual orientation with family and friends.⁶⁵ It can be very difficult to tell others about it because doing so ‘can lead to an accumulation of practical problems in areas such as housing, problems with the family and difficulty in

‘The higher sexting prevalence may be attributable to young men who have sex with men [YMSM] greater comfort in sharing suggestive texts or pictures with prospective partners through online technologies. Prior research [...] has documented how YMSM use online technologies to explore their sexuality and meet partners. In these online exchanges, YMSM may be more likely to participate in sexually charged conversations and include suggestive pictures in their online profiles. Furthermore, the recent development of mobile-based geo-spatial partner-seeking applications (e.g., Grindr) has further facilitated YMSM’s exchange of suggestive messages or pictures with potential partners through mobile technologies and been linked to increased sexual risk practices’ [Bauermeister et al. 2014].

56 ‘In general, social networking sites play a role in the recruitment of children — in particular for sexual exploitation’ (European Commission, 2015: p. 65). A protective factor against human trafficking could be safe offline and online meeting places where young LHBTs can meet others who have or have not already come out. For example, see www.jongenout.nl, consulted on 4 February 2016. See also *Parliamentary Documents 2012 – 2013*, 30420, no. 180.

57 *National Rapporteur*, 2014b.

58 They surveyed 5,647 secondary students in the United States (Dank et al. 2014). See also Klettke et al. 2013.

59 A study of 77 criminal investigations showed that in half of them victims of human trafficking were recruited in nightlife venues, via Internet, at school or in prostitution zones (*National Rapporteur*, 2012: p. 132).

60 European Commission, 2015: p. 65; Leary, 2014. For example, this method was also found to have been used in a case in which suspects were convicted of the sexual exploitation of underage Dutch boys. Noord-Holland District Court 28 November 2013, ECLI:NL:RBNHO:2013:12803; see also Noord-Holland District Court 11 July 2013, ECLI:NL:RBNHO:2013:9066.

61 For an estimate of the cultural-ethnic population in the Netherlands, see Regioplan, 2015.

62 SCP, 2014b.

63 No transgenders were interviewed for this study. In that case, the group is denoted by the term LHB youths, with the T for transgender being omitted.

64 Movisie, 2007.

65 GGD Amsterdam, 2012.

establishing contact with others in the same situation'.⁶⁶ The latter problem arises from the fact that members of this group who need help might have difficulty gaining access to 'white' social services, such as social work and shelter, youth care agencies and local welfare facilities. As Movisie puts it, '[the social services] currently still lack expertise with regard to the problems of this group'.⁶⁷ A study by the SCP has shown that religious LHB youths⁶⁸ are also particularly vulnerable. 'Religious young people are more often in a situation where no one around them is aware of their feelings towards members of their own sex and they themselves have a more negative attitude to their own sexual orientation'.⁶⁹ An earlier study by the SCP also showed that religious individuals have a negative attitude towards homosexuality far more often than non-religious individuals.⁷⁰ Young religious people are also less inclined to declare their sexual preference than their non-religious peers and their sexual orientation is also accepted less often by their parents.⁷¹

One potential effect of the lack of social acceptance and the negative treatment of religious and ethnic LHBT youths is that these young people will start using riskier ways of establishing contact with like-minded individuals and/or experimenting with their own sexuality.⁷² The three-fold problem that they face can also give these young people the feeling that they have few options because of a fear of social exclusion, which can result in their being forced to break off contact with their social environment,⁷³ thus creating a vulnerable position that can be abused by human traffickers. Although religious and ethnic young LHBTs could be more vulnerable to exploitation for these reasons, there is no evidence that large numbers of them actually become victims.⁷⁴

'There is generally little acceptance of homosexuality in Moroccan, Turkish, Chinese, Surinamese and Protestant groups. It is often regarded as irreconcilable with marriage and family values, for example because sex must be intended for the purposes of procreation. This is seen as the natural order of things' [Rutgers WPF, 2013a].

66 Movisie, 2007. See also GGD Amsterdam, 2012; Regioplan, 2015. According to Regioplan's report, specialized facilities are almost only to be found in the large cities and scarcely ever in smaller towns (2015: p. 89).

67 Movisie, 2007. In Amsterdam, for example, there is an organization specifically for LHBTs with a distinct ethnic-cultural background (http://www.stichtingsecretgarden.nl/?page_id=11, consulted on 25 February 2016). The organization Veilige Haven is also devoted specifically to LHBT youths from a multicultural and/or religious community (<http://www.veilighavenamsterdam.nl/C251-Veilige-Haven.html>, consulted on 25 February 2016). For other social services that are available, see also Regioplan's study (2015: p. 33 ff.).

68 Naturally, there is some overlap between the groups of ethnic and religious LHBT youths.

69 SCP, 2015: p. 57.

70 Religious youths are described as particularly vulnerable in the SCP's study because homosexuality is often a sensitive subject in their social environment and it is certainly not automatically acceptance. This is apparent, for example, from the fact that 34% of people who attend church once a week or more are negative about homosexuality, compared with 4% of individuals who never go to church (SCP, 2010).

71 The same study also argues that '[LHB] youths with a religious upbringing have attempted suicide more often' (SCP, 2010: p. 202).

72 European Commission, 2015. See also Reid, 2014. In her article, she discusses the risk of becoming a victim of human trafficking and bases her arguments on the *General Strain Theory*. She describes how frustration and disappointments can lead to risky behaviour and how that makes them vulnerable to human traffickers.

73 According to figures from Veilige Haven, 44 of the 102 clients they helped in 2011 required shelter. These cases often involved threats, domestic violence or homelessness (GGD Amsterdam, 2012). See also Secret Garden, 2013.

74 Concerns arose in the Netherlands about Moroccan youths in 2001, when a study by van Horn et al. showed that they appeared to be over-represented in youth prostitution. The concerns receded in 2009 when research by Korf et al. in that year found no empirical evidence to support that claim.

International research also shows that young LHBTs are over-represented in the youth homeless population in the United States, Canada and the United Kingdom.⁷⁵ The explanation given for this is that their sexual orientation is not accepted by their social environment and they are sometimes forced to leave home.

Homeless young LHBTs in other countries

International studies in the United States,⁷⁶ Canada⁷⁷ and the United Kingdom⁷⁸ have shown that young LHBTs are homeless significantly more often than their heterosexual peers. In many cases, the parents do not accept their child's sexual preference, which can lead to physical and mental abuse and to the youth's (forced) departure from home.⁷⁹ Because they usually lack a social network and have limited access to help, they consequently often end up on the street. Once homeless, young LHBTs find themselves in a particularly vulnerable position. They experience sexual violence seven times more often than young heterosexual homeless persons,⁸⁰ they engage in unsafe sex more frequently⁸¹ and they suffer more severely from psychological complaints.⁸² According to a study by the Urban Institute in New York⁸³ in 2015, many young homeless LHBTs in New York end up in prostitution in order to survive.⁸⁴ This too is often accompanied by physical and sexual abuse and threats.⁸⁵ The fact that these young people do not have a safe place to go to, usually experience social exclusion and psychological problems and engage in risky situa-

75 Ventimiglia, 2012; Martinez en Kelle, 2013; Gaetz, 2004; The Albert Kennedy Trust, 2015.

76 According to various studies, between 20% and 40% of the homeless youth population in the United States describe themselves as LHBTs (e.g. Ventimiglia, 2012; Ray, 2006; Martinez and Kelle, 2013).

77 A study of young homeless persons between the ages of 15 and 24 in Canada showed that 29.62% regarded themselves as 'non-hetero', with 5% of the respondents describing themselves as exclusively gay or lesbian and 24.62% saying they were bisexual or 'bi-curious' or that they did not yet know their sexual reference (Gaetz, 2004).

78 Research in the United Kingdom shows that LHBT youths between the ages of 16 and 25 make up almost 24% of the homeless youth population (The Albert Kennedy Trust, 2015).

79 For example, in a survey by Rew et al. of 425 homeless youths in the United States, 73% of the homeless gay and lesbian youths and 25.6% of the homeless bisexual youths said they ended up on the street after an argument with their parents over their sexual orientation (Rew et al. 2005). See also The Albert Kennedy Trust, 2015; Edidin et al. 2012; Cull et al. 2006.

80 Ray, 2006.

81 Cochran et al. 2002. The study by Rew et al. also showed that sexually transmitted diseases are more common among LHB than heterosexual homeless youths, although the difference is not significant (Rew et al. 2005).

82 Cochran et al. 2002.

83 For the study by the Urban Institute in New York, interviews were held with 283 young homeless persons between the ages of 15 and 26 in New York who engaged in 'survival sex'. Of them, 37% were bisexual, 23% homosexual, 15% lesbian, 3% 'queer', 13% heterosexual and 9% 'other', for example pansexual. On average, the participants' first sexual contact in exchange for money and/or another form of remuneration occurred at the age of seventeen (Urban Institute New York, 2015).

84 In an earlier study of homeless LHBT and heterosexual youths in America between the ages of sixteen and nineteen (366 heterosexuals and 63 LHBTs) it was found that homeless homosexual youths engaged in 'survival sex' far more often than heterosexual youths (27.8% compared with 9%) (Whitbeck et al. 2004).

85 In the study by the Urban Institute in New York, 91% of the participants also said they performed this work reluctantly.

tions in order to earn money makes this group vulnerable to sexual exploitation and human trafficking.⁸⁶

Reflecting the findings in other countries, Felten et al. do not rule out the possibility that young LHBTs are also over-represented in the homeless youth population in the Netherlands. They concluded that further research is needed to learn more about the situation in this country.⁸⁷ It seems advisable that such research should also investigate whether and to what extent sexual violence, sex for payment and/or sexual exploitation occurs among young homeless LHBTs in the Netherlands.

2.2.3 Psychological problems and possible vulnerability to human trafficking

International research into the emotional and psychological well-being of LHBT persons shows that members of this group suffer more from depression and anxiety than heterosexuals.⁸⁸ The SCP study into young adult LHBTs supports that finding and showed that ‘the prevalence of some psychological complaints (feeling down, not being calm and at ease, and being unhappy) is (almost) twice as high’.⁸⁹ Furthermore, ‘more than half of the LHB schoolchildren also have psychological or behavioural problems. They suffer from emotional problems, behavioural problems and hyperactivity more than twice as often, and problems with contemporaries three times as often’.⁹⁰ Moreover, research has shown that ‘the negative treatment of young people by peers because they are LHBTs is accompanied by diminished psychological health, more school-related problems and greater drug use’.⁹¹ Another notable finding is that the chance of suicide is greater among LHBTs.⁹² ‘One in seven lesbian or bisexual girls and one in eight gay or bisexual boys suffer from complaints connected with depression often or very often. Sixteen percent of these girls and nine percent of these boys have actually attempted suicide at least once. The figure is even higher among young transgenders’.⁹³ The poorer psychological well-being of young LHBTs

86 Martinez and Kelle argue that human traffickers target homeless minors more often because they are easy to manipulate and are defenceless. According to them, underage LHBTs in particular face a serious risk of becoming victims of sexual exploitation’ (Martinez and Kelle, 2013). The study by the Urban Institute New York also showed that 15% (43 participants) of the LHBT youths who engaged in survival sex had had an ‘exploiter’ at some point. The majority of them had to surrender at least part of their income to this person. Some respondents also said they had been raped, assaulted and threatened by their ‘exploiter’. It is not known to what extent this applies to homeless heterosexual youths. (Urban Institute New York, 2015).

87 Felten et al. 2015. Amsterdam’s city council has also called for special attention for homeless LHBT youths who, because they are over the age of eighteen, disappear from sight as soon as the mandatory youth care ends (proposal from van Kaya, Duijndam and Toonk: ‘Give young homeless persons a chance in Amsterdam’. Municipality of Amsterdam, 2015).

88 Cochran, 2001; Gilman et al. 2001; Herrell et al. 1999; Sandford et al. 2001; Bailey, 1999. Meyer ultimately reaches the same conclusion, but does explain in his meta-analysis that there are also some reservations to be expressed about many of the studies conducted into this subject. The reservations mainly concern a possible *bias* in the research population (Meyer, 2003). One of the reservations Meyer makes about studies into LHBT youths is that those who volunteer to take part in them are usually persons who have had their coming-out, so that the group that have not are probably not covered in the study.

89 SCP, 2015: p. 98.

90 Ibid.

91 Beusekom et al. 2014.

92 ‘A meta-analysis of 25 studies shows that, on average, suicide attempts occur twice as often among homosexuals as among heterosexuals’ (Van Lisdonk and Van Bergen, 2011: p. 189). See also King et al. 2008 and Garofalo et al. 1998.

93 SCP, 2010; SCP, 2012.

can be explained in part by their less positive situation at home and at school,⁹⁴ but possibly also by loneliness,⁹⁵ diminished self-esteem⁹⁶ and minority stress.⁹⁷

These underlying factors and psychological problems can push young LHBTs into a position of vulnerability that can be abused by human traffickers. Young people who find themselves in such a vulnerable position and seek contact with individuals in a similar position and acceptance and/or love outside their own environment could be particularly susceptible to being recruited by human traffickers.⁹⁸

2.2.4 Sexual violence and possible vulnerability to human trafficking

A great deal of research has been conducted into LHBTs in relation to sexual violence. A drawback of that research for the purposes of this exploratory study is that it covers the situation of young LHBTs between the ages of 12 and 25 and does not focus specifically on minors.⁹⁹ What stands out in a review of these studies is that, on average, homosexual men and bisexual men and women in particular suffer more sexual violence¹⁰⁰ during their lives than heterosexuals.¹⁰¹ 'Where sexual violence has occurred, the average age at which a homosexual boy was a victim for the first time was fourteen, compared with nineteen for heterosexual boys'.¹⁰² Gay and bisexual boys had also experienced pressure or coercion to engage in sex more often than heterosexual boys and lesbian girls of the same age.¹⁰³ The differences between LHBTs and young heterosexuals in terms of experiencing sexual violence could possibly be explained 'by the stress that their minority status brings with it (minority stress)'.¹⁰⁴

Transgenderers have 'far more experience of sexual violence than non-transgenderers [...]'.¹⁰⁵ Transgenderers who were born as male had suffered violence four to eight times more often than non-transgenderers. They had also relatively frequently experienced sexual violence before reaching the age of six-

'Both gay and bisexual men have experienced sexual violence at least three times more often before reaching the age of sixteen' [Rutgers WPF, 2013a: p. 26].

94 SCP, 2015.

95 Qualter et al. 2013.

96 Steiger et al. 2014.

97 Meyer, 2003; SCP, 2015.

98 The Internet is one way in which young people can come in contact with like-minded persons outside the safe environment. The European Commission refers in this context to the risk that human traffickers seem to have become increasingly active on the Internet, and particularly in chatrooms, in establishing contact with vulnerable young people (European Commission, 2015).

99 Whenever a study is referred to, information is also given about the ages of the respondents.

100 For the study by Rutgers WPF, "sexual violence" is broadly defined and ranges from offensive sexual remarks and unwanted touching to being forced to perform or submit to sexual acts. People who said in the follow-up to the questionnaire that they had only experienced sexually offensive remarks were not included in the further analysis [of the research]' (Rutgers WPF, 2013a: p. 25). The respondents in in this study were aged between 15 and 70.

101 According to research by Vermey et al., homosexual boys and bisexual girls reported sexual transgressions significantly more often than other groups. This was a secondary analysis of data from the representative population study 'Sex under the age of 25', in which almost 8,000 young people were questioned via an online questionnaire (Vermey et al. 2014).

102 This is a significant difference (Rutgers WPF, 2013a: p. 27).

103 De Graaf et al. 2012.

104 Movisie, 2012.

105 Rutgers WPF, 2013a: p. 27. The same thing emerged from a study by Movisie in 2012.

teen.¹⁰⁶ A possible explanation for this is that it can be difficult for transgenders to indicate their sexual desires and boundaries,¹⁰⁷ while at the same time they can also feel a deep need for validation of their gender identity because of uncertainty about their body.¹⁰⁸ Another possible cause could be gender dysphoria,¹⁰⁹ which can be described as ‘feelings of dissatisfaction with the gender in which a person is addressed by others and/or the gendered body’.¹¹⁰ It is often difficult for individuals who are struggling with gender dysphoria to get in touch with their own feelings, making it more difficult for them to define their own boundaries and then maintain them.¹¹¹

Research in the field of human trafficking has shown that there is a possible link between a history of sexual violence and the chance of becoming a victim of human trafficking,¹¹² and the European Commission has described this as one of the risk factors for human trafficking.¹¹³ As the research discussed here has shown, young gays and male bisexuals and transgenders experience sexual violence more often, which could also suggest that they are more vulnerable to human trafficking than lesbian girls¹¹⁴ and heterosexual boys.¹¹⁵

2.2.5 LHBTs, sexual exploitation and ‘youth prostitution’¹¹⁶

No research was found specifically about the relationship between LHBTs and sexual exploitation. Research into this subject is complicated by the fact that no records are kept of the sexual orientation of possible victims of human trafficking who are known to the authorities. In order to learn more about whether and, if so, to what extent human traffickers might target LHBT youths with a view to exploiting them sexually, it was decided to analyse the information that is known about young LHBTs who provide

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- 106 ‘The people with transgender feelings who were born as women have also experienced sexual violence more often than non-transgender women. The observed differences cannot be attributed to an age effect’ (Rutgers WPF, 2013a: p. 28).
- 107 Rutgers WPF, 2013a: p. 29. See also Doorduyn and Van Berlo, 2012; Iantaffi and Bockting, 2011; Kosenko, 2010; Sevelius, 2009.
- 108 Rutgers WPF, 2013: p. 28.
- 109 In addition to factors such as minority stress and isolation (Rutgers WPF, 2014a: p. 28).
- 110 ‘Gender dysphoria’ is also the new term for the diagnosis that provides access to gender-modification treatment. [...] The diagnosis in DSM-IV (Diagnostic and Statistical Manual of Mental Disorders) that is necessary to be allowed to undergo gender-modification treatment. This diagnosis is controversial in the transgender movement. In DSM-V the term has been replaced by the term Gender Dysphoria’ (Rutgers WPF, 2013a: p. 61).
- 111 Rutgers WPF, 2013a: p. 29.
- 112 European Commission, 2015; Van Dijke et al. 2012; Verwijs et al. 2011; Reid et al. 2015.
- 113 The European Commission says of this: ‘*The analysis of individual factors demonstrates that the two main characteristics which are most widely recognised as determinants of vulnerability are a history of physical, psychological and/or sexual abuse, and a low level of awareness of risks.*’ (European Commission, 2015: p. 28).
- 114 ‘Among lesbian women, the chance [of experiencing sexual violence] does not differ significantly from that of heterosexual women (Rutgers WPF, 2013a: p. 4).
- 115 See also Korf et al., who discuss the possible relationship between unwanted sexual experiences and entering prostitution at an early age. The researchers conclude that ‘sexual abuse [...] is not a generally applicable causal explanation for youth prostitution. However, that does not mean that *victim trajectories* cannot be an explanation at all, but factors other than sexual abuse apparently play at least play in boys starting to engage in paid sex’ (Korf et al. 2009: p. 101).
- 116 In the Netherlands, it is a criminal offence under Article 248b DCC to pay for sex with a child aged sixteen or seventeen. ‘Youth prostitution’ is an unfortunate term, since it seems to imply that it could be a legal activity. However, the prostitution is always an offence against public morals. The terms youth prostitution and young male prostitutes are nevertheless used in this section for the sake of consistency with earlier research (National Rapporteur, 2015: pp. 8 and 23).

sexual services for payment in this section.¹¹⁷ The assumption behind this is that young LHBTs who are sexually exploited will fall into this group.

There is no known research in which underage LHBTs have been specifically asked to what extent they have provided sexual services for money or some other form of compensation. In one study, in which young people between the ages of 17 and 25 were asked whether they had ever done so, it emerged that homosexual and bisexual boys had received money or some other form of remuneration for sex more often than heterosexual boys.¹¹⁸ The differences between lesbian and bisexual girls and heterosexual girls were less great.¹¹⁹ Future research into the subject could also explore the extent to which children in younger age groups provide sexual services in exchange for money or other form of compensation and at what age they did so for the first time.¹²⁰

Another source of information about a possible relationship between young LHBTs and sexual exploitation is perhaps to be found in studies that have been conducted into 'youth prostitution' and what those studies have revealed about young LHBTs. What immediately stands out is that, other than the information mentioned above, scarcely anything is known about lesbian and bisexual girls who provide sexual services for payment.

There is more information with regard to homosexual and bisexual boys,¹²¹ about whom the following situation can be described on the basis of exploratory studies of young male prostitutes. First and foremost, a report by Movisie shows that prostitution involving young males occurs in paedophile and homosexual circles.¹²² It is important to stress, however, that a young person who works as a prostitute is not necessarily gay or bisexual. Nevertheless, a large majority of the respondents in research by Korf et al. and Repetur and Veenstra into young male prostitutes described themselves as gay or bisexual.¹²³ Weijnen¹²⁴ divides boys working in prostitution into different categories. He is the only person who also consistently links the sexual orientation of the boys to the classification he uses. Although there are reservations to be expressed about his classification and more research is needed,¹²⁵ that classification

'There is evidence that the desire to maintain a good relationship with the other person is sometimes more important for victims of sexually transgressive behaviour than respecting their own boundaries. [...]' [Rutgers WPF et al. 2014].

117 An individual who pays for sex with a minor is guilty of a criminal offence under Article 248b DCC.

118 Fourteen percent of gay and bisexual males between the ages of 17 and 24 who were interviewed for the study by De Graaf et al. had been paid for sex, compared with 4% of young male heterosexuals. This is a significant difference. The extent to which underage boys have been paid for sex is not known (De Graaf et al. 2012: p. 43).

119 De Graaf et al. 2012. See also GGD Amsterdam/Rutgers Nisso Groep, 2010.

120 De Graaf et al. 2012.

121 'Male prostitution' is a term that covers both minors and adults working in the sector. Wherever the text is referring solely to minors, that is explicitly stated.

122 Movisie, 2009.

123 Korf et al. interviewed 44 boys who started engaging in prostitution when they were still minors. They found that a 'small majority regard themselves as homosexual (26; 59%), a third as bisexual (13; 30%) and a few see themselves as heterosexual (5; 11%)' (Korf et al. 2009: p. 67). Repetur and Veenstra interviewed 11 boys who began working as prostitutes when they were still minors. One boy said he was heterosexual, two said they were bisexual and six said they were homosexual. Two boys did not comment on their sexual orientation (Repetur and Veenstra, 2010: p. 110).

124 Weijnen, 2006.

125 Van der Poel, 1991 and Korf et al. 2009 use a different classification, for example. The latter state that the research they had studied in order to produce their classification might have been outdated (p. 103).

is followed here with the aim of gaining a clearer picture of the number of young gay and bisexual boys working in prostitution.¹²⁶

Weijnen identifies two main categories: ‘amateurs’ and ‘professionals’. He divides the amateurs into three groups: gemarginaliseerde, gelukzoekers and bijverdieners. The first category consists of marginalized individuals who seldom have a permanent place of residence or a regular income. They generally live on the street and engage in theft and prostitution, sometimes to finance an addiction. According to Weijnen, most of the members of this group are heterosexuals.¹²⁷ The gelukzoekers, or fortune seekers, are in a similar situation, a distinction being that many are from Eastern Europe and dream of a ‘better future’. Many of these young people do not have homosexual or bisexual inclinations.¹²⁸ The bijverdieners are young people who sell sexual services to earn extra money. They usually have a permanent place to stay and experiment with their sexuality; they are often gay or bisexual. The professionals, Weijnen argues, earn ‘most of their income from prostitution’.¹²⁹ According to him, these young people, almost without exception, have homosexual or bisexual feelings. As this classification shows, by no means all the young people who work in male prostitution have gay or bisexual feelings.¹³⁰ There is also little that can be stated with certainty about possible exploitation of young male prostitutes on the basis of this classification. However, recent research into male prostitution by Los has shown that Dutch gay or bisexual boys who grow up in an environment that refuses to accept their sexual nature can be particularly vulnerable to coercion and exploitation.¹³¹

As regards the nature and scale of male prostitution involving boys in general (in other words, including heterosexual sex workers), the research is fairly unanimous that it is impossible to produce reliable statistics.¹³² Scarcely anything is known about the ages of the boys who work as prostitutes, although most seem to have reached the age of majority. Interviews with professionals, for example, have shown that ‘by far the largest group of young male prostitutes are over the age of eighteen; most are actually

‘At a certain point you want to do it and you just go ahead and do it and [my schoolmate] left me behind there with that man and one thing led to another and I did it with that man. I later went back to that man again and that second time I heard from the man that he had paid the boy to bring me to him. That’s how it started for me, without my knowing it’ [Respondent in the study by Van de Walle et al. 2010].

126 Where necessary, if possible reservations that can be expressed about the classifications on the basis of available research are mentioned.

127 Reservations can be expressed about the statement that this category consists mainly of heterosexuals, since the statement seems to be based on the response of a single respondent. Another reservation is that research in the US has shown that homeless homosexual boys engage in ‘survival sex’ more than three times more often than homeless heterosexual boys (Whitbeck et al. 2004).

128 ‘By extension it is not unlikely that a small proportion of these boys do experiment with their sexual feelings, although they are unlikely to openly express themselves as bisexual or homosexual’ (Weijnen, 2006: p. 36). See also the news report ‘Seksnetwerk opgegeld: Zuid-Limburgers opgepakt voor het exploiteren en chanteren van tientallen jongens uit Roemenië’ [Sex network dismantled: group from South Limburg arrested for exploiting and blackmailing dozens of boys from Romania], 26 May 2012, available at <http://www.riec.nl/doc/limburg/LD%20Roemenen.pdf>, consulted on 6 February 2016.

129 Weijnen, 2006: p. 38.

130 This is also supported by the research carried out by Korf et al. 2009 and Repetur and Veenstra, 2010.

131 For his study, Los examined eight large police files and six smaller files, as well as five reports of male prostitution involving young people. The other two vulnerable groups that are mentioned are young adults with an East European and Spanish-speaking background and African asylum seekers. There is still some uncertainty about the latter group because it was usually impossible to verify their statements (Los, 2014).

132 Los, 2014; Movisie, 2009; Salou et al. 2009.

older than 22. Respondents felt the average age of young male prostitutes was more likely to be rising than falling'.¹³³

The exploratory studies are also practically unanimous as regards the extent to which boys are sexually exploited in male prostitution, i.e., that there is too little evidence to presume that it occurs on a large scale.¹³⁴ Although some studies mention examples of the exploitation of boys,¹³⁵ the vast majority of boys appear to have chosen to engage in this work themselves.¹³⁶ However, Repetur and Veenstra question this finding in their study,¹³⁷ arguing that the boys who have not chosen the work themselves could be suppressing negative feelings as a form of coping behaviour.¹³⁸ Those negative feelings could relate to aspects such as experiencing coercion and sexually transgressive behaviour, but possibly also situations in which they are exploited. Also mentioned in that context is the possible influence of codes of masculinity, which can lead to young people not seeing themselves as victims.

Codes of masculinity

Movisie gives the following example: "I have never talked to a young person who has said they had been sexual exploited or abused".¹³⁹ 'This is a statement that many professionals will endorse,' says Movisie. 'Young people who work as prostitutes and young people who have been abused often use this myth themselves to hide their mixed feelings and vulnerability. It is an example of the masculine code that *a man is in control of his life*, which exists in many cultures and is intended to help boys and men get through difficult situations'.¹⁴⁰

133 Los, 2014. The research by Korf et al. shows 'that the assertion that half or more of male prostitutes are minors cannot be sustained. It is even likely that the majority are 21 or older' (Korf et al. 2009: p. 63).

134 Los, 2014: p. 41; Van der Borne and Klooster, 2005; Korf et al. 2009; Salou et al. 2009.

135 According to the research by Salou et al., there are boys who 'are used as an object of profit by means of human trafficking' and who 'enter the circuit via the path of manipulation, coercion and violence' (Salou et al. 2009: p.6). Van der Borne and Klooster also refer to a number of cases in which there was clearly sexual exploitation of underage male prostitutes by third parties (Van der Borne and Klooster, 2005). In a study by Korf et al., for which 44 youths who were or had been engaged in prostitution as minors were interviewed, many of the respondents said they had sex with an adult in exchange for board and lodging or because they had debts. There were also a number of boys who were introduced to clients by their adult 'sugar daddy' or had to pay off a debt to a pimp by having sex with other men (Korf et al. 2009).

136 Van der Borne and Klooster, 2005; Korf et al. 2009; Salou et al. 2009.

137 A further reservation to be expressed here is that this does not affect the criminal liability of the person who pays for sex with a minor pursuant to Article 248b DCC. See also National Rapporteur, 2015: p. 8, where it says: 'Paying for sex with minors is never legal, and always constitutes an offence against public morals. It has therefore nothing to do with legal, regulated prostitution by adults. For "client", one could equally read "sex offender", for "youth prostitution" one should think in terms of a sex offence'.

138 Repetur and Veenstra, 2010: p. 117.

139 Movisie, 2013a.

140 Ibid, p. 7.

This code of masculinity and the coping mechanisms developed by young people who have sex for payment can make it difficult to identify abuses and, possibly, exploitation. A review of the case law shows that there have nevertheless been convictions for the exploitation of underage Dutch boys in prostitution,¹⁴¹ however, it is not known whether or not the child victims were homosexual or bisexual.¹⁴²

Sexual exploitation of underage boys¹⁴³

On 28 November 2013, the Noord-Holland District Court convicted an 18-year-old boy of conspiring with others in the commission of human trafficking. In this case, a minor was persuaded that he had a debt and then forced by violence and threats to work as a prostitute in order to repay the non-existent debt. Potential clients were approached on chat sites and sex games were played online. Appointments were later made to continue the sex game in 'real time'. The sexual acts were filmed with a hidden camera, whereupon the clients were blackmailed or robbed. They were forced to pay large sums of money to prevent the images being shown to others. The threats were accompanied by severe violence, including the use of guns and knives. When the underage boy went into hiding, the suspect immediately found a new victim and tried to put him to work in the same way, but without success.

Cases like this show that there is in any case a demand for sex with underage boys.

The studies referred to above provide evidence that gay and bisexual boys work as male prostitutes and that they are potentially vulnerable to coercion and exploitation. However, nothing can be said with any certainty about the number of homosexual and bisexual youths engaged in youth prostitution or the possible exploitation of members of this group. Even when it comes to the nature and size of the entire group of underage male prostitutes, including heterosexual boys,¹⁴⁴ or the scale on which coercion and exploitation occur, there are no hard figures. The studies suggest that there is no reason to assume that exploitation occurs on a large scale,¹⁴⁵ but what makes it so difficult to draw any firm conclusions is the so-called 'triple taboo':¹⁴⁶ the taboo on homosexuality and bisexuality, the taboo on prostitution and the taboo on victimization of young men.¹⁴⁷ According to the researchers, this makes

141 In the following cases suspects were convicted of the sexual exploitation of an underage boy. Noord-Holland District Court 28 November 2013, ECLI:NL:RBNHO:2013:12803; Haarlem District Court 11-02-2013, 15/740922-10 (unpublished); Arnhem Court of Appeal 29 March 2010, ECLI:NL:GHARN:2010:BL9524; Den Bosch District Court 28 November 2007 (unpublished).

142 There have also been reports suggesting that underage foreign boys have been sexually exploited. See, for example, Van der Zee, 13 August 2013, 'Ik wist niet wie ik kon vertrouwen' ['I didn't know who I could trust'], *Vrij Nederland*, available at <http://www.fier.nl/upload/f7193e57-2ccb-4698-bca1-cf4d405e3a97.pdf>, consulted on 2 December 2015.

143 Noord-Holland District Court 28 November 2013, ECLI:NL:RBNHO:2013:12803. See also Noord-Holland District Court 11 July 2013, ECLI:NL:RBNHO:2013:9066 for the conviction of the other suspect of human trafficking in the same case.

144 Research has also shown that it is not only homosexual and bisexual youths who engage in prostitution. This group also includes young heterosexuals (Van Gelder, 1998; Los, 2014).

145 Los, 2014: p. 41; Van der Borne and Klooster, 2005; Korf et al. 2009; Salou et al. 2009.

146 There may be a fourth taboo in the case of young male prostitutes because, more than with visits to heterosexual prostitutes, the taboos apply not only to the nature of the work, but also to the preference of the visiting client (Written information from an employee of De Koppeling, 23 November 2015).

147 What can also make it difficult is that young male prostitutes have disappeared almost entirely from traditional locations and moved to the Internet (Los, 2014).

it difficult to ascertain the true scale of male child prostitution and complicates attempts at in-depth research into exploitation.¹⁴⁸

2.2.6 Research and prevention

This initial exploratory study has identified a number of risk factors that make the LHBT group vulnerable to human trafficking. They relate to their isolation, the existence of taboos, minority stress, the search for like-minded individuals and (sexual) contact on the Internet and the increased chance of suffering sexual violence at a young age.¹⁴⁹ These are worrying issues.¹⁵⁰ Homosexual and bisexual boys and transgender youths are generally more susceptible to factors that make them vulnerable to human trafficking. On the other hand, various exploratory studies have produced no evidence that young LHBTs are victims of exploitation on a large scale.¹⁵¹ This could be connected with factors that protect this group against human trafficking¹⁵² or the fact that human traffickers do not specifically target this group. However, further in-depth research is required before any firm conclusions can be reached. On the basis of this first exploratory analysis, it has been decided to assign the group of young LHBTs to the category ‘research and prevention’.¹⁵³

In a letter to parliament in January 2016, the Minister of Security and Justice and the State Secretary for Health, Welfare and Sport announced that a qualitative study will be carried out into young male victims of human trafficking.¹⁵⁴ This study will cover, among other things, the ‘forms of exploitation, recruitment (for example, the role of blackmail), the role of social media, perceptions, identification, risk assessment, care and possible relapse’.¹⁵⁵ It is not known whether the study will also address the sexual orientation of possible victims. The research might also make it possible to gain a better insight into whether gay and bisexual boys face a greater risk of sexual exploitation. Studies into young male LHBTs have highlighted a number of risk factors that would justify looking specifically at the vulnerability of gay and bisexual boys.

In his study, Los recommended that the police should be more proactive in conducting investigations online and should approach boys themselves with a view to preventing situations of coercion and exploitation.¹⁵⁶ This method of investigation could provide a clearer picture of whether gay and bisexual boys who have sex for payment are being exploited. In response to that recommendation,

‘It is unclear to the Azough Commission to what extent boys are victims of human trafficking/the loverboy problem. There have been a number of surveys of child male prostitution, but too little is known about the nature of the phenomenon and the numbers involved. It is therefore unclear whether it is mainly incidental and whether policy measures are required. Regardless of the scale, every form of male prostitution involving children must be tackled and prevented. The commission therefore recommends carrying out a quick scan on this subject’ [Azough Commission, 2014].

148 Movisie, 2009; Los, 2014.

149 Rutgers WPF, 2013b; Rutgers WPF, 2014b.

150 Although this report focuses on human trafficking, the National Rapporteur’s mandate also extends to sexual violence against children and these are aspects the National Rapporteur is also concerned about.

151 The only study that departs from this is the one by Salou et al. 2009

152 See Chapter 1.

153 See Chapters 1 and 6.

154 *Parliamentary Documents II 2015 – 2016*, 31839, no. 500.

155 *Ibid.*

156 Los, 2014.

in 2015 the police organized a national week of action targeted at possible child victims of human trafficking and sexual violence¹⁵⁷ in male prostitution.¹⁵⁸

Another way of learning more about whether homosexual, bisexual and transgender youths offer sexual services for payment and/or are exploited is by interviewing social workers who specialize in providing care for these young people. The reservation to be made here is that these young people appear to be reluctant to approach the social services when abuses occur, either because they do not regard themselves as victims or are unwilling to discuss the work they do.¹⁵⁹ According to Repetur and Veenstra, boys are also often not recognized or treated as victims.¹⁶⁰ To improve matters, it is worth considering setting up an accessible system of care for this group,¹⁶¹ with the necessary expertise, which could also provide dedicated services for young ethnic and religious LHBTs.¹⁶²

‘The specialized help appears to reach almost exclusively older children engaged in male prostitution. East European youths are over-represented in this group. Younger male prostitutes, both Dutch and from other countries, do have contact with other social services, but they are usually not aware that the youths engage in paid sex’ [Korf et al. 2009].

157 See also [National Rapporteur, 2015](#).

158 Written information from an employee of the aliens police, identification and human trafficking unit in Rotterdam, 23 November 2015.

159 See [Azough Commission, 2014](#); [Repetur and Veenstra, 2010](#); [Korf et al. 2009](#).

160 [Repetur and Veenstra, 2010](#). See also [Korf et al. 2009](#).

161 [Salou, 2009](#); [Donovan, 2014](#). Movisie has also developed an interviewing technique. This ‘model describes a strategy and procedure for engaging in a conversation with boys who engage in transactional sex. By displaying engagement, the social worker can try to steer the conversation towards motives for and against, and the positive and negative consequences of, engaging in transactional sex. In this way, the young person can be helped, within certain limits, to make the right decision and possibly stop engaging in transactional sex’ ([Movisie, 2013](#): p. 1).

162 [Movisie, 2007](#).

2.3 Children with the eating disorder anorexia nervosa

The decision to review the group of children with the eating disorder anorexia nervosa¹⁶³ was based on a single court case in the Netherlands and two news reports in other countries. All three sources showed that girls with anorexia had been specifically approached for the purpose of abusing them and/or securing sexually explicit material from them. In the court case in the Netherlands, the perpetrator was also convicted of trafficking a girl he had met when she was still a minor and with respect to whom, once she had reached adulthood, he performed acts with the intention of sexually exploiting her. What stands out is that in both the court case and one of the newspaper reports there were references to ‘pro-ana coaches’ and ‘pro-ana makers’. This exploratory analysis sets out to discover whether girls with anorexia nervosa face an increased risk of becoming victims of sexual violence and/or human trafficking and whether there are reasons to assume that they are actually being exploited.

2.3.1 Anorexia nervosa in the Netherlands

Anorexia nervosa is a psychiatric disorder that involves a preoccupation with eating, personal appearance and weight, resulting, among other things, in harmful eating behaviour.¹⁶⁴ Although anorexia actually means ‘loss of appetite’, in reality victims suffering from the disorder suppress their appetite and/or hunger. The German word *magerzucht* comes closer to covering the nature of the disorder: ‘an obsession with being thin’.¹⁶⁵ Anorexia patients typically do not seek help, display no significant complaints and do not regard themselves as being ill. Anorexia almost never occurs before puberty,¹⁶⁶ and is most common among girls between the ages of fourteen and twenty.

It is difficult to determine how prevalent this eating disorder is in the Netherlands, partly because of problems in diagnosing it, and partly because of the denial and shame felt by patients because of the ‘fetish for thinness’ in Western culture.¹⁶⁷ It is estimated that 0.4% of young women suffer from anorexia.¹⁶⁸

‘Eating disorders are more than a fad or an out-of-control diet. Nevertheless, our culture of dieting/slimming does seem to breed an excessive preoccupation with an “ideal weight”, particularly among women. When this exaggerated concern is coupled with a negative self-image, fear of failure and perfectionism or takes hold in a social context of tensions in relationships and a lack of individuation during adolescence, there is a serious risk of a pathological disorder’ [Hoogduin and Hoogduin, 2008].

163 It was decided not to discuss the eating disorder bulimia in this section because the National Rapporteur has not received any warnings in relation to it and the average age of girls and boys with bulimia is between 18 and 25 (Hoogduin and Hoogduin, 2008).

164 These psychiatric disorders are also included in the *Diagnostic and Statistical Manual of Mental Disorders 5th Edition (DSM-5)*, which is the standard work of the *American Psychiatric Association*.

165 Hoogduin and Hoogduin, 2008: p. 332.

166 Ibid: p. 337.

167 Ibid: p. 342.

168 ‘The 12 month prevalence of anorexia nervosa among young females is approximately 0.4%. Less is known about prevalence among males, but anorexia is far less common in males than in females [...]’ (DSM-5, 2013: p. 344).

2.3.2 Eating disorders, sexual violence and human trafficking

At first glance, there does not seem to be any logical connection between eating disorders, sexual violence¹⁶⁹ and human trafficking. However, as mentioned above, the existence of a connection is apparent from a Dutch court case in 2013 and two newspaper articles about how this specific group of girls has been targeted online with the aim of securing sexually explicit material and/or sexually abusing them.

In 2013, the Arnhem-Leeuwarden Court of Appeal convicted a 45-year-old man and sentenced him to two years in prison and mandatory placement under a hospital order for offences including rape, uttering threats and human trafficking of six girls/young women¹⁷⁰ with an eating disorder and/or anorexia-related problems in the period 2006-2012.¹⁷¹ He was also charged with producing pornographic material of one of the underage victims. It emerged from the statements that the perpetrator had consciously established contact with insecure girls with an eating disorder on the Internet,¹⁷² for example on so-called 'pro-ana websites', which are usually created by people who suffer from an eating disorder and extol the virtues of being thin. The websites publish tips and tricks for losing weight quickly and suggestions on how to hide this behaviour from family and friends. Once the man had established contact on these websites, the conversations moved to social media, such as Skype, Kik and Whatsapp, where the man posed as a confidant of the victims, complimented them and told them he could help them to achieve their goal of losing weight.¹⁷³ According to a number of the victims, the man called himself the 'ana-maker', which, according to one of the victims, meant that 'he transformed girls who were susceptible to it into anorexia patients'.¹⁷⁴ He also tried to force one of the girls, who had since reached the age of majority, to work as a prostitute in his sex club in Rotterdam by telling her that she had to repay a debt she owed to him.¹⁷⁵ For some of the girls, because of their dependence on and loyalty to their 'trainer', their vulnerable background and the manipulative methods he used, the situation persisted for years.

'He always had time for me, understood everything, he felt the same way about everything. There was a click. Yes... Only now do I see how he did it. He listened and told me what I wanted to hear. He coaxed me, charmed me. I even started keeping a record of how many calories I was taking each day. I was already slim, but I wanted to be even prettier for him' [Victim speaking in an interview in Trouw, 2013].

169 'Consistent with previous findings, the present results indicate that the prevalence of Child Sexual Abuse (CSA) is high among individuals seeking inpatient treatment for Anorexia Nervosa (AN). A history of CSA was associated with greater psychiatric disturbance overall and a higher rate of dropout for patients of the binge-purge subtype' (Carter et al. 2006).

170 It is not known precisely how many victims were minors. The suspect was in any case convicted of intentionally removing a minor from the person with the legal capacity to exercise authority over her (Gelderland District Court 27 June 2013, ECLI:NL:RBGEL:2013:2467).

171 The suspect was convicted of human trafficking with respect to one victim (Gelderland District Court 27 June 2013, ECLI:NL:RBGEL:2013:2467; ECLI:NL:GHARL:2013:9961).

172 A number of victims said that the suspect had contacted them via websites and/or social media visited by many girls with eating disorders. In a number of cases, the contact continued via Hyves (Gelderland District Court 27 June 2013, ECLI:NL:RBGEL:2013:2467; Arnhem-Leeuwarden Court of Appeal 24 December 2013, ECLI:NL:GHARL:2013:9961).

173 Pietersen, 17 June 2014, 'In de greep van de Anorexia-verkrachter' [In the grip of the Anorexia rapist], *Trouw*, available at <http://www.trouw.nl/tr/nl/4492/Nederland/article/detail/3673640/2014/06/17/In-the-greep-of-the-anorexia-verkrachter.dhtml>, consulted on 19 January 2016; RTL, 29 May 2013, 'Anorexiaverkrachter gaf weegschaal cadeau' ['Anorexia rapist gave a weighing scales as a gift'], available at <http://www.rtlnieuws.nl/nieuws/binnenland/anorexiaverkrachter-gaf-weegschaal-cadeau>, consulted on 19 January 2016.

174 Gelderland District Court 27 June 2013, ECLI:NL:RBGEL:2013:2467

175 In addition to anorexia and/or eating problems, this girl was also mildly mentally handicapped (Arnhem-Leeuwarden Court of Appeal 24 December 2013, ECLI:NL:GHARL:2013; Gelderland District Court 27 June 2013, ECLI:NL:RBGEL:2013:2467).

On 6 April 2011, the British newspaper *The Guardian*¹⁷⁶ published an article describing how recruiting agencies for producers of pornography were specifically targeting girls with anorexia to come and work for them as ‘models’. The article described how the girls were promised a lot of money if they accepted the offer. The girls were also approached on pro-ana websites. In order to win their confidence, on these websites and on forums the agencies posed as girls who were also struggling with anorexia. Once they had gained the girls’ trust, the agencies looked for ways of securing revealing photographs of them.¹⁷⁷ A number of these photos, and other photos that underage girls had themselves posted on pro-ana websites, were acquired by pornographic websites. Girls who were interviewed for the article did not know that their photos were being used for these purposes. They had assumed they were visiting a website with other girls with anorexia and that they were speaking to girls who were going through the same things they were.

*‘Anorexic porn is growing in popularity and the prevalence of pro-anorexia websites is making those with eating disorders easy targets for grooming. Vulnerable users of pro-anorexia websites are increasingly being courted for their emaciated frames by pornography agencies specialising in images of extremely thin women’ [Hobbs, *The Guardian*, 6 April 2011].*

On 3 June 2015, an article by an investigative journalist about men who posed online as ‘pro-ana coaches’ with the aim of securing sexual material of girls suffering from anorexia appeared in Germany.¹⁷⁸ Posing as a 15-year-old girl, the journalist contacted one of these ‘coaches’. The coach was an adult male, whose profile described him as a ‘professional pro-ana coach’ and said that girls could only register with him if they were willing to do anything to lose weight and become thin. Among other things,

*‘All the ads looking for ana-twins or WhatsApp groups seemed to have been placed by girls. But all of the pro-ana coaches either claimed to be male and over 20 or didn’t offer any information about their identity at all’ [Brenneisen, *Vice*, 14 juli 2015].*

the man asked for a photo of the journalist in her underwear in order to determine how much weight she needed to lose and told her she would have to meet a number of conditions before he would agree to coach her. One of the conditions was that she had to prepare to be ‘sexually humiliated’, because only then could she really lose weight and become genuinely anorexic. The man finally instructed her to make a film of herself masturbating on the toilet. He also ‘summoned’ her to his home in Frankfurt. The journalist then

informed the German police, who in turn contacted Interpol, which investigated the case. The journalist later returned to the pro-ana websites and found more advertisements for so-called ‘pro-ana coaches’.¹⁷⁹

176 Hobbs, 6 April 2011, ‘Anorexic Women Targeted by “Superskinny” Porn Websites’, *The Guardian*, available at <http://www.theguardian.com/society/2011/apr/06/anorexic-women-targeted-by-porn-websites>, consulted on 26 October 2015.

177 ‘One anorexia pornography agency admits to paying owners of pro-anorexia websites for each person who joins it after being contacted via the sites. “I pay the owner of this pro-ana community a donation for every model I found here,” confesses a “skinny scout” [...]’ (Hobbs, 6 April 2011).

178 Brenneisen, 3 June 2015, ‘Ich habe auf einem Pro-Ana-Blog einen Pädophilen getroffen, der mich in die Magersucht treiben wollte’, *Vice*, available at <http://www.vice.com/de/read/ich-habe-auf-einem-schweizer-blog-einen-paedophilen-getroffen-der-mich-in-die-magersucht-treiben-wollte-897>, consulted on 26 October 2015.

179 Members of the National Rapporteur’s staff have also visited websites and forums where girls with anorexia contact each other (various websites consulted on 18 February 2016). The impression they had was that underage Dutch girls also visit these sites in search of a coach or buddy who can help them to lose weight. Many of the messages sent also contained the sender’s mobile telephone number, Kik account and/or e-mail address. There were also a number of active users who offered their services and said they would ‘help’ the girls achieve their goals. The question is to what extent adults also visit these forums posing as young girls in an attempt to secure photos and films, for example.

At first glance the method used in these cases is similar to the loverboy approach that is adopted with vulnerable girls who are looking for love and/or social acceptance.¹⁸⁰ But in the case of girls with an eating disorder, the perpetrator is not a human trafficker trying to recruit them by forming a relationship (the loverboy method), but a ‘coach’ offering to help the girl to achieve her goal.¹⁸¹ These ‘coaches’ can sometimes induce the girl to send naked or semi-naked photos of herself so that he can ‘measure’ her and decide what is needed to help her achieve the goal of ‘perfection’. The next step seems to be that the girl has to prove her loyalty. The coach puts pressure on her by suggesting that he is doing her a favour and that he will abandon her if she does not cooperate. This carrot-and-stick approach, in combination with the vulnerable position in which these girls may find themselves, increases the chance that the girl will go to great lengths to prove her loyalty.¹⁸² This can result in her doing whatever the ‘coach’ expects of her, including sending nude photos or films of a sexual nature or visiting his home to work on her ‘slimming’. A position of dependence in relation to such a ‘coach’ makes these girls vulnerable to sexual violence and to sexual exploitation.

Because the information presented here is confined to a single court case and two news articles from other countries, the question is whether and, if so, to what extent girls with anorexia in the Netherlands become victims of a ‘pro-ana coach’. The situations described above reveal a number of risk factors for human trafficking. Girls who suffer from anorexia are generally between the ages of fourteen and twenty,

often do not see themselves as being ill and frequently suffer from low self-esteem. They often do not speak to their parents and/or friends about their extreme desire to lose weight because they feel the subject is taboo. These girls therefore move outside their safe environment in the search for information and contact with others who share their feelings. The main factors that human traffickers can abuse are their isolation, psychological problems and desire for acceptance.¹⁸³ What can further increase these girls’ vulnerability is that some of them go online to find

others who ‘understand’ them and are also striving for ‘perfection’. This has led to the creation of the so-called pro-ana websites, and girls who visit them can make themselves vulnerable if they share information and photos that could then be used for the purposes of exploitation.¹⁸⁴ Revealing photographs and films, in particular, can be used by human traffickers for blackmail. Girls who visit chatrooms and take risks in establishing contact with strangers are also more vulnerable to human trafficking.¹⁸⁵ All of

‘The ‘loverboys’ are men who consciously make women (or men) emotionally dependent by starting a love affair with their victims and subsequently exercise force to involve them in prostitution and sometimes other criminal activities like fraud with phone subscriptions, ATM cards and credit cards, or drug trafficking. The internet is used to recruit victims. Victims are identified through the internet and/or asked to send compromising pictures of themselves. Compromising images are used to blackmail them. [...] There are often profound psychological reasons why children engage in risky activities, such as neglect and abuse’ [European Commission, 2015].

‘Optenet, an international IT security company, reported that between 2006 and 2008 the number of pro-ana websites globally increased 470% to more than 1,500 and social networking and blogging has seen a surge in online pro-anorexia content’ [Hobbs, The Guardian, 6 april 2011].

180 See also National Rapporteur, 2009; National Rapporteur, 2013; Verwijs et al. 2011; Brayley et al. 2011.

181 The case described by Hobbs (6 April 2011) differs from the other two cases. The article published in *The Guardian* was mainly concerned with pornography agencies that specifically targeted girls with anorexia. However, these agencies also used deception.

182 Srikantiah, 2007.

183 This is also identified as one of the risk factors by the European Commission (European Commission, 2015).

184 Ibid.

185 European Commission, 2015.

these risk factors possibly increase the vulnerability of girls who suffer from anorexia to becoming victims of (sexual) exploitation.

Although there are a few specific risk factors that could make girls with anorexia vulnerable to human trafficking, no evidence has been found that they have actually become victims of exploitation, apart from the man who was convicted on appeal in 2013 for the trafficking of a girl whom he had got to know when she was a minor and intended to exploit when she reached adulthood.¹⁸⁶ The court case and the two newspaper articles further show that the main threat is of sexual violence, such as the production and distribution of child pornography and grooming.¹⁸⁷

'I had already spent a week with teenagers belonging to an online pro-ana group for the purposes of another article, and had experienced firsthand the strange self-loathing these girls possessed. They wanted to be reminded of how worthless and fat they were on a daily basis. This man was using a very dangerous illness for his own gain—namely, to get intimate photos of underage girls' [Brenneisen, *Vice*, 14 juli 2015].

2.3.3 Vigilance

This section explored the risk factors that could make girls suffering from anorexia nervosa vulnerable to human trafficking. Their vulnerability lies mainly in the taboos surrounding eating disorders, their isolation, psychological problems and search for acceptance outside their safe environment. Girls with anorexia could also face a greater risk of becoming a victim of human trafficking if they share explicit material on forums on the Internet and allow themselves to be taken in by so-called 'pro-ana coaches'. On the other hand, there is scarcely any information to suggest that this supposed vulnerability is actually abused by human traffickers. There is in fact more cause for concern about the possible risk of sexual violence against members of this group, as illustrated by the court case and the two news reports discussed in this analysis. On the basis of this exploratory analysis, this group is therefore assigned to the category 'vigilance.

Professionals who work with girls who suffer from anorexia should obviously be alert to signs of sexual violence, and possibly also of exploitation. There is no immediate reason to conduct further research or take specific measures. If it is decided to conduct further research, it should focus on the activities of the so-called pro-ana coaches who offer their services on online forums, as well as exploring the possibilities of interviewing girls who suffer from anorexia and visit pro-ana websites for signs of sexual violence, and perhaps even of exploitation.

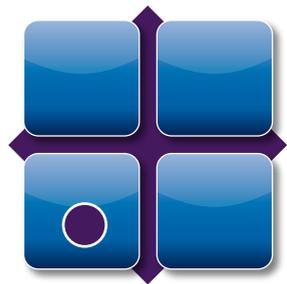
186 Gelderland District Court 27 June 2013, ECLI:NL:RBGEL:2013:2467; Arnhem-Leeuwarden Court of Appeal 24 December 2013, ECLI:NL:GHARL:2013.

187 See Article 240b and 248e DCC.

Civil war in Syria and potentially vulnerable children

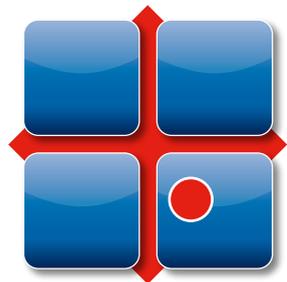
Syrian child brides

On the basis of this initial study, Syrian child brides are estimated to be relatively vulnerable to human trafficking. Their vulnerability is connected mainly with *familial* and *structural* factors and is a consequence of their youth, their position of dependence on their husbands and the fact of being forced to marry by their families. The hidden nature of the phenomenon makes it difficult to actively capture signs of sexual violence and human trafficking. There is no evidence of human trafficking in relation to this group. On the basis of this exploratory research, Syrian child brides have been assigned to the category '**research and prevention**'.



Children who join or wish to join ISIS

On the basis of this initial study, the group of children who join or wish to join ISIS is estimated to be moderately vulnerable to human trafficking. The main finding is that it is difficult to classify this group of children according to strictly defined profiles in terms of vulnerability. Their vulnerability appears to arise mainly from *individual* factors. It is also difficult to say whether human traffickers specifically target these children because so little is known about the methods and intentions of recruiters for ISIS. At present, there is no evidence of human trafficking within the meaning of Article 273f of the Dutch Criminal Code (DCC). On the basis of this exploratory research, the group of children who join or wish to join ISIS has been assigned to the category '**vigilance**'.



3.1 Introduction

In the midst of a lengthy civil war in Syria, on 29 June 2014 Islamic State in Iraq and al-Sham (ISIS) proclaimed a worldwide caliphate united in a single state governed by a 'Caliph'. ISIS regards the Caliph, Abu Bakr al Baghdadi, as the successor of the Islamic prophet Mohammed. The caliphate claims religious, political and military authority over all Muslims and calls on Muslims worldwide to swear loyalty to the Caliph and to settle in ISIS territory.¹ ISIS controls an area inhabited by more than ten million people, within which it commits war crimes and grave violations of human rights.²

That is the reason why millions of men, women and children have left their homes and fled to safer regions. On 31 December 2015, 4,602,203 Syrians were registered as refugees from the civil war.³ The vast majority have fled to the neighbouring countries of Turkey, Lebanon, Egypt and Jordan.

In addition to the many victims and displaced persons that the conflict has created, there are also signs that it has increased the risk of human trafficking in the region.⁴ According to a report by the International Organization for Migration (IOM),⁵ for example, human traffickers have free rein in the region because of the effective absence of the rule of law. William Lacy Swing, the IOM's Director-General, has said of this: 'The on-going conflict in Syria has forced many families and individuals to adopt harmful coping mechanisms such as forced early marriages and child labour, often resulting in exploitation and trafficking.'⁶ ISIS also exploits adults and children.⁷ The Yazidi girls and women who have been kept as slaves and forced to provide sexual services are an appalling example of this.⁸

This chapter focuses on two distinct groups of children who might be vulnerable to human trafficking and have a link with the Netherlands as a result of the situation in Syria and parts of Iraq. The first group comprises children who fled to the Netherlands to escape the war, while the second group consists of

'Trafficking in persons is typically not considered as a direct consequence of a crisis. This misplaced assumption often hampers the field response to human trafficking cases, not only in terms of documentation, reporting, identification and assistance to the victims, but also in the subsequent criminal investigation. Counter-Trafficking efforts are not necessarily understood as immediate life-saving in an emergency situation. In reality, these efforts are a matter of life and livelihood for the Victims of Trafficking and should therefore be considered with as much priority as for any other crisis affected population' [IOM, 2015].

1 AIVD, 2016.

2 United Nations, 2014.

3 Source: <http://data.unhcr.org/syrianrefugees/regional.php>, consulted on 15 January 2016.

4 International Centre for Migration Policy Development, 2015.

5 IOM, 2015

6 Swing, 30 July 2015, 'Crisis situations are laboratories for human traffickers', available at <http://www.mo.be/opinie/crisissituaties-zijn-laboratoria-for-menshandelars>, consulted on 4 August 2015. See also National Rapporteur, 2007: p. 531. This shows that 'brides' in forced marriages are a risk group for human trafficking. See also the advice of the National Rapporteur on the Council of Europe's advisory report on domestic violence, available at http://www.nationaalrapporteur.nl/Images/210314-advies-of-the-nr-over-verdrag-inzake-geweld-tegen-vrouwen-and-huiselijk-geweld_tcm63-543859.pdf, consulted 24 February 2016.

7 Other examples are the use of child soldiers in the conflict and the boys and men who are forced to take part in the fighting. See, for example, Van der Bas, 23 July 2015, 'Schokkend: ISIS gebruikt steeds vaker kindsoldaten' [Shocking: ISIS increasingly using child soldiers], *Dagelijkse Standaard*, available at <http://www.dagelijksestandaard.nl/2015/07/schokkend-isis-gebruikt-steeds-vaker-kindsoldaten/>, consulted on 4 March 2016; Horgan and Bloom, 8 July 2015, 'Hoe Islamitische Staat kindsoldaten ronselt en gebruikt' [This is how Islamic State manufactures child militants, *Vice*, available at <http://www.vice.com/nl/read/hoer-islamitische-staat-kindsoldaten-ronsel-and-gebruikt-191>, consulted on 2 March. See also ICSR, 2015.

8 Ali, 2015.

children who travel to Syria and/or Iraq to join ISIS. The former group comprises underage Syrian girls who have been forced to marry an older man in their country of origin or in a refugee camp and are living or intend to live in the Netherlands.⁹ According to written information from the Immigration and Naturalization Service (IND), between 24 July 2014 and 18 February 2016 there had been approximately 210 Syrian child brides living in the Netherlands.¹⁰ The second group is made up of boys and girls who travelled or wished to travel from the Netherlands to join ISIS in Syria and/or Iraq. According to figures from the National Co-ordinator for Security and Counterterrorism (NCTV), up to October 2015, 220 Dutch nationals had travelled to join ISIS,¹¹ including minors who had decided to leave on their own and children who were taken abroad by their parents.

Although at first glance these two groups seem to have little in common, they are united by the fact that both have been mentioned in connection with human trafficking in other studies and/or in the media. The question, however, is to what extent these groups are actually vulnerable to human trafficking and whether human traffickers specifically target them. One of the difficulties in answering these questions is the often hidden nature of both of these phenomena, taking place as they do within the household, on the (encrypted) Internet, on social media and/or in other countries. This chapter presents an initial study of both groups of children, which is based, since there has been little research into either group, on exploratory research, anecdotal material¹² and reports that have reached the National Rapporteur.

3.2 Syrian child brides

The number of Syrian refugees has risen steadily since the start of the country's civil war in 2011. While most of them have fled to the neighbouring countries of Turkey, Lebanon, Egypt and Jordan, 16,655¹³ Syrians requested asylum in the Netherlands between January and September 2015.¹⁴ The journey to the Netherlands is expensive and not without danger. In 2014, it was principally Syrian men who came to the Netherlands.¹⁵ In addition to requesting asylum, some of these men also applied for family reunification. In 2015, however, reports started appearing that families were in fact sending their children to Europe in the belief that this would increase the chance of a positive decision on an application for family reunification.¹⁶ The Ministry of Security and Justice dismissed this reasoning, however, and said that it made the chance

'Some 2.2 million Syrians have fled the country during the three-year conflict, mostly to Jordan, Lebanon and Turkey. Many are unaccompanied women with children. Women and girls in refugee camps and overcrowded accommodation in urban areas are at risk of sexual and domestic violence. [...] there was also strong evidence that men were coming to the region from other parts of the Arab world to marry vulnerable women and take them back to countries in the Gulf and elsewhere. Some of these men had "very suspect histories" while others were almost certainly involved in trafficking' [Thomson Reuters Foundation, 2013].

9 For some of the girls, an application for family reunification was made by the husband.

10 Written information from the IND, 19 February 2016.

11 Information taken from the NCTV website: www.nctv.nl/onderwerpen/tb/dtn/actueeldreigingsniveau, consulted on 19-02-2016.

12 A large portion of the anecdotal material is taken from reports in various media.

13 This figure is the total number of asylum applications, including initial applications, repeat applications and applications for family reunification.

14 IND, 2015.

15 De Fijter, 30 March 2015, 'Duizenden Syriërs hopen op gezinshereniging in Nederland' [Thousands of Syrians hoping for family reunification in the Netherlands], *Trouw*.

16 *Ibid.*

of family reunification in the Netherlands neither greater nor smaller. Europol reports that child refugees are vulnerable to sexual violence and human trafficking,¹⁷ so it is worrying that more than 10,000 children have reportedly crossed the Syrian border without their parents and that more than half of the Syrian refugees in the region are minors.¹⁸

3.2.1 Syrian child brides

It is not only the number of refugees that poses a challenge for the Netherlands, it is also the fact that the refugees arriving in the Netherlands are vulnerable to human trafficking.¹⁹ This section focuses on one specific group of Syrian children who have come to the Netherlands and seem to be particularly vulnerable to sexual violence, and possibly also to human trafficking.²⁰ These are Syrian child brides,²¹ girls who married before their 18th birthday in Syria or in refugee camps in neighbouring countries.²² According to a report by UNICEF, child marriages²³ have been an accepted practice in Syria for a long time, but the number of such marriages has risen substantially since the start of the Syrian civil war in 2011.²⁴ Reasons given for the increase are the worsening economic conditions of the brides' families and the unsafe situation for underage girls in Syria and in the refugee camps.²⁵ A family can ease its economic difficulties by marrying off an underage daughter. Families also believe that a marriage brings *sutra*²⁶ for the young girl, that a marriage will ensure that their traditions are continued and that it is a way for girls to escape an unsafe environment. On that latter point, it has been found that girls in Syria or in refugee camps marry in

'Aid organizations have raised the alarm about child brides among Syrian refugees. Parents who live in poverty are marrying off their daughters to ease the financial burden or to prevent them from being raped' [De Standaard, 2013].

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- 17 Townsend 30 January 2016, '10,000 Refugee Children are Missing, says Europol', available at <http://www.theguardian.com/world/2016/jan/30/fears-for-missing-child-refugees>, consulted on 26 February. The children who flee the civil war in Syria and come to Europe are also generally a vulnerable group for human trafficking, according to Europol. See, for example, Sharifi, 6 November 2015 and Feenstra, 16 January 2016, 'Mensenhandel actief rond asielzoekerscentra' [Human traffickers active around asylum centres], *De Volkskrant*.
- 18 UNICEF, <http://www.unicef.nl/wat-doet-unicef/vluchtelingenkinderen/cijfers/>, consulted on 4 March 2016.
- 19 See also the article by Sharifi, in which he quotes Europol, UNHCR and the National Rapporteur about the vulnerability of underage refugees to human trafficking (Sharifi, 6 November 2015, 'Jong en alleen on de vlucht: En dan de verkeerde tegenkomen' [Young and alone on the run: And then meeting the wrong person] in *NRC Handelsblad*).
- 20 RTV Noord, 28 September 2015, 'Tientallen Syrische kindbruiden onderweg naar Ter Apel' [Dozens of Syrian child brides on their way to Ter Apel], available at <http://www.rtvnoord.nl/nieuws/154125/Tientallen-Syrische-kindbruiden-onderweg-naar-Ter-Apel>, consulted on 15 January 2016.
- 21 Following the example of reports and policy documents that have been published on this subject, it was decided to use the term 'Syrian child brides' when referring to girls who were minors when they married.
- 22 European Migration Network, 2015. Scarcely any research has been conducted into the effects of forced marriage on underage boys. See also Strohlic, 18 September 2014, 'The Sad Hidden Plight of Child Grooms', *The Daily Beast*, available at <http://www.thedailybeast.com/articles/2014/09/18/the-sad-hidden-plight-of-child-grooms.html>, consulted on 17 February 2016.
- 23 Child marriages are defined as 'marriages where at the time of the marriage at least one of the marriage candidates had not yet reached the age of 18' (Rutten et al. 2015: p. 4).
- 24 UNICEF, 2014.
- 25 UNHCR, UNICEF and WFP, 2012; UNICEF, 2014.
- 26 '*Sutra* is a concept that has roots in Islam, but has also attained wide cultural acceptance in the region among people of all faiths. Precise interpretation of what the concept encompasses may differ from one group to another, but in a general sense, *sutra* means attaining security in life and protection from hardship. It can be pursued proactively, as a kind of safeguarding of one's future, or reactively, in response to a situation perceived as problematic' (UNICEF, 2014: p. 9).

order to secure protection against abuse or rape.²⁷ Although the number of child marriages is growing, it seems that, since the start of the civil war, the families of brides are less insistent in demanding guarantees for the girls' welfare as an essential condition for an arranged marriage. According to UNICEF, this increases the risk that the girl who is being forced to marry will suffer sexual violence and exploitation.²⁸ The factors that could make Syrian child brides vulnerable to sexual violence and exploitation are reviewed in the following sections.²⁹

3.2.2 Syrian child brides, sexual violence and human trafficking

Minors are, by definition, in a position of dependence, which can make them vulnerable. The risk of suffering sexual violence and exploitation is possibly even greater for Syrian child brides because they are often forced to marry older men they do not know³⁰ (an age gap of ten years is not uncommon).³¹ After all, the position of an unmarried girl living in a refugee camp and on the journey to Europe is dangerous and uncertain, with a greater chance that she will be sexually abused or raped.³² Although in such cases an arranged marriage can provide protection against sexual violence by other men in the short term, research has also shown that girls in arranged marriages generally become increasingly dependent on their adult husband and that the arranged marriage can lead to an unsafe situation *within* the marriage.³³ For example, married girls abandon their schooling sooner³⁴ and can become victims of sexual violence by being expected to be sexually active at a young age, before they are physically and emotionally ready.³⁵

'Recognizing that child, early and forced marriage constitutes a serious threat to multiple aspects of the physical and psychological health of women and girls- including but not limited to their sexual and reproductive health, significantly increasing the risk of early, frequent and unintended pregnancy, maternal and newborn mortality and morbidity, [...], as well as increasing vulnerability to all forms of violence, and that every girl and woman at risk of or affected by these practices must have equal access to quality services such as education, counselling, shelter and other social services, psychological, sexual and reproductive health-care services and medical care' [UN General Assembly, A/HRC/29/L.15].

27 Save the Children, 2014.

28 UNICEF, 2014: p. 28.

29 Anti-Slavery International, 2013.

30 For more about the observed risk of Syrian girls being sold to Arab men, see also RTL, 25 September 2013, 'Jordanien: Menschenhändler verkaufen syrische Flüchtlingsmädchen' [Jordan: Human trafficker sells Syrian girl refugees], available via <http://www.rtl.the/cms/jordanien-menschenhaendler-verkaufen-syrische-fluechtlingsmaedchen-1644889.html>, consulted on 25 September 2015 and Save the Children, 2014.

31 UNICEF, 2014: p 27. The manual records of child brides kept by the IND show that the age gap in most marriages was between five and fifteen years.

32 Save the Children, 2014; Amnesty, 18 January 2016. 'Female Refugees Face Physical Assault, Exploitation and Sexual Harassment on their Journey Through Europe', available at <https://www.amnesty.nl/nieuwsportaal/pers/female-refugees-face-physical-assault-exploitation-and-sexual-harassment-their-jo>, consulted on 19 January 2016.

33 Save the Children, 2014.

34 Research has shown that few girls who marry at a young age continue and complete their education, even when it was a condition for the marriage. The demands of married life and motherhood almost always take priority. Nevertheless, more research is needed to confirm the causality (UNICEF, 2014: p. 9).

35 See also Chapter 4, where there is a further discussion of child marriages and the criminal provisions that could possibly play a role in combating them.

It has also been found that girls who marry at a young age often become pregnant shortly after the consummation of the marriage and can consequently face greater health risks.³⁶ In addition, in most cases the girl is expected to care for the children and the household.³⁷ The danger is that (sooner or later) these girls will disappear into the home, become so-called ‘hidden women’³⁸ and be forced into complete subservience to their husband.³⁹

‘My father forced me to get married because he heard about a rape case nearby. He was scared the same would happen to my sister and me. He forced my sister to get married first, and then he made me get married right after that. It was all very forceful and I had no choice. I didn’t want to get married. I would’ve liked to finish my studies, but I couldn’t do that’. [Maha, 13 year old, The Guardian 2014]

3.2.3 Syrian child brides in the Netherlands

On 28 September 2015, a news report drew national attention to the issue of Syrian girls living in the Netherlands and married to adult men.⁴⁰ The report prompted considerable political and public outrage. The ages at which the girls were married ranged from thirteen to seventeen.⁴¹ Asked how many child brides there are in the Netherlands, the State Secretary for Security and Justice said: ‘Child brides are not recorded separately in the Immigration and Naturalisation Service’s registration system. In response to various signals, the IND has been keeping manual records. These records only provide a rough indication from which no firm conclusions can be drawn.’⁴² In response to the State Secretary’s statement, the National Rapporteur asked the IND how many child brides there were according to the manual records.⁴³ The records showed that roughly 230 child

‘According to Ineke van Winden of the Centre against Child Trafficking and Trafficking (CKM) in Leeuwarden, in many cases they are traumatized teenagers. “These girls are still children. They usually come from Syrian refugee camps in Lebanon, Jordan and Turkey, where they were forced to marry. They actually require help. Once they are captive in a forced marriage, there is a serious risk of further traumas”’ [RTV Noord, 2015].

36 Research has shown that having a child at a young age causes greater health risks for both the mother and the child (UNICEF, 2014: p. 30). See also Save the Children, 2014.

37 Save the Children, 2014.

38 These girls can be linked to the phenomenon of ‘hidden women’. Drost et al. define hidden women as follows: ‘women who are forced by their partner and/or family or family-in-law to live in isolation from others’. This is often accompanied by psychological intimidation or even physical violence. They are kept at home against their will and are allowed to have no contact or only very limited contact with the community’. In fact, neither study covered situations of human trafficking because each of these situations have their own problems and approach, according to the researchers (Drost et al. 2012). See also Drost et al. 2015.

39 Save the Children says the following about this: ‘The greater the age difference, the more likely girls are to be disempowered and at risk of violence, abuse or exploitation’ (Save the Children, 2014: p. 6). See also International Center for Research on Women, 2007: p. 10 and Child Protection and Gender-Based Violence Sub-Working Group Jordan, 2013: p 29.

40 RTV Noord, ‘Tientallen Syrische kindbruiden onderweg naar Ter Apel’, [Dozens of Syrian child brides on their way to Ter Apel] 28 September 2015, available at <http://www.rtvnoord.nl/nieuws/154125/Tientallen-Syrische-kindbruiden-onderweg-naar-Ter-Apel>, consulted on 15 January 2016.

41 The group of children must also be understood to include boys who are married at a young age and are eighteen years or older when they arrive in the Netherlands.

42 *Parliamentary Documents II* 2015/16, schedule number 639.

43 The IND noted the following constraints and reservations in relation to the figures: ‘Child brides are not separately registered in the IND registration system. In order to give an indication, since the end of 2014 the IND has kept rough manual records of reports of principal persons who have an underage spouse. In other words, these reports relate not only to underage spouses in a procedure for a residence permit or asylum, but also to principal persons who inform us that they have an underage partner or spouse in another country for whom no procedure has yet started. The method of gathering and registering information gives a limited impression and is indicative. No firm conclusions can be based on it’ (written information from IND, 19 February 2016).

brides had been reported to the IND between 24 July 2014 and 18 February 2016.⁴⁴ The total number of Syrian child brides was approximately 210.⁴⁵ The reports were mainly from individuals who said they had an underage spouse in another country.⁴⁶ The IND estimates that 60 child brides entered the Netherlands between 1 September 2015 and 18 January 2016 without a residence permit, accompanied by their husband or otherwise.⁴⁷ In addition, ten requests were made for child brides to join their husband in this country in the context of family reunification during that period.⁴⁸ The youngest child bride registered with the IND in the period between 24 July 2014 and 18 January 2016 was fourteen years of age, and in most cases, the age gap between the bride and the husband was between five and fifteen years.⁴⁹

Furthermore, there were cases of girls who were married at a very young age (between the ages of twelve and fifteen) in Syria or in one of the neighbouring countries, but who were older when they arrived in this country.⁵⁰

In the Netherlands, these girls are still vulnerable to sexual violence, and possibly also to human trafficking. Depending on their age,⁵¹ the members of this group face the risk of becoming victims of sexual violence within the marriage,⁵² including sexual assault⁵³ and rape.⁵⁴ In addition to the risk factors discussed above, these girls are in a country where they usually do not have a network of their own and are

'Sexual violence is inherent within child marriage: sex with a child under the minimum age for consent and unwanted sexual relationships are gross violations of a child's rights, regardless of whether they take place within the context of a marriage' [Save the Children, 2014].

44 The manual registration commenced on 24 July 2014 and the figures mentioned in this document are rounded off to the nearest ten.

45 There were also reports during this period of child bride cases connected with other countries, such as Iraq (10) and Eritrea (10).

46 These reports contain various signals, such as underage spouses in a procedure for a residence permit, but also underage spouses who have travelled to the Netherlands together with the principal person and have entered the asylum procedure (request for an independent asylum procedure)' (written information from the IND, 19 February 2016).

47 Written information from the IND, 19 February 2016.

48 The youngest person for whom family reunification was requested was twelve. However, the youngest person for whom a request for family reunification was granted was fifteen (written information from the IND, 19 February 2016).

49 Written information from the IND, 19 February 2016.

50 An estimated 110 of the 230 reports, evenly distributed throughout the period, were reviewed to ascertain at what age the girls were married. The distribution for each age group is as follows (rounded off to tens and although Syrians are by far the largest group, other nationalities were also included): 12 years: <10; 13 years: 10; 14 years: 20; 15 years: 20; 16 years: 30; 17 years: 30.

51 For example, children under the age of sixteen are considered to be minors with regard to sexual consent, which in principle means that having sex with these children constitutes sexual assault.

52 Save the Children, 2014; ICRW, 2005. See also UN Resolution A/HRC/29/L.15, which builds on two earlier resolutions (Resolutions 24/23 of 27 September 2013 and 69/156 of 18 December 2014) calling on States to intensify efforts to prevent child marriages.

53 Committing indecent acts with children under the age of sixteen is a criminal offence in the Netherlands by virtue of Articles 245 and 247 DCC. However, these articles contain the phrase 'out of marriage', which means that the indecent acts defined in those articles are not crimes within marriage.

54 Rape is a criminal offence under Article 242 DCC in the Netherlands. There have in fact been disturbing reports of Syrian girls being raped in asylum camps and then forced to marry the rapist in order to restore the family's honour (Save the Children, 2014).

unfamiliar with the culture, the language or the law.⁵⁵ This makes them particularly vulnerable, because they do not know how to protect themselves against violence and abuse and a possible situation of exploitation, nor do they know where they can turn to for help and protection. Consequently, if a girl does suffer sexual violence and/or exploitation, it can continue for a long time.

A factor that can further complicate and sustain a girl's vulnerability is the risk of 'honour-related violence'.⁵⁶ This is a term used to connote 'the motive for committing or threatening violence',⁵⁷ usually connected with the assumed duty to defend the family's honour,⁵⁸ for example if the girl seeks a divorce.⁵⁹ The family uses the threat or use of violence (usually carried out by a family member) in order to preserve its honour.⁶⁰ The practice is not reserved to immediate family members such as parents or brothers and sisters, but can also be carried out by grandparents, aunts, uncles and cousins.⁶¹ Nidos, the Dutch child guardianship agency, reported a case where a Syrian girl was threatened by family members to prevent her from requesting a divorce.⁶² In other cases, honour revenge has been regarded as a possible risk factor when decisions were being made on whether spouses should be held in detention separately.⁶³ All of these factors can contribute to the vulnerability of Syrian child brides to sexual violence and exploitation. However, there have been no specific signs of human trafficking occurring during the period that Syrian child brides have been living in the Netherlands.⁶⁴

'With honour-related violence, mental or physical violence is employed to protect the family's honour or to restore its honour. The threat of honour-related violence (including honour killing) or of ostracization by their family can make a woman fearful of altering her situation, for example by getting a divorce. She therefore goes along with the situation. In the eyes of the hidden women divorce is a scandal, it is not permitted and it is wrong. A divorce seriously offends the family's honour. With all the ensuing consequences' [Drost et al. 2015].

55 See also the reaction of the National Rapporteur in 2012 to the bill for the prevention of forced marriages (available at https://www.eerstekamer.nl/overig/20121126/reactie_national_rapporteur/document, consulted on 25 September 2015).

56 On this point, see also Parliamentary Documents 2015 – 2016, Schedule 477, in which the State Secretary for Security and Justice explicitly stated that the National Centre of Expertise for Honour-Related Violence could also be involved in efforts to protect these girls.

57 Janssen, 2010: p. 117.

58 For more information about honour related violence, see Van Eck, 2001; Ermers, 2007; Janssen, 2008a.

59 'The Syrian Women Observatory, an independent Syrian website that addresses discrimination against women, estimates that there are nearly 200 such killings each year. If this figure is correct, on average, 16 Syrian women are killed by relatives every month, in a country with a population of approximately 18 million' (Human Rights Watch, 28 July 2009, 'Syria: No Exceptions for 'Honour Killings'', available at <https://www.hrw.org/news/2009/07/28/syria-no-exceptions-honor-killings>, consulted on 5 August 2015). A report by Thomson Reuters Foundation shows that the Syrian civil war has led to more 'honour killings' and child marriages (Batha, 4 December 2013, 'Syrian War Causing 'Honour Killings', Child Marriages', Thomson Reuters Foundation, available at <http://www.trust.org/item/20131204182854-8hegf/>, consulted on 5 August 2015).

60 Janssen, 2010: p. 118.

61 Ibid.

62 A survey of EU member states conducted by the European Migration Network from the Netherlands showed that two cases possibly involved honour killings (EMN, 2015).

63 Men might also face the risk of being the victim of an honour killing in the event of a divorce.

64 Parliamentary Documents 2015-2016, Schedule of proceedings, no. 477.

3.2.4 Arranged marriages, Syrian child brides and the possible link with human trafficking

The question is what forms the exploitation of these girls could take and whether they fall within the scope of the human trafficking article in the Dutch Criminal Code.⁶⁵ The premise of the EU's Human Trafficking Directive is that human trafficking must not be defined by the location and context within which it occurs; if the elements of the offence can be proved, it is human trafficking regardless of the sector or (cultural) setting in which it has taken place.⁶⁶ A link can also be made between arranged marriages and human trafficking.⁶⁷ In the context of the problems discussed in this chapter, one should think mainly in terms of the situation of dependence on her partner that a girl finds herself in when she is forced to marry. Although there is no evidence of it occurring at the moment, this situation could eventually lead to exploitation, for example if the girl is kept in continuous servitude for years, as was demonstrated in a case in which a couple required their ten-year-old niece to perform domestic work for them for years, without allowing her to go to school. The girl literally disappeared behind the front door, removed from public view. In this case the court found as follows:⁶⁸

Continuous servitude

The suspect and her partner exploited their niece [victim], who was in a position of vulnerability, for seven years. [Victim] came to a strange country at the age of ten, where she did not speak the language and did not know its customs. [Victim] was in a disadvantaged position in the family [...]. In contrast to the other children in the family, [victim] did not go to school. Instead, she had to perform household chores and care for the other children.[...]. If [victim] did not meet the expectations of [suspect] [...], she was beaten, verbally abused and humiliated by the couple. Nor was any health insurance taken out for [victim] and during the time she stayed with the suspect [...] she was not able to visit a doctor or a dentist. [...] [Victim] felt trapped. By their actions, for years the suspect and her partner violated [victim's] fundamental human rights, her human dignity and her personal liberty, and did so during her formative years, a period when she was actually entitled to expect love, support and assistance from her family. The suspect harmed the mental integrity of [victim] and placed her own and her husband's personal comfort above that integrity. Through her actions, the suspect deprived [victim] of a free and untroubled childhood.⁶⁹

In the Netherlands, the question of whether the situation of dependence on her spouse in which a Syrian child bride can find herself actually crosses over into exploitation is answered on the basis of the legislation on human trafficking (Article 273f DCC) in combination with the interpretation of that legislation in the case law. According to the Supreme Court, relevant factors in assessing whether there was an intention to exploit another person⁷⁰ are the nature and duration of the work that had to be performed, the restrictions that the work imposed on the victim and the economic benefit gained by the person employing the victim, in this case the husband.⁷¹ In the opinion of the Supreme Court, that as-

65 Article 273f DCC.

66 See also recital 11 in the Preamble to the EU Human Trafficking Directive.

67 See also section 4.1.4.1 in which the relationship between arranged child marriages, human trafficking and coercion is discussed further.

68 The Hague District Court 30 January 2015, ECLI:NL:RBDHA:2015:996.

69 Ibid.

70 The intention of exploitation is one of the key elements of the crime of human trafficking.

71 Supreme Court 27 October 2009, ECLI:NL:HR:2009:BI7099, consideration 2.6.1.

assessment should be based on the standards that apply in the Netherlands; it is irrelevant, for example, that the situation concerned is acceptable under other frames of reference (the Syrian context, for example). The Supreme Court recently ruled that the assessment of these factors can lead to a different outcome in the case of underage victims than in the case of adult victims. This finding can be understood as an exhortation to take explicit account of the fact that the possible victim was a minor in assessing whether there was the intention of exploitation.⁷²

3.2.5 Prevention and research

This initial study has identified various factors that could make Syrian child brides vulnerable to human trafficking. Potential risk factors are their isolation, the increased threat of sexual violence, their position of considerable dependence on their husband and their lack of familiarity with the customs and laws in the Netherlands and the agencies they can turn to for help if they become victims of sexual violence or exploitation. These are worrying aspects. On the other hand, there are no explicit signs that human trafficking occurs within this group. On the basis of this initial exploratory analysis, the group of Syrian child brides is therefore assigned to the category 'Research and prevention'.

The moral indignation that arose following the reports⁷³ of the presence of Syrian child brides in the Netherlands led to the accelerated adoption of a bill for the prevention of forced marriages⁷⁴ in the Dutch Senate on 6 October 2015. The effect of the law is that minors are no longer permitted to marry and that the Netherlands will no longer recognize marriages performed with minors in other countries.⁷⁵ The law entered into force on 5 December 2015.⁷⁶ The National Rapporteur had been an advocate of the Forced Marriage (Prevention) Act for some time, but the law does not mean that all of the problems have been resolved at the stroke of a pen. The Netherlands may no longer recognize child marriages, but the spouses and the community could still regard the marriage as valid. It might therefore be expected that agreements made and payments promised still have to be complied with. This creates the risk that the marriages will informally remain in force and that married girls might disappear from view entirely for fear of being separated from their partner. This is a situation that poses challenges that cannot be resolved solely by a change in the law.

The law does not affect marriages that have already been recognized. The State Secretary for Security and Justice has said that it is not legally possible to annul a marriage that has already been performed and recognized.⁷⁷ However, he did promise to identify the vulnerable girls concerned and, where possible, offer them separate and secure shelter and medical and psychological help.⁷⁸ Various partners in the chain have a role to play in protecting these girls, including Nidos, the IND, the Central Agency for the Reception of Asylum Seekers (COA), the Child Care and Protection Board, the National Expertise Centre

72 Supreme Court 24 November 2015, ECLI:NL:HR 2015:3309, consideration 4.4.2.

73 RTV Noord, 28 September 2015, 'Tientallen Syrische kindbruiden onderweg naar Ter Apel' [Dozens of child brides on their way to Ter Apel], available at <http://www.rtvnoord.nl/nieuws/154125/Tientallen-Syrische-kindbruiden-onderweg-naar-Ter-Apel>, consulted on 19 January 2016.

74 *Parliamentary Documents II* 2012/13, 33488, no. 2.

75 *Bulletin of Acts, Orders and Decrees* 2015 no. 354 and *Bulletin of Acts, Orders and Decrees* 2015 no. 373.

76 *Bulletin of Acts, Orders and Decrees* 2015 no. 373.

77 See also *Parliamentary Documents II* 2015-2016, 19637, no. 2062 – *Motion by Oskam*. The motion was defeated.

78 On this point the State Secretary for Security and Justice said: 'Where minors wish to leave the marriage, specialized support (shelter and counselling) is offered by Fier Fryslân and Kompaan en Bocht. When Nidos is acting as the child's guardian, the question of whether the child should be placed in secured shelter or whether alternative shelter is more appropriate is reviewed' (*Parliamentary Documents II* 2015-2016, schedule number 639).

for Honour-Related Violence (LEC EGG) and the National Centre for Forced Marriage and Abandonment.⁷⁹ But how can these girls be monitored closely enough to intervene and protect them if there are signs of sexual violence or human trafficking and to prevent them from ending up as ‘hidden women’.⁸⁰ That calls for the creation of opportunities to establish contact with these girls so that problems that might suggest they are experiencing sexual violence and/or exploitation can be spotted at an early stage.⁸¹ These contacts could be arranged, for example, in asylum centres, in schools,⁸² and during appointments with family doctors,⁸³ hospitals and social community teams⁸⁴ and possibly at child health clinics.⁸⁵ It is also important to monitor girls who have split up with their partner, and, if necessary, provide protection and intensive counselling for them.⁸⁶

Another possible consequence of the Forced Marriage (Prevention) Act is that Syrian child brides and/or their partners will search for alternative ways of remaining together. For example, a girl might apply for asylum, together with her family, in the European country where her husband is already living.⁸⁷ Once she has secured residence status, she can then join her husband.⁸⁸ This makes it difficult for agencies like Nidos, the COA and the IND to discover these marriages or do anything to prevent them. For example, there have been cases where Syrian men have applied for asylum in the Netherlands and said they were married to a Syrian girl, but have not made a request for their bride to be allowed to join them. The authorities should be particularly on their guard with members of this group and remain alert if the child bride does later join her husband, for

‘A hidden woman has little freedom of movement. Most of her life is spent indoors. She is sometimes literally locked up in the home. The husband dictates, dominates and controls her life. She has no possibility to shape her own life or to make her own choices. Chatting with the neighbour, bringing the children to school or going shopping are usually forbidden or only allowed under strict supervision or with an escort. The women are subdued by psychological intimidation or even physical violence’ [Drost et al. 2015].

79 *Parliamentary Documents II* 2015 – 2016, schedule number 477.

80 See also the study by Drost et al. into hidden women, which shows that these women are difficult to reach and that ‘it often takes years before a hidden woman realizes that she deserves more than a life in forced isolation and that this situation is not good for her or her children. Only when the hidden woman herself has realized that the situation cannot continue is she willing to accept help’ (Drost et al. 2015: p. 8–9).

81 As suggested in the study by Drost et al. into hidden women, the measures already developed in relation to domestic violence could also be adopted for Syrian child brides (Drost et al. 2015: p. 10).

82 These girls fall under the obligation to follow education or obtain a qualification, whereby the calendar age is decisive. See also the Compulsory Education Act.

83 Payoke has written a handbook for medical professionals on how to recognize human trafficking and what to do if they encounter a possible victim. The handbook can be found at www.payoke.be/websites/52/uploads/file/GuideForPractitioners.pdf, consulted on 2 March 2016.

84 ‘Community teams have been formed in many municipalities with professionals from different institutions. These teams are engaged in prevention and support and often also provide first-line help and arrange access to specialized help,’ according to the Netherlands Youth Institute (available at <http://www.nji.nl/nl/Kennis/Dossier/Samenwerken-in-de-wijk>, consulted on 1 March 2016).

85 If domestic violence occurs, Veilig Thuis could also play a role (<http://www.informatiehuiseilijkgeweld.nl/>, consulted on 2 February 2015).

86 The study into hidden women by Drost et al. found that it is important for social agencies with sufficient expertise in the field to closely monitor women who have split up with their partner (Drost et al. 2015: p. 9).

87 State Secretary Dijkhoff also referred to this problem in a plenary debate on 30 September 2015, when he said that the relevant agencies must be alert to it (see *Parliamentary Documents II* 2015 – 2016, 19637, no. 2080).

88 The National Centre for Forced Marriage and Abandonment ‘identifies the risk that some Syrian refugees want their underage daughters to have a religious marriage in the Netherlands. The centre has taken active steps with the relevant national partners to determine how to deal with these children and to review working arrangements where necessary’ (*Parliamentary Documents II* 2015 – 2016, schedule number 639).

example when he has been granted asylum and has settled in a municipality. A second group of child brides that could arrive in the Netherlands via an alternative route are girls who have previously lived with their husband and had children with him. On the basis of Article 8 of the European Convention on Human Rights (Article 8), they could invoke the *family life*⁸⁹ criterion in making an application for family reunification. If so, consideration will have to be given to how these girls and their children can best be protected.

The problem is not confined to the Netherlands. Although there is no clear picture of the situation, other EU member states, including Norway,⁹⁰ Denmark,⁹¹ Sweden and Germany⁹² are also confronted with Syrian child brides.⁹³ If the Netherlands is unilaterally able to put an end to these child marriages, there is likely to be a waterbed effect. In other words, couples will move to European countries where child marriages are allowed. It is therefore important for the Netherlands to actively seek cooperation with other member states in pursuit of a common course of action against child marriages and so ensure that these girls are protected throughout Europe.

The Forced Marriage (Prevention) Act could also have the effect of preventing girls who are married from coming to the Netherlands by means of an application for family reunification. Speaking on behalf of the organization *Girls not Brides*, Princess Mabel of Orange has said that it cannot have been the intention that the law would have the effect of forcing underage girls to remain behind alone in a refugee camp.⁹⁴ Ways of protecting members of this group against sexual violence and human trafficking will also have to be explored, since the change in the law must not result in these girls ending up in a worse situation than if they had come to the Netherlands.

'Her husband did not lock her up, or threaten her with violence if she were to leave; this was not necessary. She experienced an extreme form of forced dependence with no networks, no language skills and no idea of where to go if she left him. She was simply not able to go. This way the marriage turns into a coercive mechanism, a position of power that could be exploited. Being in a situation of power is of course not enough in itself for a person to be classified as a trafficker. Marriages with uneven power balances and a high degree of dependence are not uncommon [...]. But when this dependence is systematically exploited it starts to look like trafficking' [Tylдум, 2013].

89 Article 8 of the European Convention on Human Rights. It might also be possible to make an application on the basis of the 'actual family ties' criterion (Article 29 (1)(e) and (f) of the Aliens Act). On this criterion, see also Strik et al. 2012.

90 In 2015, 61 minors who registered as asylum seekers in Norway were found to have been minors when they married. The youngest girl was eleven years of age. At least ten girls were below the age of sixteen when they were registered. Most of the girls came from Syria, Iraq and Afghanistan (Lupi, 2 February 2016, 'Minors as Young as 11 Already Married When Seeking Asylum in Norway – govt. data', *Reuters*, available at <https://www.rt.com/news/331035-norway-refugees-underage-marriages/>, consulted on 23 February 2016).

91 For Denmark, see the article 'Denmark Separates Underage Spouses in Asylum Centres', *The Local*, 11 February 2016, available at <http://www.thelocal.dk/20160211/child-brides-in-danish-asylum-centres-to-be-separated-from-spouses>, consulted on 23 February 2016.

92 In Germany, Syrian child brides are treated as unaccompanied minor aliens, so the German guardianship agency exercises authority over them and they can be separated from their husbands (Zeronian, 22 October 2015, 'Fear Rises Over Child Bride Epidemic as Young Girls Go Missing in Europe', *Breitbart*, available at <http://www.breitbart.com/london/2015/10/22/syrian-child-brides-seeking-asylum-open-new-front-european-migrant-crisis/>, consulted on 26 February 2016).

93 For Sweden and Norway, see also the survey of Syrian child brides by the *European Migration Network* (EMN, 2015).

94 Princess Mabel Wisse Smit on the radio programme *De Ochtend* on 7 October 2015.

Finally, the United Nations has adopted resolutions drawing attention to the need to protect women who are forced into marriage as children.⁹⁵ There are most likely also Syrian women in the Netherlands who were still children when they married but were adults when they applied for asylum with their husband. Even after reaching the age of majority, these women still face an increased risk of psychological and physical problems and various forms of violence, including sexual violence and possibly also exploitation. The United Nations also calls for attention for this group.

'What we need to do is see how we can best help the girls. You won't resolve the problem by saying "we don't want you to come to the Netherlands" [...]. The idea of a girl like that left behind alone in a refugee camp only makes me even more concerned about what will happen to her' [Princess Mabel of Orange, 2015].

⁹⁵ See also UN Resolution A/HRC/29/L.15, which builds on the earlier Resolutions 24/23 of 27 September 2013 and 69/156 of 18 December 2014.

3.3 Children who join or want to join ISIS

ISIS controls an area inhabited by more than 10 million people in which it commits war crimes and grave violations of human rights.⁹⁶ While millions of people have fled from the violence of ISIS, many thousands from different regions of the world are also travelling to Syria and Iraq⁹⁷ to join ISIS.⁹⁸ According to the Soufan Group, 5,000 men, women and children have travelled to Syria from Western Europe,⁹⁹ most of the men and boys to join ISIS as fighters. Since 2014, a growing number of women and girls have also travelled to territory controlled by ISIS, for example to marry a jihadist fighter.¹⁰⁰

The NCTV has reported that roughly 220 people had travelled from the Netherlands to Syria and Iraq in the period up to 1 October 2015. Approximately 40 of them have since returned and almost the same number have died in the fighting.¹⁰¹ Between February 2013 and 8 June 2015, the Child Care and Protection Board investigated 58 unique jihad-related cases involving 37 children who had left the country with their families and 21 minors who had travelled alone as potential jihadists.¹⁰² According to a report by the General Intelligence and Security Service (AIVD) entitled *Life with ISIS: the Myth Unravelling*, 'at least 70 Dutch children are living in territory controlled by jihadists in Syria and Iraq, the large majority of them with ISIS'.¹⁰³ These are children who were either born there or taken there by one or both of their parents.

This section deals with minors who have travelled or planned to travel to Syria or Iraq without their parents.¹⁰⁴ Since little research has been carried out on this subject, this study is based mainly on a number of exploratory surveys, anecdotal material¹⁰⁵ and signals from the professional field.

'Forces of the Islamic State of Iraq and al-Sham have committed torture, murder, acts tantamount to enforced disappearance and forced displacement as part of attacks on the civilian population in Aleppo and Raqqa provinces, amounting to crimes against humanity' [Verenigde Naties, 2014].

96 See the following documents from the United Nations illustrating this: A/HRC/27/60S-17/2/Add.1; A/HRC/19/69, A/HRC/21/50; A/HRC/22/59; A/HRC/23/58; A/HRC/24/46 and A/HRC/25/65.

97 Barret, 2014; AIVD, 2016.

98 Although there are other jihadist groups in Syria and Iraq that young people from the West have joined, such as Jabhat al-Nusra, this section focuses on ISIS. This decision is based in part on the report by the AIVD, which said that Dutch youths prefer to join ISIS rather than the traditional branches of Al Qaida, including Jabhat al-Nusra (AIVD, 2016: p. 3).

99 The Soufan Group, 2015.

100 Weggemans et al. 2014.

101 Information taken from the website of NCTV, available at www.nctv.nl/onderwerpen/tb/dtn/actueelreigingsniveau, consulted on 19 February 2016.

102 *Parliamentary Documents II* 2015 – 2016, 29754, no. 326, appendix 1.

103 A third were born there and two-thirds were taken there by one or both parents, according to AIVD. The number is probably higher, because it is not known precisely how many children have been born in Syria and/or Iraq (AIVD, 2016: p. 9).

104 There are also concerns about children who have been taken by one or both of their parents to ISIS. For example, children are prepared from a young age (the age of nine) for the conflict and also fight at the front. 'Whereas child soldiers were formerly forced to fight, the young ISIS fighters are so indoctrinated with radical Islam that they voluntarily commit the most gruesome acts' (Van der Bas, 24 July 2014, 'Schokkend: ISIS gebruikt steeds vaker kindsoldaten' [Shocking: ISIS increasingly uses child soldiers], *Dagelijkse Standaard*, available at <http://www.dagelijksestandaard.nl/2015/07/schokkend-isis-gebruikt-steeds-vaker-kindsoldaten>, consulted on 3 March 2015; Horgan and Bloom, 8 July 2015, 'Hoe Islamitische Staat kindsoldaten ronselt en gebruikt' [How Islamic State recruits and uses child soldiers], *Vice*, available at <http://www.vice.com/nl/read/hoes-islamitische-staat-kindsoldaten-ronselt-en-gebruikt-191>, consulted on 4 March 2016.

105 Anecdotal material that is often taken from reports in various media.

3.3.1 Jihadism, radicalization and recruitment

The NCTV defines the term ‘jihadism’ as a specific, highly radical interpretation of Islam.¹⁰⁶ Whereas Islam is a world religion, jihadism can be seen as a political ideology. Jihadists are convinced that a ‘holy war’ has to be fought against anything that deviates from the ‘pure doctrine’,¹⁰⁷ a simple message that seems to appeal to certain groups of men, women and children.

No child is born a terrorist. To understand how a child becomes a terrorist it is necessary, according to the NCTV, to consider two processes: radicalization and recruitment. The NCTV defines radicalism as follows: ‘The active pursuit of and/or support for fundamental changes in society that may endanger the continued existence of the democratic legal order (aim), which may involve the use of undemocratic methods (means) that may harm the functioning of the democratic order (effect)’.¹⁰⁸ According to the NCTV, radicalization is a social process, while ‘recruitment is a form of “direction” that taps into radicalization and seeks to channel it in the direction of violence. In order to tackle terrorism effectively, it is therefore important not to view these processes as separate, but to approach them in conjunction with each other.’¹⁰⁹

‘Although global jihadism is often linked to political Islam (Islamism), and indeed to some extent relies on the same sources, it in fact represents a radical break with Islamism as a political movement’ [NCTV, 2014].

3.3.2 Similarities and differences compared with human trafficking

The link between radicalization, recruitment, the jihad and human trafficking is being made more frequently.¹¹⁰ For example, there have been references in exploratory studies¹¹¹ and national and international media to *jihad loverboys*,¹¹² and trafficking in women in combination with boys and girls travelling

106 The term ‘jihadism’ has a number of definitions (Streusand, 1997), not all of which relate to the armed conflict. The NCTV’s definition is followed in this study.

107 NCTV, 2014.

108 AIVD, 2004.

109 See the website of the NCTV, available at <http://nctv.nl/onderwerpen/tb/watisterrorisme/radicalisering-rekrutering/>, consulted on 12 November 2015.

110 Halima Maakoul of Hulplijn Radicalisering, for example, refers to ‘religious loverboys’, <http://www.rtvutrecht.nl/nieuws/1292658>, consulted on 15 January 2016. Further examples are given in this section.

111 Binetti, 2015.

112 On 16 July 2005, one of the first times that ‘Islamic loverboys’ were written about was in connection with the Hofstad Group (De Telegraaf, 16 July 2005, ‘Preken én porno’ [Preaching and porn]). In 2006, in response to the article Groen and Kranenburg wrote as follows: ‘But, as already mentioned, the marriages are far more similar to glorified dating than a premeditated loverboy-like plan to recruit girls’ (Groen and Kranenburg, 2006: p. 57). In 2015, De Telegraaf also referred to jihad loverboys. The lawyer Michael Ruperti was quoted as saying: ‘These girls are approached, charmed, poisoned with extremist ideologies and persuaded to travel to IS territory with loverboy-like practices’ (Olmer, 16 May 2015, ‘Jihadronseelaar als pedofiel aanpakken’ [Tackle jihad recruiter in the same way as paedophile] De Telegraaf, available at http://www.telegraaf.nl/binnenland/24046751/___Jihadronseelaar_als_pedofiel_aanpakken___html, consulted on 3 March 2016.

to territory controlled by ISIS.¹¹³ Rob Wainwright, the head of Europol, also referred to the possible connection with human trafficking in 2015.¹¹⁴ This section looks more closely at the possible link between human trafficking and the recruitment of young people for ISIS on the basis of the three following questions:

- I. Are there possible similarities in terms of vulnerability?
- II. Are there possible similarities in terms of recruitment?
- III. Is there possibly exploitation in the recruitment of children for ISIS?

'Rob Wainwright, Head of Europol, told The Independent that authorities should mimic the tactics used in anti-slavery operations to stem the flow of aspiring jihadists who have often been groomed online' [McDonald-Gibson, The Independent, 2015].

This section concludes with a discussion of the differences between young people who are victims of human trafficking and those who are possibly recruited for ISIS and who travel or wish to travel to join it.

3.3.3 Possible similarities in terms of vulnerability

Research has shown that human traffickers take advantage of the vulnerabilities of minors in order to draw them into a situation of exploitation and keep them there.¹¹⁵ Although some young people knowingly travel to Syria and Iraq in order to join a terrorist organization, various studies have shown that some might have been in a vulnerable position before the process of radicalization and recruitment commenced.¹¹⁶ It is not known whether recruiters for ISIS have taken advantage of that vulnerability and, if so, to what extent. What is known is that the vulnerability of these young people can arise from a personal crisis, such as the death of a close relative,¹¹⁷ a bad situation at home,¹¹⁸ the lack of good future prospects¹¹⁹ or a sense of social exclusion.¹²⁰ This vulnerability can prompt these youngsters to search for meaning in their lives or a new personal identity, making them more susceptible to new ideas and world views.¹²¹

113 Binetti, 2015. For a selection of media reports, see: De Telegraaf, 28 April 2015, 'Debat in Maastricht over jihad en loverboys' [Debate in Maastricht about jihad and loverboys], available at http://www.telegraaf.nl/binnenland/23978794/Debat_over_jihad_en_loverboys.html, consulted on 3 March 2016; Kamerman, 21 March 2015, 'Zusters, jullie zijn nodig in het kalifaat' [Sisters, you are needed in the Caliphate], NRC, available at <http://www.nrcreader.nl/artikel/8442/zusters-jullie-zijn-nodig-in-het-kalifaat>, consulted on 3 March 2016; Nasser, 14 March 2015, 'How Does ISIS Try to Recruit Canadian Girls? By Using Same Tactics as Pedophiles, TV Special Says', National Post, available at <http://news.nationalpost.com/news/isis-recruiting-tactics-are-pretty-creepy>, consulted on 3 March 2016.

114 McDonald-Gibson, 5 March 2015, 'Europol Head: treat jihadi runaways like trafficking victims', Independent, available at <http://www.independent.co.uk/news/world/europe/europol-head-treat-jihadi-runaways-like-trafficking-victims-10089394.html>, consulted on 19 January 2016. In the same article, Wainwright also says: 'The facilitated movement of foreign fighters to Syria and Iraq – aided by false promises and the coercion of victims upon arrival – carries similar characteristics'.

115 European Commission, 2015; National Rapporteur, 2013; National Rapporteur, 2009; Tyldum, 2011; Reid et al. 2014.

116 See, among others, Feddes et al. 2015; Buijs et al. 2006; Poot et al. 2009.

117 Feddes et al. 2015.

118 Ibid.

119 Kleinman, 2012.

120 Richardson, 2012; Woodlock and Russel, 2008; Wiktorowicz, 2004.

121 Feddes et al. 2015.

According to the NCTV, socio-economic conditions and relative deprivation are also potential breeding grounds for radicalization.¹²² Psychological processes are another possible explanation for a person's vulnerability to radicalization and susceptibility to recruitment.¹²³ For example, by nature people have two deep-seated needs: to have an individual identity, and at the same time to be part of a group.¹²⁴ Young people who do not feel they receive respect as individuals or acceptance by a group might be particularly susceptible to adopting a radical religious identity.¹²⁵ 'What this identity offers above all is security, (absolute) certainty and the kind of unconditional love that many people (young adults in particular) long for. Loneliness, a sense of being left to one's own devices in a hyper-individualistic society and all the attendant pressures (not least the pressure to perform) can drive people to join others who think the same way and embrace radical ideas that offer a refuge'.¹²⁶

'I have come to understand trafficking as systematic exploitation of vulnerabilities. However, these vulnerabilities create an arena that makes exploitation possible, and one that traffickers can manipulate to keep their victims in a situation where continued exploitation is possible' [Tyldum, 2011].

Other elements apart from a vulnerable background can also help to explain why young people join ISIS. Feddes et al.¹²⁷ mention group pressure as an important factor, and Bovenkerk and Roex¹²⁸ refer to the existence of a new jihadist youth culture in which important motives for joining ISIS are greed and a desire for adventure and romance.¹²⁹

There are also a growing number of reports of girls leaving home to join ISIS,¹³⁰ many of them departing for Syria and Iraq in order to marry or to actively work for ISIS.¹³¹ The explanations given for ISIS's appeal to

122 NCTV, 2014: p. 21.

123 An exploratory study by Bakker and Grol of six case studies showed that 'recruiters' sometimes give young people the 'final push' to travel to Syria (Bakker and Grol, 2015).

124 NCTV, 2014: p. 21.

125 See also Noor, who has researched the motives of girls who have joined ISIS. She says that one of the reasons female Muslims are susceptible to radicalization is that 'young Muslim women live under enormous psychological pressure and that pressure can lead to vulnerability and emotional isolation'. In combination with intensive events in their lives, according to Noor, this can lead to 'religion becoming the most important coping mechanism for finding stability in a difficult situation' (Noor, 2016: p. 6).

126 NCTV, 2014: p. 21. According to the NCTV, it is also not surprising that young people with a criminal record feel an attraction to jihadism. 'Jihadists appeal to young people's feelings of guilt about their sinful life and offer them an easy way out [...] that quickly leads to redemption, atonement and a strong social identity from which a new status can be derived' (NCTV, 2014: p. 22).

127 Feddes et al. 2015.

128 Bovenkerk and Roex, 2011.

129 See also Barrett, 2014. A similar observation is made in the report by the Soufan Group: 'A search for belonging, purpose, adventure, and friendship, appear to remain the main reasons for people to join the Islamic State, just as they remain the least addressed issues in the international fight against terrorism' (Soufan Group, 2015: p. 6).

130 See, for example, De Volkskrant, 14 November 2014, 'Vermist minderjarig meisje naar Syrië vertrokken' [Missing underage girl has gone to Syria], available at <http://www.volkskrant.nl/binnenland/vermist-minderjarig-meisje-naar-syrie-vertrokken-a3790257/>, consulted on 3 March 2016; Kompagnie, 4 March 2014, 'Al vijf Goudse 'jihadbruiden' Syrië' [Five 'jihad brides' from Gouda already in Syria], *Algemeen Dagblad*, available at <http://www.ad.nl/ad/nl/1012/Nederland/article/detail/3607027/2014/03/04/Al-vijf-Goudse-jihadbruiden-in-Syrie.dhtml>, consulted on 3 March 2016.

131 'The AIVD says in its report that 'anyone travelling to the area ISIS controls is knowingly choosing to join a group responsible for acts of terrorism, including out attacks in Europe. In practice, that means that every one of them, male or female, armed or not, is playing an active part in ISIS's struggle' (AIVD, 2016: p. 15). However, although women would like to fight with ISIS, they are not permitted to at the moment (AIVD, 2016).

girls are that they have a romanticized image of life in the 'Caliphate',¹³² no longer want to live among apostates, see it as their duty as a Muslim to travel to Iraq and Syria and support ISIS and/or because they feel they have been dishonoured¹³³ and hope that by joining ISIS they can start a new life.¹³⁴ Noor asserts¹³⁵ that these assumed motives can be clustered under one or more of the following motives: religious, political or romantic. In other words, girls feel called on by their religion to join ISIS; girls have the idea that Muslim communities around the world are under attack and wish to display their solidarity with their fellow believers; or they want to marry an ISIS fighter from a desire for affection and romantic love.

Research by Noor into the motives of girls and women who have joined ISIS has shown that, although it is a diverse group, there are some similarities between them.¹³⁶ For example, the 'girls are usually from families where the parents are divorced; [from families] where the girls have experienced a form of traditional and/or cultural pressure; [from families] where they had difficulty shaping their identity because they felt a lack of stability [and from families] in which religion did not play an important role in their upbringing.'¹³⁷ In general, most girls also have a low level of education, there are a large number of early school leavers and some girls have also worked as prostitutes.¹³⁸ Noor divides the females who have travelled to join ISIS into three 'types': 1) naïve, 2) idealistic and politically engaged and 3) ideological. The vast majority fall into the first of these categories, according to Noor.¹³⁹ They are primar-

'The men tend to become fighters much like previous generations of jihadists seeking out battlefields in Bosnia, Afghanistan and Iraq. But less is known about the Western women of the Islamic State. Barred from combat, they support the group's state-building efforts as wives, mothers, recruiters and sometimes on-line cheerleaders of violence' [Bennhold, *The New York Times*, 17 August 2015].

132 'Recruiters frequently describe the glory and honor of being the wife of a jihadi living in utopia, without mention of the extreme violence perpetrated by ISIS, or the possibility that these girls will contribute to, and find themselves subject to, such violence' (PBS Frontline, 12 November 2014, 'Examining the Rise of ISIS', available at <http://www.pbs.org/wgbh/pages/frontline/iraq-war-on-terror/rise-of-isis/how-isis-uses-sexual-predators-technique-to-lure-western-women-podcast>, consulted on 3 March 2016).

133 For example, according to an article by Bloom and Winter, before their departure many girls and women were 'dishonored' in the eyes of their families and often had a history of sexual abuse and alcohol or drug use (Bloom and Winter, 7 December 2015 'The Women of ISIL', *Politico*, available at <http://www.politico.eu/article/the-women-of-isil-female-suicide-bomber-terrorism/>, consulted on 3 March 2016. In research by Noor it was also asserted that some Dutch female jihadist travellers had worked as prostitutes in the past (Noor, 2016).

134 See, inter alia, Bloom, 9 October 2014, 'How the Islamic State is Recruiting Western Teens', *The Washington Post*, available at <https://www.washingtonpost.com/posteverything/wp/2014/10/09/how-the-islamic-state-is-recruiting-western-teen-girls/>, consulted on 3 March 2016; Bennhold, 17 August 2015, 'Jihad and Girl Power: How ISIS Lured 3 London Girls', *The New York Times*, available at http://www.nytimes.com/2015/08/18/world/europe/jihad-and-girl-power-how-isis-lured-3-london-teenagers.html?_r=1, consulted on 3 March 2016.

135 Noor, 2016: pp. 8-9.

136 A reservation to be expressed about this study is that Noor's information comes from a single expert who counselled fifteen female jihad travellers. 'The anonymous expert bases her findings on her analysis of various deradicalization programmes for girls and women who travelled or were planning to travel to Syria or Iraq' (Noor, 2016: p. 6).

137 Noor, 2016: p. 6. The study by Wessels and Dijkman sketches a similar picture and they say that the girls were consequently vulnerable and impressionable, 'particularly in relation to groups that combine extreme loyalty to the group with a radical ideology' (Wessels and Dijkman, 2012: p. 101).

138 Noor, 2016.

139 Naïve (70%), idealistic-politically engaged (15%) and ideological (15%). It is argued that girls in the category 'naïve' are fed with religious one-liners by members of the other two categories. The ideological in particular are reportedly often strong online recruiters for ISIS (Noor 2016: pp. 6-7).

ily sixteen or seventeen years old with a deep need for a guiding figure.¹⁴⁰ Wessels and Dijkman write that among Muslim girls a feeling of isolation during puberty can contribute to their vulnerability and susceptibility and lead to a greater risk of addiction, recruitment and sexual violence.¹⁴¹ Finally, it also appears that ISIS actively targets women in the West,¹⁴² for example in the belief that the presence of more girls and women will encourage more boys and men to join.¹⁴³

The impression to emerge from this review is that those who become radicalized and/or are recruited come from different backgrounds.¹⁴⁴ Young persons from a vulnerable background are not all equally susceptible to radicalization and recruitment.¹⁴⁵ According to the AIVD, vulnerability does not mitigate the fact that a young person who travels to Syria and/or Iraq makes a conscious decision. The AIVD says: 'Anyone travelling to the so-called Islamic State is knowingly opting to join a terrorist group which regards all outsiders as "infidels" and uses excessive violence on a daily basis.'¹⁴⁶ Finally, it is evident that the young people who travel to join ISIS do not all have a vulnerable background. There are some who join because of an ideological conviction, in order to fight for what they regard as a legitimate cause or because they want to help in the war against the Assad regime.¹⁴⁷

3.3.4 Possible similarities in terms of recruitment

ISIS makes considerable use of the Internet and social media in the process of radicalization and recruitment.¹⁴⁸ There are many stories circulating about its enormous propaganda machine and recruitment methods. For example, ISIS allegedly has at least 46,000 Twitter accounts with which it reaches millions

140 According to Noor, these young people practice a detailed ISIS interpretation of Islam within two or three months (Noor 2016: p. 6).

141 Wessels and Dijkman, 2012; Noor, 2016.

142 This was said by Abbee Corb, *executive director of the International Institute for Radicalisation and Security Studies* in the *National Post* (Bell, 17 November 2014, 'Reported ISIS Recruitment of Women as Jihadist Brides Prompts Canadian Government to Call for Study', *National Post*, available at <http://news.nationalpost.com/news/canada/reported-isis-recruitment-of-women-as-jihadist-brides-prompts-canadian-government-to-call-for-study>, consulted on 3 March 2016). Noor also argues that ISIS contact persons persuade girls to travel to join ISIS and marry a jihad fighter (Noor, 2016: p. 9).

143 Other reasons are that women can actively support ISIS by having as many children as possible as quickly as possible and raising their sons as ISIS fighters. Women can also recruit other women and producing ISIS propaganda is a key task for many of them. Some women also work as teachers or doctors, while others perform logistical tasks for ISIS. What all women have in common is that they make an active contribution to keep the terrorist organization ISIS running (AIVD, 2016: p. 8). Girls can marry from the age of nine and ISIS prefers children to be married before the age of sixteen or seventeen (Winter, 2015).

144 See also the exploratory study by Bakker and Grol in 2015. The NCTV has found the same thing and has written as follows: 'The many studies that have been conducted into this subject indicate that there are no clear "roots" to be found for radicalization' (*Parliamentary Documents II 2014/15*, 29754, no. 270, appendix 409858).

145 The same applies for victims of human trafficking. In addition to risk factors, protective factors probably also influence whether or not young people travel to join ISIS. See also [Chapter 1](#).

146 The question is how this statement can be reconciled with the message in the AIVD report that ISIS creates a success story that does not correspond with reality. After all, its report 'unravels the myth that ISIS presents in propaganda [...] and it is argued that 'the great majority [of young people making the journey to join ISIS in Syria and/or Iraq] think they have a realistic picture of the life awaiting them' (AIVD, 2016: p. 5).

147 Barrett, 2014; Bakker and Grol, 2015.

148 Klausen, 2015; Berger and Morgan, 2015; Carter, 2006; Carter et al. 2014.

of followers.¹⁴⁹ Its strategy seems to be to arouse the interest of vulnerable groups in ISIS, so that recruiters can then establish contact with them on social media such as Kik, Facebook, Skype and WhatsApp,¹⁵⁰ applications that are designed for one-to-one contact.¹⁵¹ Ashton Carter, the United States' Secretary of Defense, said at the beginning of 2015: 'This is a social media-fuelled terrorism group in a way we haven't seen yet. People who are very distant from any battlefield, from any experience of radicalism, are suddenly becoming enticed through social media'.¹⁵² The process of radicalization, and possibly recruitment, also occurs in more traditional locations such as mosques, schools and sports clubs, as well as places where young people hang out.¹⁵³ The AIVD regards radicalization as 'a social phenomenon that often takes place in both real and virtual life. The Internet is only a means to an end in this context, and serves as the "place" where part of the radicalization process transpires'.¹⁵⁴ The Internet also seems to play an increasingly prominent role in the recruitment of victims of human trafficking,¹⁵⁵ and in the case of human trafficking contact is also not only made online, but also in the real world.¹⁵⁶

'ISIS has the most sophisticated propaganda machine of any terrorist organization, a global communications strategy that has stumped counterterrorism officials while making significant inroads among [...] sympathizers. What we're seeing is unprecedented, [...] It's a change in strategy' [Sanchez, CNN, 5 juli 2015].

149 Gladstone, 9 April 2015, 'Twitter Says It Suspended 10,000 ISIS-Linked Accounts in One Day', *New York Times*, available at http://www.nytimes.com/2015/04/10/world/middleeast/twitter-says-it-suspended-10000-isis-linked-accounts-in-one-day.html?_r=0, consulted on 3 March 2016. See also Berger and Morgan, 2015.

150 Noor also argues that recruiters for ISIS appear to use Facebook, for example, to recruit vulnerable girls (Noor, 2016: p. 9).

151 'Social media such as Twitter or Facebook are highly effective in spreading a violent extremist ideology. They play a significant role in the recruitment and fundraising efforts of extremist groups such as ISIS and Jabhat al Nusra' (Barret, 2014: p. 7).

152 Ibid.

153 On this point, the Soufan Group says the following: 'There is [...] more evidence of community based recruitment in countries with the highest numbers of foreign fighters, where groups of acquaintances are drawn into a common identity'. [...] 'While social media undoubtedly plays a role in the recruitment of fighters from Western Europe, it is—perhaps—understandable that, over time, people who have already gone to Syria reach out in person to their friends and acquaintances to encourage them to do the same. Recruitment efforts both on and offline appear to have become more insistent and better organized. The influence of returnees in this process is still unknown' (The Soufan Group, 2015: p. 13).

154 AIVD, 2012: p. 9.

155 'Prior to the Internet [recruitment of victims] often required one to gain a position of trust from a location in which many children were present. Today, however with a computer or mobile device, one can encounter large amounts of minor children through social networking sites, newsgroups, internet chatrooms, etc. Therefore, that is frequently a location where a purchaser or trafficker will seek children for sexual exploitation' (Leary, 2014: p. 31). See also European Commission, 2015; National Rapporteur, 2012: pp. 132 ff.

156 'It is predicted, however, that over time the majority of recruitment, just like the majority of relationship commencement outside of the criminal context, will occur online or through cellular telephones. But in person, recruiting will continue as long as it is fruitful' (Leary, 2013: p. 32).

The method by which young boys and girls are recruited for the jihad is also sometimes similar to how human traffickers operate.¹⁵⁷ Studies by Silber and Bhatt¹⁵⁸ and Precht¹⁵⁹ have shown that contact with a charismatic individual and/or a leader can produce a breakthrough in a young person's radicalization and can be seen as an important trigger factor.¹⁶⁰ These persons address vulnerable youths on aspects such as their philosophy and identity. Research and media reports seem to suggest that these charismatic individuals and/or 'leaders' sometimes give young people an unrealistic portrayal of what they can expect from life in the 'Caliphate' in persuading them to join ISIS.¹⁶¹ The use of deception and untruths to persuade a person is a method that is also used to recruit persons with the intention of exploiting them.¹⁶²

Studies into recruitment methods for the jihad also show that recruiters employ a strategy designed to build emotional and romantic relationships with vulnerable young people, while at the same time isolating them from their family and friends. Buijs et al.¹⁶³ have written, for example, that recruiters for the jihad sometimes employ the technique of simultaneously gaining the trust of potential recruits and isolating them socially.¹⁶⁴ With this method, also known as bridge burning,¹⁶⁵ prospective members are encouraged or forced to break their other social ties if they wish to be accepted into the group. It is a method that greatly increases their dependence on and loyalty to the group.¹⁶⁶ Research by Wessel and Dijkman into the scale, characteristics and causes of possible radicalization among female Muslims in Amsterdam painted a similar picture.¹⁶⁷ It showed that vulnerable female Muslims can have an 'extreme need for affection, love and respect and that they are sought within the family relationships and friendships, but

'The jihadist movement in the Netherlands is a small, but dangerous, extremist, sect-like group that propagates violence as the sole means of achieving its goals. [...] Social media help in the rapid dissemination of the jihadist ideology, which is also proclaimed by preachers who incite hatred' [Letter to parliament, 29 June 2014].

157 The AIVD qualifies the impression that there are many recruiters and/or recruits in the Netherlands, saying that 'the current jihadist movement has little hierarchy and fewer clear leaders than in the fluid networks that were active in the Netherlands in the first decade of this century. There is still a widespread belief that covert recruiters and controllers are at large, manipulating unwary youngsters into joining their struggle. But the true picture is less straightforward. In only one case has a hierarchical leader been found to have put pressure on members of "his" group to join the jihad abroad' (AIVD, 2014: p 23). The Context case is also interesting in that regard. In that case the District Court in The Hague sentenced nine suspects to terms of imprisonment of up to six years. According to the court, six suspects were members of an organization engaged in recruiting, facilitating and financing young people who wished to travel to Syria to fight (The Hague District Court 10 December 2015, ECLI:NL:RBDHA:2015:14365).

158 Silber and Bhatt, 2004.

159 Precht, 2007.

160 Feddes et al. 2015.

161 But recruiters (insofar as they are charismatic figures and leaders who cannot be regarded as recruiters) and jihadist propaganda can present this unrealistic picture of life in the 'Caliphate' (see, inter alia, AIVD, 2016; Feddes et al. 2015; Bakker and Grol, 2015; Binetti, 2015).

162 National Rapporteur, 2012: p. 156. See also Leman and Janssens, 2013; Prina, 2003.

163 Buijs et al. 2006.

164 Binetti, 2015.

165 Feddes et al. 2015; NCTV, 2014.

166 In the opinion of Prudon and Doosje (2015), this method is very similar to the way in which sects operate. See also National Rapporteur, 2013: (§ 2.10), which includes a description of how a gang in the US exploited more than 100 girls by creating dependence on and loyalty to the group.

167 For their study Wessels and Dijkman sent a questionnaire to 155 female Muslims in Amsterdam, the large majority of whom (85.8%) were between the ages of 16 and 26. They then selected twelve of them for a narrative biographical interview (Wessels and Dijkman, 2012).

also in romantic love'.¹⁶⁸ The authors believe that this need 'can lead to the creation of risky (loving) relationships, probably in the hope of receiving genuine affection' and 'to a search for "bad friends" or a radical group that demands and receives extreme loyalty'.¹⁶⁹ These factors can increase an individual's vulnerability to being recruited for the jihad.¹⁷⁰ There are significant similarities between the methods described by Wessels and Dijkman and Buijs et al. and the loverboy approach, where a relationship and/or a deep friendship or romance is formed and used to make vulnerable young people emotionally dependent and to isolate them from their family and friends with the aim of creating a situation in which the victim can be exploited.¹⁷¹ However, further research is required to ascertain the extent to which the methods used to recruit for ISIS and for human trafficking are actually similar.

3.3.5 Is there exploitation of minors who are recruited?

Another question is whether recruiting minors for ISIS constitutes exploitation within the meaning of the article on human trafficking.¹⁷² Under Article 237f (1)(2) DCC, it is a criminal offence to recruit a person under the age of eighteen with the intention of exploiting that person. The question is whether the person who recruits someone for an armed conflict (which is a separate offence under Article 205 DCC) is also guilty of human trafficking in certain circumstances. That would be the case if the intention of the recruitment¹⁷³ is also to exploit the other person. Particularly in the case of a person who has not yet left for Syria, that intention would be difficult to establish. Relevant factors in determining the intention of exploitation include the nature and duration of the work performed, the restrictions imposed on the victim by the work and the economic benefit obtained by the recruiter.¹⁷⁴ Also relevant is a recent ruling by the Supreme Court that the fact that the pos-

'Jon Brown, head of strategy and development at children's charity NSPCC, acknowledges "the similarities and overlaps" of people being groomed online for sexual abuse and exploitation and for the purposes of radicalisation. [...] "In our experience of young people and children being groomed for exploitation and sex abuse, abusers will often be identifying vulnerabilities. They are expert at knowing which triggers to pull to draw young people in. They are masters of deception, especially online as they can pretend to be someone they're not, promising the earth and creating false but attractive pictures for the young person involved'
[Richardson, 16 maart 2015].

168 Ibid: p. 102.

169 'The dynamic of such a group process can lead to a person exceeding his/her own boundaries for fear of losing friendship and affection' (Wessels and Dijkman, 2012: p. 102).

170 'It would be useful to examine the development of these girls and their specific need for love and respect. It is perhaps no exaggeration to assert that the process of socialization is different for girls than for boys and that the shape of the relationship with their social environment perhaps has a greater influence. Consideration of the vulnerability that can ensue from that might well be essential for reducing the personal and social risks, including the risk of becoming a victim of sexual and physical violence and being recruited for the "jihad" (Ibid: p. 102).

171 For information about the loverboy method, see inter alia [National Rapporteur, 2009](#); [National Rapporteur, 2013](#); Verwijs et al. 2011; Azough Commission, 2014.

172 Inserted in Article 273f DCC.

173 In addition to recruitment, it is also possible that the recruiter transports, accommodates or shelters the victim with the intention of exploiting him or her. According to the AIVD report, 'minors receive help from ISIS members already in Syria or Iraq in planning their journey, usually without their parents' knowledge.' (AIVD 2016, p. 7). However, the report does not say what his help comprises. It would be worthwhile investigating whether recruiters play a role in the transport, movement, accommodation or sheltering of minors, all of which are elements of the crime of human trafficking under Article 273(f) DCC.

174 Supreme Court 27 October 2009, ECLI:NL:HR:2009:BI7099, NJ 2010/598, consideration 2.6.1.

sible victim is a minor must also be taken into account in assessing those factors.¹⁷⁵ If others are involved in the human trafficking – such as persons who, in contrast to the recruiter, are in Syria – one option might be to prosecute them for a form of participation in human trafficking.

Although there is no reliable research,¹⁷⁶ there are indications that Western youths probably are exploited by ISIS.¹⁷⁷ There are reports, for example, that foreign fighters risk being killed if they refuse to fight with ISIS,¹⁷⁸ that female recruits are sexually abused by male fighters,¹⁷⁹ that foreign recruits are turned into domestic slaves,¹⁸⁰ that women are forced to have children¹⁸¹ and that recruits' passports are confiscated on their arrival so that they are unable to escape from Syria.¹⁸² At the same time, they can feel like captives in Syria and/or Iraq,¹⁸³ for example because their country of origin might have with-

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- 175 Supreme Court 24 November 2015, ECLI:NL:HR:2015:3309, consideration 4.4.2. The Supreme Court found that in the case of minors the assessment of such factors can lead to a different outcome than if the victim is an adult.
- 176 Binetti, 2015.
- 177 Research for the *International Centre for the Study of Radicalisation and Political Violence* (ICSR) involving 58 returning jihadists who had publicly expressed their revulsion of IS showed that what they found in Syria was not what they had expected (ICSR, 2015). See also Witte, 12 September 2014, 'Westerners Fighting in Syria Disillusioned with Islamic State but can't go Home', *The Washington Post*, available at https://www.washingtonpost.com/world/europe/westerners-fighting-in-syria-disillusioned-with-islamic-state-but-cant-go-home/2014/09/11/cdad12c-2c27-47c4-8258-b053e45c0852_story.html, consulted on 3 March 2016; Townsend, 25 October 2014, 'ISIS Threatens to Kill British Jihadis Wanting to come Home', *The Guardian*, available at <http://www.theguardian.com/world/2014/oct/25/isis-threatens-kill-british-jihadis-wanting-to-come-home>, consulted on 3 March 2016.
- 178 Independent, 20 May 2015, 'Albanian Jihadists Executed by Islamic State Refused to Fight', available at <http://www.independent.mk/articles/17700/Albanian+Jihadists+Executed+by+Islamic+State+Refused+to+Fight>, consulted on 3 March 2016; Reuters/Stringer, 28 December 2014, 'Islamic State Executed Nearly 2,000 People in Six Months – Monitor', available at <http://uk.reuters.com/article/uk-mideast-crisis-casualties-idUKKBNoK6oEQ20141228>, consulted on 3 March 2016; Barret, 2014.
- 179 Daily News, 3 February 2015, 'Disillusioned ex-Islamic State Members Tell of "Slaughter": "It's not a Revolution or Jihad"', available at <http://www.nydailynews.com/news/world/isis-fighters-defection-finding-new-life-rough-article-1.2101625>, consulted on 3 March 2016; Blasic, 5 June 2015, 'Schokkend: dit is wat er gebeurt als je IS de rug toekeert' [Shocking: this is what happens if you turn your back on IS], *HP/De Tijd*, available at <http://www.hpdetijd.nl/2015-06-05/schokkend-er-gebeurt-als-isis-rug-toekeert/>, consulted on 3 March 2016.
- 180 Binetti, 2015. See also Boudlal, 19 December 2014, 'ISIS Offers Teenage Girls Cash to Travel to Syria, Marry Jihadist Fighters', *Reuters*, available at <https://www.rt.com+/uk/215907-isis-cash-teenagers-join/>, consulted on 3 March 2016; Sherwood et al. 29 September 2014, "Schoolgirl Jihadis: the Female Islamists Leaving Home to Join ISIS Fighters", *The Guardian*, available at <http://www.theguardian.com/world/2014/sep/29/schoolgirl-jihadis-female-islamists-leaving-home-join-isis-iraq-syria>, consulted on 3 March 2016. In the last article Germany's Institute for Terrorism Research and Security Policy says that in some cases 'women had been raped, abused, sold into slavery or forced to marry'
- 181 For reports of this, see Reuters, 14 September 2014, 'Islamic State Attracts Female Jihadist from U.S. Heartland', available at <http://www.reuters.com/article/us-iraq-crisis-usa-women-idUSKBN0H9oDE20140914>, consulted on 15 January 2015.
- 182 Hinnant, 28 May 2015, 'Female Jihadis in Syria Find Themselves Unable to Return to their Home Countries', *The World Post*, available at http://www.huffingtonpost.com/2015/05/28/female-isis-recruits-syria-jihadis_n_7459328.html, consulted on 3 March 2016.; Kameron, 21 March 2015, 'Zusters, jullie zijn nodig in het kalifaat' [Sisters, you are needed in the Caliphate], *NRC*, available at <http://www.nrcreader.nl/artikel/8442/zusters-jullie-zijn-nodig-in-het-kalifaat>, consulted on 3 March 2016.
- 183 Rosman and van der Wal, 13 June 2015, 'Jihadist kampt met heimwee' [Jihadist is homesick], *Algemeen Dagblad*, available at <http://www.ad.nl/ad/nl/1012/Nederland/article/detail/4075083/2015/06/13/Jihadist-kampt-met-heimwee.dhtml>, consulted on 22 February 2016.

drawn their passport¹⁸⁴ and/or because they fear repressive measures will be taken against them on their return.¹⁸⁵

As well as similarities, there are also differences. Whereas human traffickers approach vulnerable persons with the aim of exploiting them, there has been no evidence to date of recruiters for ISIS being influenced by financial motives. It seems that recruiters act from ideological and/or religious motives when they persuade others to travel to Syria and/or Iraq. Nevertheless, it is not inconceivable that recruiters could profit personally from finding recruits for ISIS. Acquiring status¹⁸⁶ and/or exploiting people for ISIS could also be motives. In the latter case, it would be important to prevent recruiters from tempting vulnerable young people with the intention of using them as an *instrument* for achieving their own ideals, namely an ‘Islamic State’. This might follow from the reports that foreign men and youths who arrive in Syria are sometimes forced to take part in the fighting.¹⁸⁷ To gain a better picture of this, it would need to be shown what the motives of the persons who recruit for ISIS are. Only then can it be investigated whether and to what extent the motives and intentions of these recruiters are similar to those of human traffickers.

Vigilance

This initial study has identified possible risk factors for human trafficking with respect to children who travel or wish to travel to join ISIS. However, it remains difficult to produce distinct profiles of the degree of vulnerability. And although there are indications that recruiters for ISIS possibly use methods similar to those used by loverboys, neither that nor whether the recruiters can be regarded as human traffickers can be established with certainty. On the basis of this initial exploratory analysis from the perspective of human trafficking, young people who travel or wish to travel to join ISIS are assigned to the category ‘Vigilance’.

The Ministers of Security and Justice and Social Affairs and Employment published the Comprehensive Action Programme to Combat Jihadism¹⁸⁸ on 29 August 2014. The programme includes five categories of measures: 1) risk reduction, 2) intervention, 3) tackling radicalization and social tensions, 4) social media and 5) information sharing and cooperation (both national and international). The

184 Research by Van Grol et al. has shown that Dutch and Belgian fighters in Syria are aware that their passports could be revoked by the government (Grol et al. 2014).

185 *A nuanced understanding of ISIS's recruitment tactics, which may fit the international definition of human trafficking, affects how the international community must address this issue—including the strategies employed to combat recruitment, the content of the counterterrorism policy and research agenda, and how to rehabilitate girls who are, in fact, victims of human trafficking. Under the UN Trafficking Protocol, States have promised to protect women and girls from becoming victims of trafficking, punish traffickers, and rehabilitate survivors. Honoring this commitment, the international community should not vilify young women and girls as “terrorists” before running this critical assessment* (Binetti, 2015: p. 8). An interesting initiative to adopt a different approach to returning jihadists is the method developed in Aarhus (Henley, 12 November 2014, ‘How do you Deradicalise Returning ISIS Fighters’, *The Guardian*, available at <http://www.theguardian.com/world/2014/nov/12/deradicalise-isis-fighters-jihadists-denmark-syria>, consulted on 3 March 2016).

186 It follows from research by Feddes et al. that in some radical groups the members compete with each other as to who is the most devout ‘Muslim’ and for the accompanying status it gives. However, it is not clear from the study what the motives of recruiters for ISIS are (Feddes et al. 2015)

187 ICSR, 2015.

188 NCTV, 2014.

‘The report [of ICSR] does not attempt to excuse, justify or glorify people’s decision to join IS. [...] Their experiences, motivations and mindsets are diverse, and too little information is available to know whether they were perpetrators, victims – or indeed both’ [ICSR, 2015].

programme also provides for the withdrawal of Dutch citizenship from jihad travellers and the detention of any who might return.¹⁸⁹

It might be possible to supplement this programme with an investigation into similarities between human trafficking and the recruitment of vulnerable young people for ISIS and whether, on the basis of the expertise gained in combating human trafficking, measures to combat jihadism can be improved,

or vice versa. It might, for example be possible to use the experience gained in combating human trafficking at the international level in the last decade in formulating measures for dealing with individuals who recruit young people for ISIS. After all, there is no need to reinvent the wheel and create an entirely new infrastructure to address the issue of the recruitment of jihadists when there is already a system in place in relation to human trafficking (to identify the nature and scale of the problem, to protect minors, to apprehend and prosecute offenders and to address the problem comprehensively). With the global recognition that human trafficking undermines our societies, for example, a highly repressive approach was initially chosen. The simplistic idea was

‘The Head of Europol, Robert Wainwright, drew a direct comparison between foreign fighters and people who are trafficked over borders for sexual exploitation or labour. “The facilitated movement of foreign fighters to Syria and Iraq – aided by false promises and the coercion of victims upon arrival – carries similar characteristics,” he said, urging governments to look at the policies which have helped battle trafficking’ [McDonald-Gibson, The Independent, 2015].

that human trafficking would end if human traffickers were apprehended and it was made impossible for them to create victims. The strategy of protecting victims, preventing human trafficking and an approach that balanced between caring for victims and punishing human traffickers only came later. Nowadays, the idea of a holistic approach to human trafficking is commonplace and increasingly appears to be bearing fruit.

The head of Europol¹⁹⁰ has said that it is important not to treat every returning jihadist traveller immediately as a terrorist.¹⁹¹ Binetti seems to share that opinion and goes a step further, suggesting that whenever a girl returns it should be investigated whether she was the victim of exploitation.¹⁹² Although there is a need to remain vigilant, priority should always be given to determining the threat posed to society by returnees. The importance of doing so is further underlined in the study by CT Infobox,¹⁹³ which stated that ‘the future returning jihadist travellers could well include far more hardened fighters who, on the instructions of groups in Syria or otherwise, undertake activities in the Netherlands that could pose a threat to national security’.¹⁹⁴

‘If some recruits fit international or national definitions of trafficked persons, it affects the way that the justice system categorizes their recruiters—who would be criminally liable for human trafficking—and also influences how the law interprets the actions of the trafficked young women when they sit as criminal defendants. Furthermore, if women from the West joining ISIS are victims of human trafficking, this impacts how the international community should design its counter-terrorism policies and research agenda’ [Binetti, 2015].

189 NCTV, 2014, particularly points 1 to 11. On the various strategies that countries could adopt, see also Barret, 2014.

190 Nevertheless, it must be investigated for every returning jihadist whether and, if so, to what extent he or she poses a threat to society, according to the head of Europol. See McDonald-Gibson, 5 March 2015, ‘Europol Head: Treat Jihadist Runaways like Trafficking Victims’, *Independent*, available at <http://www.independent.co.uk/news/world/europe/europol-head-treat-jihadi-runaways-like-trafficking-victims-10089394.html>, consulted on 19 January 2016.

191 Ibid.

192 Binetti, 2015: p. 6.

193 CT Infobox is a consortium of the AIVD, FIOD, FIU, IND, Inspectorate SZW, Royal Dutch Marechaussee, MIVD, National Police, NCTV and PPS.

194 CT Infobox, 2016: p. 1.

If it is found that recruiters are recruiting minors with the intention of bringing them into a situation of exploitation, it might also be possible to arrest and prosecute them under the human trafficking article.¹⁹⁵ A crucial element in that context remains the fact that the intention of exploitation has to be proved.¹⁹⁶ If recruiters can be prosecuted as human traffickers, the next question is to what extent the doctrines relating to human trafficking would apply, including the non-punishment principle and the principle of non-consent. The former refers to the power of the PPS to waive prosecution of victims of human trafficking and of the court not to impose a sentence for offences that have been committed in a situation of exploitation. The rationale behind the principle is that the young person should be protected rather than punished because the offence was committed under duress.¹⁹⁷ The non-consent principle provides that the victim's consent to human trafficking is irrelevant when it can be shown that all of the criteria for human trafficking are met.¹⁹⁸

Another aspect that needs to be considered is whether, and if so how, specialized help that has been developed for victims of human trafficking¹⁹⁹ could also be effectively used (perhaps in a different form) for young people who wish to travel to Syria and/or Iraq or have returned from there. The programmes designed to help with the deradicalization of young people and to remove the structural factors that make some young people vulnerable to radicalization are similar to the programmes for treating underage victims of human trafficking who have been exploited by means of the loverboy method.²⁰⁰

Finally, a lot has been learned over the years from the experiences of victims of human trafficking. The information they have shared has made a valuable contribution to improving measures to combat and investigate human trafficking. Their stories are also used to inform young people of the potential risks. After all, no one can describe the dangers of human trafficking better than those who have experienced it. The same seems to apply for young people who have possibly been misled and/or manipulated into travelling to join the jihad and later return disillusioned.²⁰¹ Their testimony could also play an important role in preventing the radicalization and recruitment of other young

'Returning fighters themselves could play a significant role in helping the State or their community to understand these issues and so mitigate the threat, and this also argues for careful treatment of each returnee on a case-by-case basis. A returning fighter will have a great deal of credibility in radical circles at home, and if he argues against participation in the war, and against the al-Qaeda narrative more generally, this is likely to be more effective than anything a government can do' [Barret, 2014].

195 Article 273f DCC.

196 Binetti also describes this as a difficult element (Binetti, 2015).

197 On this point, Binetti says: 'If a girl is lured under false pretences and is exploited by ISIS, States should consider whether it is sound policy to label her a "terrorist," when she would be considered a victim of human trafficking under the international definition' (Binetti, 2015: p. 6).

198 'The Trafficking in Persons Protocol states that the consent of the victim of trafficking in persons to the intended exploitation is irrelevant when any of the "means" set forth in it are used' (UNODC, 2014: p. 6). See also Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (New York, 15 November 2000), *Bulletin of Treaties* 2001, 69 and 2004, 35.

199 See also *National Rapporteur*, 2013: § 2.10.

200 Fier, an organization that specializes in providing shelter for victims of human trafficking, among others, already collaborates with the NCTV, through the 'Exits' facility and the Family Support Centre for Radicalization which are part of the Stichting Fier Fryslân. See *Parliamentary Documents II* 2015/16, 29754, no. 326.

201 'Despite the fact that the Netherlands has been confronted for more than three years with the phenomenon of foreign fighters in Syria, we still have little insight into the backgrounds and motivations of these persons. Most knowledge available on this subject comes from journalistic work. Scientific studies into the characteristics and biographies of these foreign fighters are scarce. Also, they are based on only a small number of cases' (Bakker and Grol, 2015).

people.²⁰² As in the case of human trafficking, this information could be used in prevention programmes, and possibly also in protecting victims.²⁰³

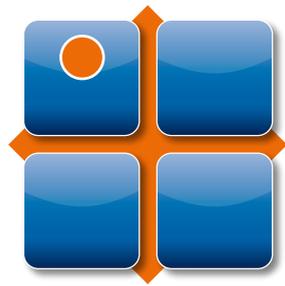
202 *'The importance of a story or counter-story ("narratives") that counterbalances propagandist messages that offer a utopian, "romantic" picture of the Islamic battle and the caliphate of the Islamic State, seems to have been underlined by this study. We should be looking for an appropriate counter-reply to the jihadist propaganda, one that could have a "sobering" effect'* (Bakker and Grol, 2015: p. 15). Binetti makes the same remark (Binetti, 2015).

203 Sterkenburg proposes 'setting conditions for the repentance scheme that [returning jihadists] are often offered. They currently often receive help in finding work and a house, without having to do anything in return. Only help them when they cooperate by sharing information and are willing to provide intelligence' (Sterkenburg, 23 January 2016, 'AIVD-rapport over leven in IS-gebied is gemiste propagandakans' [AIVD report on life in territory controlled by IS is a missed propaganda opportunity], Elsevier, available at <http://www.elsevier.nl/Nederland/achtergrond/2016/1/AIVD-rapport-over-leven-in-IS-gebied-is-gemiste-propagandakans-2748168W/>, consulted on 3 March 2016).

Children who are exploited within families (familial exploitation)

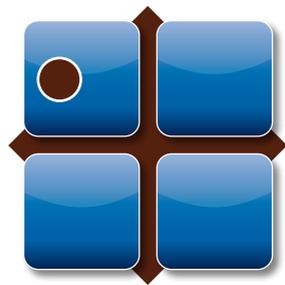
Roma children

The European Commission has classified Roma children as a group that is particularly vulnerable to human trafficking because of their *familial* and *socioeconomic* circumstances. In recent years there have been convictions in the Netherlands of adults who have induced children in their family to commit crimes (criminal exploitation). Nevertheless, the connection with human trafficking does not always seem to be made in this type of case, creating the risk that these children do not receive adequate protection. Moreover, the authorities sometimes wrongly fail to consider question of whether the non-punishment principle should apply. Besides criminal exploitation, there is also a relationship between arranged child marriages and human trafficking. This is a link that demands closer attention, not only because child marriages are undesirable in themselves, but also because they can increase the child's vulnerability to exploitation and sexual violence. On the basis of this study, this group has been assigned to the category '**Concrete actions**'.



Children living illegally in the Netherlands who are exploited within the family

Children who have to work within a family are vulnerable because of the private context in which the work is performed and the relationship of dependence that automatically exists between adults and a child. This vulnerability is magnified if the child is living illegally in the Netherlands and is not familiar with the Dutch language and culture. A number of persons have been convicted in recent years for forcing children to work for their family, often for years. To tackle this form of human trafficking, it is important for measures to be taken to ensure that it is identified. When it comes to children living illegally in the Netherlands who do not go to school, it is crucial for the general public to know about human trafficking and for medical professionals to increase their expertise in the subject. On the basis of this analysis, these children are assigned to the category '**Concrete actions**'.



4.1 Roma children

4.1.1 Roma in the Netherlands and policy

For the last 40 years the Dutch government has devoted attention to the Roma communities¹ from a variety of perspectives and with varying levels of intensity. One of the questions that has been addressed is how to promote the integration ('inclusion') of the Roma in Dutch society, for example by preventing children from staying away from school and increasing the labour participation rate among this group.² That perspective was based mainly on the history of the Roma as a group that has been discriminated against and permanently marginalized.³ More recently, policymakers have adopted a more repressive perspective,⁴ with the focus not only on the inclusion of Roma communities, but also on the enforcement of Dutch law, including the punishment of crimes reportedly committed by these communities.⁵ Both perspectives are clearly recognizable in the communication by the Dutch government on policies towards the Roma in the last decade,⁶ which has repeatedly referred to 'setting boundaries and offering perspective.'⁷

From both perspectives, there is growing attention to the situation of children in Roma communities. This is evident, for example, from the establishment of the Programme to Combat the Exploitation of Roma Children, a joint programme established by a number of 'pilot municipalities'.⁸ The aim of the

'It is evident that Roma children are often perceived as units of malleable and easily controllable labour due to their parents' low economic status, which places them in vulnerable situations conducive to labour exploitation' [Ahrin, 2012].

1 For a review of developments in policies towards the Roma in the Netherlands, see Jorna, 2013 and 2014.

2 Ibid.

3 For a detailed discussion of this, see Van Baar, 2014: p. 60. See also a report by the European Roma Rights Centre and People in Need, where the following is noted: 'Certainly trafficking exists and its impact on Roma is grave. But it does not explain the migration of Roma, which is due largely to structural poverty, marginalisation and discrimination' (ERRC, 2011: p. 1).

4 Sollie et al. refer to the transition from a 'welfare approach' to a 'control policy' centered on enforcement and repression (Sollie et al. 2013: p. 72).

5 Rodrigues and Van Baar refer to a 'repressive target group policy' and are critical of it. According to them, such a policy leads to stigmatization and fails to reflect the varied backgrounds of Roma families in the Netherlands (Rodrigues and Van Baar, 23 July 2015, 'Discriminatie: fraudebestendige meter in Roma-wijk' [Discrimination: fraud-proof meter in Roma district], *NRC Handelsblad*). See also Van Baar, 26 October 2013, 'Roma worden weer zigeunerboeven' [Roma are once again gypsy thieves], *Trouw*. Van Baar observes that there is '[...] excessive attention to law enforcement and crime fighting'. See also Davidović and Rodrigues, 2010.

6 For a recent example of this, see the letter to the House of Representatives from the Ministers of Security and Justice and Social Affairs and Employment on the current state of affairs regarding the Programme to Combat the Exploitation of Roma Children, in which the ministers wrote that an '[...] important principle of the programme is that offering a perspective for children and enforcing the law should have equal weight. Enforcement is essential for ultimately being able to offer a perspective for the child.' Letter from the Ministers of Security and Justice and Social Affairs and Employment of 14 April 2015 on the current state of affairs regarding the Programme to Combat the Exploitation of Roma Children.

7 For this terminology, see *Parliamentary Documents II 2008/09*, 31 700 XVIII, no. 90, p. 3. In this so-called 'Roma letter' the minister explains the guiding principles of his joint approach with the 'Roma municipalities'. In addition to the primary decentralized approach, the basic generic policy and the involvement of the Roma community, a fourth principle is 'setting boundaries and offering perspective'. 'In other words, equal rights and duties, law enforcement, but at the same time offering help'.

8 For the most recent letter on the status of the programme, see the aforementioned letter from the Ministers of Security and Justice and Social Affairs and Employment of 14 April 2015 on the current state of affairs regarding the Programme to Combat the Exploitation of Roma Children.

programme is to allow the participating municipalities to formulate policies on this issue and to share their experiences with the implementation of those policies. It is also the intention that by sharing their experiences they will encourage more municipalities and agencies to take action of their own. Policies relating to Roma children are also being formulated at the EU level. For example, the European Commission regards Roma children as particularly vulnerable to human trafficking and specifically includes ‘awareness-raising activities’ in relation to the subject in the EU Strategy towards the Eradication of Trafficking in Human Beings.⁹ Reports have also appeared in Europe in the last few years in which special attention has been devoted to the vulnerability of Roma children to becoming victims of human trafficking.¹⁰ That vulnerability is the focus of this report.

It cannot be stressed often enough that the problems discussed here do not apply for every Roma family. Furthermore, this chapter has been written in the full realization that the Roma community is highly diverse and comprises numerous sub-groups.¹¹ It is therefore difficult to talk about ‘the Roma’, as though it were a single community with the same customs and culture. It is also important to stress that the exploitation of children within the family is not confined to Roma communities. Section 4.2 provides one example of that, but there are other vulnerable groups that could also be mentioned. For example, there are signs that human trafficking also occurs in other groups (nomadic or otherwise), such as Irish Travellers.¹²

At both the national and European level, the attention to Roma children extends to a number of connected themes, and the problems can only be properly understood by considering all of the themes together.¹³ Because such a comprehensive exercise is beyond the scope of this study, this chapter is confined to a discussion of the position of Roma children in Dutch society, including their vulnerability to human trafficking. The focus then shifts to specific cases and signals that the National Rapporteur has received about subjects related to human trafficking, specifically:

- 1) *The criminal exploitation of children, for example by inducing them to engage in shoplifting; and*
- 2) *The arranged marriages of Roma children (arranged child marriages).*

Both phenomena – criminal exploitation and arranged child marriages – occur in the Netherlands, prevent children from enjoying free and independent personal development and violate fundamental children’s rights, including the right to education and physical and mental integrity (and thus also sexual integrity).

4.1.2 Nature and scale of the problem in the Netherlands

4.1.2.1 Background and vulnerability of the Roma community in the Netherlands

There are no firm figures for the number of Roma living in the Netherlands,¹⁴ but the Roma population in the country is growing rapidly and around half are below the age of eighteen.¹⁵ Various studies have

9 European Commission, 2012: pp. 10 and 16.

10 European Commission, 2015: p. 43. European Commission, 2012; Anti-Slavery International, 2014; Dimitrova et al. 2015; De Witte and Pehlivan, 2014.

11 On this point, see Van Baar, 2014.

12 For more detail, see Dul and Kop, 2014.

13 In policy and operational practice, one refers in this context to ‘multi-problem families’. See also Sollie et al. 2013.

14 On this point, see Jorna, 2013: p. 96.

15 Doctors of the World, 2009.

revealed a number of factors that appear to make some members of the Roma community vulnerable in Dutch society. For example, research by Movisie has shown that poverty is relatively common among Roma families in the Netherlands.¹⁶ The explanation given for this is that it is less common for members of this group to have a regular job and that many are reluctant to accept salaried employment. Discrimination against the Roma in the labour market is also a factor and the Roma say that their background is a major obstacle to finding regular work.¹⁷ Crime – particularly shoplifting, deception and illegal trade – appears to occur more frequently in some families.¹⁸ Poverty can also create pressure on women and children to contribute to the family's income, which increases the chance that they will be exploited.¹⁹ The participation in education by the Roma is also a source of concern in the Netherlands. Research by the Trimbos Institute²⁰ shows that many children from Roma families have language and development deficits, which are reflected in poorer grades in school. It is therefore argued that Roma children in primary school, and possibly also in secondary school, appear to be less resilient and 'suffer more from feelings of insecurity, anxiety, low self-confidence and low self-esteem'.²¹ Other research shows that a relatively large number of young Roma drop out of secondary school, because boys see no perspective in the labour market and girls are preparing for their role as housewives.²² The school drop-out rate among girls is possibly also connected with the high number of teenage pregnancies in this group.²³ The number of early school leavers is possibly also a factor in the inability of many Roma families to break out of the situation of relative poverty in which they find themselves.²⁴

4.1.2.2 Human trafficking and related phenomena in Roma families in the Netherlands

The discussion above shows that Roma children could be vulnerable in a number of respects. In the last few years it has been found that these children are also victims of human trafficking, specifically of human trafficking for the purposes of criminal exploitation, whereby children are induced to commit crimes. Furthermore, there are also arranged marriages of children in some Roma families. Both phenomena are discussed below.

16 Movisie, 2013: p. 31. A similar impression emerges in Sollie et al. 2013.

17 Stateless Roma are usually not allowed to work because they do not have a residence permit. Their statelessness also often means that they are not entitled to social services, which makes their situation even more difficult (Doctors of the World, 2009: § 4.3).

18 Movisie, 2013: p. 48.

19 The Centre against Child Trafficking and Trafficking (CKM) /Terre des Hommes, 2014: p. 8.

20 Trimbos Institute, 2012.

21 Ibid: p. 9.

22 Movisie, 2013: p. 25; Sollie et al. 2013: p. 51. The Trimbos Institute has reported an increase in the number of young people that complete their secondary schooling, but this is often only to the level of preparatory vocational education, which means they still have no basic qualifications (Trimbos Institute, 2012: p. 7)

23 Movisie, 2013: p. 43; Trimbos Institute, 2012.

24 Sollie et al. 2013: p. 85.

4.1.3 Criminal exploitation

4.1.3.1 Criminal exploitation is a form of human trafficking

Inducing children to commit criminal offences is a form of human trafficking.²⁵ Exploitation where the victim is induced to commit a crime is known as criminal exploitation.²⁶ Because they are children, there is no requirement that coercion was used.²⁷ The fact that a child might have consented to the exploitation is also irrelevant.²⁸

To date, there have been two convictions for the exploitation of minors in a Roma community in the Netherlands.²⁹ In one of these, in 2014, The Hague District Court convicted an uncle who had induced his nephews to commit a burglary.³⁰

Uncle induces nephews to commit a burglary

In this case, a 49-year-old man living in the Netherlands brought two underage nephews to Wassenaar to break into a house there. All three were arrested for theft. A month later the nephews, who did not speak Dutch, received unconditional prison sentences of six weeks. The uncle was tried months later, because the case was only later seen in the context of human trafficking. He was eventually convicted not only of being an accessory to the theft, but also of exploiting his nephews (human trafficking). In the opinion of the court, he had abused the position of authority he had over his nephews as their uncle. The uncle was given an unconditional prison sentence of twelve months.³¹ After serving their sentences, the nephews disappeared.

Apart from these two convictions, little is known about the exploitation of children in Roma communities. In the report of a study by the Police Academy,³² the authors draw attention to the issue, but say nothing about the scale on which this form of exploitation occurs. A recent study by De Witte and Pehlivan provides more insight into the prevalence of petty crime committed by children of Central and South-East European origin, but it is not clear from the report whether the children were actually members of the Roma community or whether they had been instructed to commit crimes in the registered

25 Human trafficking is a criminal offence by virtue of Article 273f of the Dutch Criminal Code (DCC). Since 15 November 2013, 'exploitation of criminal activities' has been a specific form of exploitation under Article 273f (2) DCC.

26 For a detailed discussion of this, see *National Rapporteur*, 2013: pp. 120 ff.

27 This needs to be qualified. Evidence of coercion is required if the prosecution is based on Article 273f (1)(4) DCC. At the same time, there is a presumption that cases in which a child is induced to commit theft by definition involve the means of coercion 'abuse of a position of vulnerability' or 'misuse of authority arising from the actual state of affairs', in view of the exceptional vulnerability of children and their dependence on parents/adults. This seems to have been the reasoning in Gelderland District Court 21 December 2015, ECLI:NL:RBGEL:2015:8040, for example, in which the court found that the children in the case '[...] given the relevant circumstances of the case were in a vulnerable and dependent position in relation to the suspect due to the fact that the suspect and [name] are their parents, and because of their young age (nine and seven years of age at the time)'.

28 The same also applies for adults. See also Article 2(5) of the EU Human Trafficking Directive, which states that the consent of a victim to the intended or actual exploitation is irrelevant if the use of any means of coercion is proved. In the case of minors, the use of coercion does not usually have to be proved. See the previous footnote.

29 Midden-Nederland District Court 9 July 2013, ECLI:NL:RBMNE:2013:2679; The Hague District Court 26 August 2014, ECLI:NL:RBDHA:2014:10605.

30 The Hague District Court 26 August 2014, ECLI:NL:RBDHA:2014:10605.

31 The Hague District Court 26 August 2014, ECLI:NL:RBDHA:2014:10605.

32 Sollie et al. 2013.

cases, and hence whether there was clearly an element of human trafficking.³³ The study describes how between 2010 and 2013 the police in Rotterdam registered twenty cases of petty crime committed by children from Central and Eastern Europe where there was a suspicion that the children had acted on the directions of adults. The Youth Care Agency in Rotterdam reports that the number ‘is rising every year’ and that there are also ‘several cases every month’. In the Amsterdam region, a total of 241 cases involving petty crimes committed by children from Central and South-East Europe who had reached the age of criminal responsibility were registered between 2009 and 2014.³⁴ However, it is not known whether any adults were involved in those situations.

4.1.3.2 Identifying criminal exploitation

There are a number of reasons for the lack of information about the nature and scale of the exploitation of Roma children. In the first place, the registration of ethnic origin is not permitted.³⁵ A further problem is that agencies do not always immediately look at a situation from a human trafficking perspective.³⁶

The Council of Europe has called for further research to learn more about the exploitation of Roma children in the Netherlands, concluding ‘that the question of human trafficking for the purpose of forced begging or petty crimes which affects predominantly children, particularly of Roma origin, deserves further research in the Netherlands as this phenomenon has been witnessed in neighbouring countries where transnational networks have been operating and moving children from one country to another’.³⁷ The admonition by the Council of Europe reflects the fact that Roma children are increasingly often regarded as a group that is particularly vulnerable to human trafficking.³⁸ On behalf of the Research and Documentation Centre (WODC) of the Ministry of Security and Justice, the University of Utrecht is currently researching a comprehensive programme to combat the criminal exploitation of children. The research also extends to the identification of exploitation by first-line professionals. The results of the study are expected in the second half of 2016.³⁹

‘[...] the question of human trafficking for the purpose of forced begging or petty crimes which affects predominantly children, particularly of Roma origin, deserves further research in the Netherlands [...]’ [GRETA-rapport, 2014: p. 29].

33 De Witte and Pehlivan, 2014: p. 29-30.

34 De Witte and Pehlivan, 2014: p. 30.

35 Parliamentary Documents II 2008/09, 31 700 XVIII, no. 90, p. 2.

36 See also De Witte and Pehlivan, 2014: p. 68: ‘[...] children performing this kind of activities who reached the age of criminal liability are often regarded as criminals, and not identified as potential victims of trafficking’. See also Anti-Slavery International, 2014.

37 GRETA, 2014: p. 29.

38 See, for example, European Commission, 2012.

39 Draft initiation document for the study by the WODC entitled ‘Integrated approach to trafficking in and criminal exploitation of children in the Netherlands’ of 13 October 2015. A researcher from the office of the National Rapporteur is a member of the advisory committee for this study. More information can be found at https://www.wodc.nl/onderzoeksdatabase/2672-handel-en-uitbuiting-kinderen-in-nl-uit-roemenie-bulgarije-en-voormalig-joegoslavie.aspx?nav=raenl=criminaliteit_en_delictenenl=kinderarbeid, consulted on 21 January 2016).

4.1.4 Arranged child marriages and the link with human trafficking

A particular issue that is often not seen in terms of exploitation and human trafficking is that of marriages of Roma children.⁴⁰ These marriages are generally informal affairs that are not concluded under Dutch law.⁴¹ Although child marriages⁴² do not occur in every Roma family, and individual families may have very different opinions about this type of marriage, marriages of Roma children do seem to occur in the Netherlands.⁴³ However, there are no quantitative data on which to base any judgments about the scale of the problem. In their report, Sollie et al. argue that child marriages are ‘very common’ within the Roma community, but it is not clear what they base that conclusion on.⁴⁴ A noteworthy finding in a recent report by Rutten et al. is the absence of consensus among the respondents regarding the age at which children in the Roma community marry; one respondent said it was between the ages of twelve and sixteen, another observed that the age was rising from between thirteen and fourteen to between sixteen and seventeen, and yet another respondent felt that the age is well above eighteen.⁴⁵

Although there has been little research into the form taken by child marriages within Roma communities in the Netherlands, a constant factor in what descriptions there are is the relative absence of control by the bride and groom over their own wedding.⁴⁶ In contrast to a marriage between two partners who have consciously chosen one another, these marriages represent more the creation of a relationship between the relevant families, and more specifically the girl’s parents and her future in-laws.⁴⁷ In other words, those instances where the parents organize their children’s marriage are *arranged* (informal) child marriages. These marriages are not unproblematic. They are now regarded worldwide as institutions that impair the free development of children. At the national level, the concerns about arranged marriages also seem to have been a primary motivator behind the adoption of additional policies to prevent forced marriages. Although at first glance arranged marriages and forced marriages seem to be distinct phenomena, a lot of attention has been devoted to the overlap between them in both the literature and policies.⁴⁸

40 Sollie et al. 2013: p. 46, Veneman, 2014: p. 15 f.f.

41 According to Rutten et al., informal marriages are ‘marriages that are performed in a manner that differs from the form prescribed by the laws of the country in which the marriage is concluded’ (Rutten et al. 2015: p. 4, 23 and 25).

42 Following the line taken by Rutten et al., informal marriages are defined as ‘marriages in which at the time of the conclusion of the marriage at least one of the marriage candidates has not yet reached the age of eighteen’ (Rutten et al. 2015: p. 24 and 47)

43 Sollie et al. 2013: p. 79. See also Veneman, 2014 and Rutten et al. 2015.

44 Sollie et al. 2013: p. 79. A study by the Trimbos Institute into truancy from school among Roma girls found that many of the municipalities surveyed recognized the problem of girls marrying at a young age (Trimbos Institute 2012, p. 20 ff.). Several respondents in the study by Rutten et al. said that child marriages in the Roma community are ‘common’. The researchers note that the respondents link that impression to the value that is attached to marrying at a young age. Another respondent said that he did not encounter Roma child marriages and had only observed marriages of persons over the age of eighteen. Three respondents were mentioned in the study.

45 Rutten et al. 2015: p. 64.

46 In the same vein, see Veneman, 2014, who raises the question of whether arranged marriages involving minors are not, by definition, forced marriages.

47 Sollie et al. 2013, p. 46, who conclude in a recently published study that among Roma and Sinti a marriage is regarded ‘[...] as a contract, which is concluded between families that make agreements with each other on subjects such as the price of the bride and where the couple will live’. The respondents in that study described the Roma and Sinti marriage as ‘a commercial agreement between two families with respect to the marriage partners’ (Rutten et al. 2015: p. 80 and 143).

48 This overlap is discussed at more length in § 4.1.4.1.

In the following section, the relationship between arranged child marriages and human trafficking and sexual violence against children is explored further. The discussion covers three subjects: 1) the relationship between this type of marriage and human trafficking and coercion, 2) the relationship between this type of marriage and criminal exploitation, and 3) the relationship between the consummation of an arranged child marriage and human trafficking and sexual violence against children. All three subjects are discussed from the perspective of the substantive criminal law. The section explores the extent to which the phenomenon of arranged child marriages touches on the offences defined by the Dutch Criminal Code in relation to human trafficking and sexual violence against children. The inherent constraints of this approach are discussed in § 4.1.4.5.

4.1.4.1 The relationship between arranged child marriages, human trafficking and coercion

The question that can be asked is whether arranging a child marriage is in itself a form of human trafficking. For that to be the case, under Article 273f (1)(2) DCC at least, there has to be an intention – on the part of the parents – to exploit the child by arranging the marriage. It might, for example, be possible to infer the existence of that intention from the fact that a girl's parents receive a bride price for the 'transfer' of the girl. However, it is questionable whether the actual intention in this case is to *exploit* the girl. Although making the association with human trafficking is certainly not far-fetched, arranging the marriage does not in itself seem to go to the core of the definition of the offence of human trafficking in Article 273f (1)(2) DCC, where the 'element of profiting' is often more clearly prominent.⁴⁹

That is not to say that arranged child marriages are unproblematic from a criminal law perspective. The question is whether in the case of arranged child marriages – where, by definition, parents are in a position of authority over children⁵⁰ – there is not also a form of coercion that is relevant for the purposes of criminal law. The overlap between arranged marriages and forced marriages is discussed in various sources in the literature. The general consensus seems to be that arranged marriages are not necessarily forced marriages, which only arise if the arranged marriage can be regarded as *involuntary*. The answer to the question of when an arranged marriage becomes a forced marriage therefore depends on whether one can speak of the absence of consent, in other words whether force was used. The use of force to unlawfully compel a person to act or to refrain from certain acts or to tolerate certain acts either directed against that person or any other person is a criminal offence under Article 284 DCC.⁵¹ The offence is based on a broad definition of force. The provision covers a variety of types of force, including 'other acts', which might include the aforementioned abuse of a position of authority for example, but also perhaps the perceived pressure the children feel to comply with socio-cultural expectations.⁵² This type of 'social pressure' is not easy to prove.⁵³ As the Ministry of the Interior and Kingdom Relations states in the 'Action Plan on Preventing Forced Marriage', it is frequently '[...] difficult to establish when an advisory and supportive parental role becomes social pressure or even criminal duress',⁵⁴ and 'there can be

49 This appeared to be the situation in a case in the Netherlands that was described in the study by the European Roma Rights Centre mentioned earlier (See ERCC, 2011: p. 73). On the key to the definition of the offence of human trafficking, see also Esser and Dettmeijer-Vermeulen, 2014.

50 See also, inter alia., Gelderland District Court 21 December 2015, ECLI:NL:RBGEL:2015:8040.

51 Dutch Criminal Code, Text and Commentary, Article 284 DCC (Van der Meij).

52 This was described by one respondent in the study by Rutten et al. as 'cultural coercion' (Rutten et al. 2015: p. 109). In Myria, 2015: p. 12, the term 'moral coercion' is also used.

53 Myria, 2015: p. 12.

54 *Parliamentary Documents II* 2010/11, 32 840, no. 3, p. 3.

forms of social pressure, which young people do not resist out of loyalty to the parents and family, or that are internalized to such an extent that curtailment of freedom of choice is not experienced as such.⁵⁵

There have been no instances to date where parents have been prosecuted for their role in the forced marriage of a child, although there has been growing pressure to do so from international organizations and in national policy in recent years. In this context, it is relevant that the maximum sentence for offences under Article 284 DCC was raised in 2013, precisely with a view to taking more effective action against forced marriage.⁵⁶ There have also been calls at the international level for measures to address forced marriage. The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence,⁵⁷ which was recently ratified by the Netherlands, specifically refers to measures under criminal law; countries are obliged to make forced marriage a criminal offence, and in the preamble to the Convention forced marriage is described as ‘a serious violation of the human rights of women and girls and a major obstacle to the achievement of equality between women and men’.⁵⁸ Even before the Convention’s ratification, there was a discussion in the Netherlands about the need to strengthen the sanctions for forced marriage under criminal law. The Minister of Security and Justice, for example, felt that it was essential to address forced marriage with criminal law.⁵⁹ Although he did not feel it was the only instrument, he said that criminal law, although an *ultimum remedium*, is an ‘essential cornerstone’ of efforts to combat forced marriage. He went on to say:

‘When severe psychological pressure or even physical pressure is exerted, with the result that a person feels compelled to enter into a marriage, a line is crossed – also from the perspective of criminal law. The impact and consequences of a forced marriage are considerable and intense. Victims must be protected against that. The protection that the government can provide includes protection under criminal law.’⁶⁰

55 Ibid.

56 *National Rapporteur*, 2013: p. 127. The raising of the maximum sentence was part of a legislative operation designed to expand the possibilities for combating forced marriage, polygamy and female genital mutilation under criminal law. See also *Parliamentary Documents II* 2010/11, 32 840, no. 3.

57 Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul, 11 May 2011), *Bulletin of Treaties* 2012, 233. The Treaty was ratified by the Netherlands on 18 November 2015. For the advice of the *National Rapporteur on this Convention*, see http://www.nationaalrapporteur.nl/Images/210314-advies-van-de-nr-over-verdrag-inzake-geweld-tegen-vrouwen-en-huiselijk-geweld_tcm63-543859.pdf, consulted 24 February 2016.

58 Ibid, Preamble.

59 *Parliamentary Documents II* 2010/11, 32 840, no. 3, p. 1.

60 Ibid. In response to questions from the SP party, the Minister later explained his choice of measures under criminal law. According to him, alternative measures ‘[...] do not affect the fact that the criminal law must be adequately equipped to allow effective action to be taken in relevant cases of forced marriage’. And ‘It is, after all, necessary to keep criminal law up to date. The legislature must remain alert to new social, cultural, economic and technological developments and where necessary amend legislation having due regard to society’s prevailing convictions about the law. The amendments proposed in this bill must be seen as an essential cornerstone of the entire set of measures designed to remove statutory lacunas in the criminal law and so ensure that relevant cases can be properly investigated, prosecuted and punished. The proposed changes can also be expected to send a signal, so the instruments of criminal law intended to combat forced marriage will also have a certain preventive and deterrent effect’ (*Parliamentary Documents I* 2012/13, 32 830, C, p. 1-2).

It is also interesting to note that with the implementation of the Convention, a new criminal offence was created with the insertion of Article 285c in the Dutch Criminal Code. That provision makes it a criminal offence for a person to intentionally lure another person out of or into the Netherlands with the intention of committing any of the offences set out in Article 284 with respect to that person. As applied to forced marriage, this provision covers the situation where person A entices person B from one country to another in order to force person B to enter into a marriage in that other country. For the commission of this offence there is no requirement for the marriage actually to be concluded. According to the legislature, the element of 'luring' for the purposes of Article 285c DCC exists 'when the person is induced to travel to another country under false pretences'.⁶¹ Luring also includes 'any act that can reasonably be deemed capable of persuading a person to travel to another country, while that person would not have travelled to the other country if that act had not been performed or if the person had known what the actual purpose of the journey was'.⁶² The fact that the victim is in a position of dependence in relation to the perpetrator and is consequently highly impressionable could, according to the legislature, be a factor in determining whether the acts by which the victim was lured could reasonably have served that purpose.⁶³

4.1.4.2 The relationship between arranged child marriages and criminal exploitation

The National Rapporteur has received signals from the professional field that girls who enter arranged marriages are particularly vulnerable to human trafficking.⁶⁴ Their increased vulnerability lies in the fact that some Roma girls, before they marry, are forced to steal in order to prove their 'worth' to their future parents-in-law.⁶⁵ There are also indications that these girls, once married, have to continue stealing or are forced to beg⁶⁶ in order to repay the bride price.⁶⁷ A case provided by the police in the East Netherlands region illustrates the problem.

The forced marriage of a 15-year-old girl⁶⁸

'I am now fifteen years of age and have been married for a year. I did not know the young man I married before the wedding. When I was around eight years old, my father told me I would have to marry. He told me that I had been 'promised' and that, when I was old enough, I would move to another family. I did not protest. I was still too young and had seen the same thing happening with girls I knew. I now live with my parents-in-law, my husband, his older sister and two younger brothers. A few times a week I go [...] with my father-in-law or an uncle or cousin in the car to a shopping centre. I don't know in advance where we are going, but it is usually to a different city

61 *Parliamentary Documents II* 2014/15, 34 039, no. 3, p. 4.

62 *Ibid.*

63 *Ibid.*: p. 5. See also the advice of the National Rapporteur, who recommended that the legislature should provide more information in the explanatory memorandum about the interpretation of acts that could reasonably be deemed to be intended to persuade a person to travel to another country: http://www.nationaalrapporteur.nl/Images/210314-advies-van-de-nr-over-verdrag-inzake-geweld-tegen-vrouwen-en-huiselijk-geweld_tcm63-543859.pdf, consulted on 24 February 2016.

64 Written information from one of the pilot municipalities in the Programme to Combat the Exploitation of Roma Children in November 2015. See also Veneman, 2014.

65 Veneman, 2014: p. 8.

66 Myria, 2015: p. 22.

67 Verbal information from the municipalities taking part in the Programme to Combat the Exploitation of Roma Children in November 2015.

68 Derived from Veneman, 2014: p. 17.

each time. We have to 'earn money' there. Sometimes we steal, usually articles for the household. Other times we follow an old woman and discover her PIN code.'

4.1.4.3 The consummation of an arranged child marriage and the relationship with human trafficking and other offences

In addition to the marriage itself and the criminal exploitation that might precede it, reports from operational practice and in the literature refer to a ritual in which children are expected to have intercourse on the wedding night, primarily to demonstrate the girl's virginity.⁶⁹ Sometimes, a bloody sheet is displayed during the marriage ceremony to show that the girl really is a virgin.⁷⁰ In Belgium, two sets of parents were convicted of involvement in an arranged marriage and its consummation.

Conviction in Belgium for involvement in the consummation of a marriage

The case occurred in Verviers in Belgium, where two Roma couples were sentenced to five years in prison for human trafficking, rape and indecent assault. The parents of two minors had arranged a marriage between them and created a setting for the consummation of the marriage. The sum of money that the girls' parents would receive was made dependent on whether the girl was still a virgin. In its judgment the court found that sexual acts had actually taken place between the minors. The court's principal criticism of both sets of parents was that they had set up a ritual that promoted the consummation of the marriage by the children concerned.⁷¹

Parents of minors who encourage their children to consummate the marriage – whether or not as part of a ceremony – are also possibly guilty of one or more offences against public morals in the Netherlands. If both children are minors, then both the boy and the girl are victims. The principal relevant offence in this case is human trafficking, more specifically the form of human trafficking covered by Article 273f (1)(5) DCC,⁷² but it also appears to involve a number of offences against public morals. For example, under Articles 247, 248f and 250 DCC it is a criminal offence to induce a person to perform indecent acts with a third party. The offence under Article 248f DCC is that of intentionally inducing a minor to engage in indecent acts with a third party with the use of coercion. The maximum sentence for this offence, which only entered into force in 2014, is ten years' imprisonment and applies in relation to minors up to the age of eighteen. It is only punishable if the minor is coerced in some way to have sex with a third party (in this case, the person the child is marrying). In these cases the coercion could lie in the situation of dependence between those arranging the marriage and those for whom the marriage is arranged, a situation that here too might fall under the element 'other act'. The indecent nature of the sexual contact that must exist could be formed by the context in which the sexual acts take place: minors engaging in sex in a setting arranged by adult third parties. Coercion is not an element of the

69 ERCC, 2006; Veneman, 2014: p. 7.

70 Veneman, 2014.

71 Verviers District Court 30 January 2014, Twelfth Correctional Chamber (only available in French).

72 Under Article 273f (1)(5) DCC, any person who induces another person to make him/herself available for performing sexual acts with or for a third party for remuneration is committing a criminal offence. The element of 'remuneration' could raise problems in this context, since in the ceremony described here the sexual acts are primarily intended to demonstrate the girl's virginity. Nevertheless, it could be argued that the girls' parents – who are after all receiving a sum of money, the size of which depends in part on their daughter being a virgin – enjoy financial benefit from the consummation of the marriage.

offence in the case of procurement, which carries a lighter maximum prison sentence. Article 250 DCC explicitly covers inducing or encouraging one's own child to perform sexual acts with a with a third person. This aim of this article therefore seems to correspond most closely with the situation in which parents encourage their own child to have sex with a partner they have chosen. Finally, if the children are younger than sixteen, there is also criminal liability by virtue of Article 247 DCC, which makes it a criminal offence for a person to induce a child under the age of sixteen to perform or submit to sexual acts with a third party. The maximum sentence is six years in prison.⁷³

4.1.4.5 Giving priority to arranged child marriages in the policy on criminal procedure

The preceding sections have reviewed the relationship between arranged child marriages in Roma communities and human trafficking and other offences against public morals in the Dutch Criminal Code. The subject has been discussed mainly from the perspective of criminal law. It is important, however, to guard against expecting too much from that approach. Criminal law is not always the answer. Complex phenomena such as arranged child marriages, and associated phenomena, cannot be understood, prevented and combated solely from a criminal-law perspective; they also have to be addressed with alternative instruments that could achieve the desired objectives. At the same time, forced marriage, criminal exploitation and inducing the consummation of a marriage are all actions that violate the fundamental rights of children: they affect core values such as personal autonomy and sexual integrity and it is not for nothing that in recent years efforts have been made at both the national and international level to strengthen the instruments of criminal law designed to punish those acts. It therefore seems appropriate to address the problems described here more from a criminal-law perspective in the years to come. Naturally, this approach cannot be based solely on legislation, or more specifically on the recent legislation relating to forced marriage. Compliance with the law depends on its enforcement. It is therefore important that arranged child marriages in the Roma community and the relationship with human trafficking and sexual violence against children should also receive more attention in law enforcement policy. The National Rapporteur has on several occasions referred in this context to the relative lack of experience with investigation and prosecution in relation to arranged child marriages and the related problems. These issues still need to receive greater priority from the police and the PPS. Only if the government treats the relationship between arranged marriages and human trafficking and sexual violence against children as a priority can it make a genuine contribution to preventing and combating it through criminal law.

73 For a detailed discussion of the various acts that are criminalized in the section of the Dutch Criminal Code on offences against public morals, see Van Dijk, 2015.

ARRANGED MARRIAGES AND THE DUTCH CRIMINAL CODE

Description of phenomenon	Body of facts	Possible basis of criminal responsibility for third parties
Criminal exploitation in the context of demonstrating 'value'	Inducement of a girl to commit property crimes by third parties	273f DCC
↓		
Arranged marriage	Marriage of two minors arranged by third parties	273f, 284, 285c DCC
↓		
Consummation of an arranged marriage	Promotion by third parties of consummation of a marriage arranged by the same parties	273f, 250, 247, 248f CC
Criminal exploitation in the context of repayment of the bride's price	Inducement of a girl to commit crimes by third parties	273f DCC

Figure X. This figure shows the relationship between the problems described above and offences in the Dutch Criminal Code. Before the marriage there might be criminal exploitation (Article 273f DCC) of the girl in order to demonstrate her 'worth' to her new in-laws. The arranged marriage is itself perhaps a form of human trafficking, but it is more logical to consider it from the perspective of the use of force (a forced marriage, Article 284 DCC). In that context, there can also be conduct that has recently been criminalized under Article 285c DCC. Once the marriage has taken place, there are two possible consequences that could be linked to both human trafficking and a number of offences against public morals. They are the induced consummation of the marriage (for example, on the wedding night) and criminal exploitation, where the girl has to 'earn back' the bride price paid by her parents-in-law to her parents.

4.1.5 Nomadic Roma communities

It has become clear in recent years that these problems are not confined to Roma families that live permanently in the Netherlands. Both phenomena described here also occur in Roma communities living temporarily in the Netherlands, the mobile or nomadic groups. Children in one of these mobile groups are members of a community that often include adult family members who are not necessarily the children's parents. The organization of the group is characterized by its mobile nature and, with the enlargement of the European Union and the Schengen Zone, it is able to move easily between countries.⁷⁴ When these groups have come to the attention of the authorities too often, they move to another EU country.

Some of these groups seem to operate as criminal networks. Research by Siegel⁷⁵ shows that the groups (or clans) target poor, vulnerable Roma in their own country and recruit them with the promise

74 Doctors of the World, 2009.

75 Siegel, 2013: p. 38.

that they can earn money quickly in Western Europe. They are then used by the network for pick-pocketing, begging, money changing tricks, deception and fraud and have to surrender most of the money they earn to the clan. Girls from unstable or unsafe families are made dependent using the loverboy method and forced into prostitution by the human trafficker.⁷⁶

Tackling these phenomena is all the more difficult in this 'mobile' context because it is frequently difficult to establish a person's identity.⁷⁷ It is also difficult for government agencies to establish the relationship between a child and an adult. There have been occasions when children who had been arrested were allowed to leave with people who had not been incontrovertibly identified as their relatives.⁷⁸ It is also more difficult to monitor children who are members of a nomadic groups because of their movement from place to place.

4.1.6 Problems (in the chain)

Roma children are particularly vulnerable to exploitation and should be recognized and treated as such by Dutch government agencies. Unfortunately, that is not always the case. Five problems are discussed in that context.

4.1.6.1 The protection of Roma children in arranged marriages

The first problem relates to arranged marriages. Children who have to marry at a young age are vulnerable to human trafficking. As already mentioned, girls in particular are induced to commit crimes in order to demonstrate that they can be a source of income, with which the bride price can also be recouped later. The arranged marriage itself could possibly be seen as a form of human trafficking, and as has been shown the consummation of the marriage could be regarded as constituting human trafficking and sexual violence against children.

The National Rapporteur has received warnings from professionals that it is very difficult to prevent children from being married off. The problems begin with the identification of situations where it occurs. Although the impending marriage of children from Roma families living permanently in the Netherlands could be recognized early on, it does not always happen. For example, a girl who is being sent out to steal will generally no longer be going to school so there is no way of identifying her in the education system (by teachers in particular). Research by Myria also shows that very few forced marriages are reported.⁷⁹ In the first place this is due to the fact that the marriages are conducted privately and the authorities therefore know little about them. Secondly, few victims report their situation to the government, usually because of feelings of shame or fear or out of loyalty to their family or community.

Identification is primarily the responsibility of municipalities, partners in the local health-care chain and the police. It is important for the authorities at this level to invest in measures aimed at the early recognition of forced marriages, and it is equally important for the national government to support them in that endeavour. Generally speaking, municipalities should consult the Dutch Centre of Forced Marriage and Abandonment, which can advise them on the most appropriate approach in each individual situation. This mechanism should always be used if there are indications that children are being forced to marry. A further recommendation is that other municipalities should join the initiatives that have al-

76 CKM/Terres des Hommes, 2014: pp. 7-8.

77 With respect to children of Central and South-East European origin, see De Witte and Pehlivan, 2014: p. 54; Anti-Slavery International, 2014; European Commission, 2012.

78 De Witte and Pehlivan, 2014: p. 35.

79 Myria, 2015: p. 23.

ready been taken by the pilot municipalities in the Programme to Combat the Exploitation of Roma Children.⁸⁰ There is no blueprint for the most suitable approach, although one step that could be taken in every case is to enforce the Compulsory Schooling Act if children remain absent from school. It is also important to provide counselling for children who are forced to marry and the families they are living with. The degree of compulsion with which the relevant marriage was entered into should also be investigated. In 2013 the maximum sentence for a breach of Article 284 DCC – the offence involving the use of force – was revised precisely with a view to enforcing the ban on forced marriages more effectively under criminal law.⁸¹ That is another route by which forced marriages that occur under coercion can be prevented, and one that States are in fact encouraged to follow in the Council of Europe Convention that was recently ratified by the Netherlands.⁸² Similarly, criminal law could be used against parents who encourage or promote the consummation of a marriage. It goes without saying that criminal exploitation within a marriage should also be punished under criminal law

4.1.6.2 Identifying criminal exploitation

The second problem relates to the identification and recognition of cases of criminal exploitation as human trafficking. In practice, employees of front-line agencies that encounter criminal exploitation lack the knowledge to recognize it. Cases are not always seen in the context of sexual exploitation and human trafficking and efforts are devoted entirely to investigating or prosecuting the offence, generally theft.⁸³ It is important that front-line agencies – the police, municipalities and partners in the health-care chain – are given the training needed to recognize signs of human trafficking. This is in fact an obligation arising from the EU Human Trafficking Directive⁸⁴ and has also been recommended in a number of studies.⁸⁵ It is therefore important to invest in training for front-line professionals to enable them to recognize signs of human trafficking.⁸⁶ Otherwise, there is a risk that the authorities will wrongly fail to treat situations of criminal exploitation as instances of human trafficking, that signs of human trafficking will be missed and that victims will not receive the protection they need and are entitled to. Training front-line professionals will not be easy. Apart from a lack of time, it sometimes seems that the structure of the law-enforcement system is not designed to deal with cases within a human

'[...] Children performing this kind of activities who reached the age of criminal liability are often regarded as criminals, and not identified as potential victims of trafficking' [De Witte en Pehlivan 2015, p. 68]

80 In 2014, the programme provided subsidies for a number of projects by municipalities designed to address the exploitation of Roma children from a different perspective. The projects will end at the end of 2016 and a review is currently underway of measures that can be taken to safeguard the results that have been achieved. It is important that the national government and the municipalities continue to devote attention to the problems in order to ensure that the information gathered in the course of the programme is not lost.

81 See *National Rapporteur*, 2013: p. 127.

82 Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul, 11 May 2011), *Bulletin of Treaties*. 2012, 233.

83 Reports of this are not in fact confined to the Netherlands. Numerous reports refer to a lack of knowledge on the part of front-line services which sometimes leads to cases wrongly not being treated as human trafficking. See, for example, European Commission, 2015: pp. 47 and 81; Anti-Slavery International, 2014.

84 See also Article 18(3) of the EU Human Trafficking Directive: 'Member States shall promote regular training for officials likely to come into contact with victims or potential victims of trafficking in human beings, including front-line police officers, aimed at enabling them to identify and deal with victims and potential victims of trafficking in human beings.'

85 De Witte and Pehlivan, 2014; Anti-Slavery International, 2014.

86 Anti-Slavery International, 2014.

trafficking framework. For example, ‘high volume crimes’ are generally disposed of with mechanisms that are primarily designed to promote speed and efficiency (the so-called ‘ZSM method’. [ZSM stands for Zo Spoedig Mogelijk, or As Quickly as Possible]⁸⁷). In the case of criminal exploitation, however, the protection of the child should prevail over speed and efficiency in the administration of justice. If there are signs of criminal exploitation, the departments that specialize in human trafficking within an organization should be contacted as soon as an arrest has been made. In the police force, these would be the certified human trafficking detectives, for example. At the PPS, it would be the human trafficking portfolio holder in each district and in the National Public Prosecutor’s Office. The National Rapporteur welcomes the fact that research is currently being conducted with the aim of designing an integrated programme to combat the criminal exploitation of children.⁸⁸

4.1.6.3 The role of the non-punishment principle in relation to criminal exploitation

The third problem follows from the second one. It concerns the question of whether children should be prosecuted or punished for criminal offences they were forced to commit in a human trafficking context.⁸⁹ The undesirability of this has led to the formulation of the so-called ‘non-punishment principle’ in international and European law. This principle, which has been incorporated in the Council of Europe Convention and the EU Directive on Human Trafficking,⁹⁰ prescribes that States must take measures to ensure that the authorities are entitled not to prosecute and/or punish victims of human trafficking for crimes committed in a trafficking situation.⁹¹ Although application of the principle is not, strictly speaking, mandatory, a strong encouragement to States to waive prosecution and punishment for victims can be imputed to it.⁹² Unfortunately, that is not always done, as was apparent from the case in which the uncle induced his nephews to commit a burglary.⁹³ Children should not be prosecuted and punished for crimes they are forced to commit in a human trafficking situation. That applies both for children who are part of a family living in the Netherlands and/or those in a mobile Roma community. Prosecution and punishment should be an ultimatum remedium and therefore avoided as far as possible. However, the National Rapporteur has received reports that this is not always the case. Firstly, because children are not always recognized as victims of human trafficking, as in the example given above. There are also occasions when children are prosecuted in the belief that not to prosecute would send the wrong signal to parents or other members of the family, namely that using children to commit criminal offences will not have any consequences. Whatever one might think of these arguments, it is always important to realize the background against which the crimes were committed and the consequences a conviction will have for the child concerned (psychological problems, for example, but also the social impact of having a criminal record). Another ques-

‘In the case of criminal exploitation, the protection of the child should prevail over efficiency in the administration of justice, for example in the form of the ZSM approach’.

87 On this point, see Mijnaerends, 2014.

88 Draft initiating document for a study by the WODC entitled ‘Comprehensive approach to trafficking in and criminal exploitation of children in the Netherlands’, 13 October 2015.

89 Children in the Netherlands are criminally liable from the age of twelve.

90 The non-punishment principle is also included in Article 14 of the EU Directive 2011/93/EU on combating sexual abuse and sexual exploitation of children and child pornography.

91 See also Article 26 of the Council of Europe Convention and Article 8 of the EU Human Trafficking Directive.

92 De Meijer and Simmelink describe the non-punishment principle as a ‘contraindication’ to prosecution (De Meijer and Simmelink, 2014: p. 242).

93 De Witte and Pehlivan, 2014: p. 56.

tion that needs to be asked is whether there are alternative routes that could be followed, which would be more appropriate than the use of criminal law. For example, punishing those who exploit children would seem a more effective deterrent than punishing those they have exploited. It also goes without saying that handling a situation via the youth-care services will produce better results for children than criminal proceedings, which can have a huge impact, particularly on young children. Although the non-punishment principle has become more firmly established in the policy on criminal procedure in recent years⁹⁴ it is important that it continues to receive attention in both the investigation and the prosecution chain. The National Rapporteur has received reports that the principle is not always interpreted uniformly and that similar situations are consequently assessed differently. It is therefore recommended that the parties in the criminal justice chain endeavour to create greater uniformity in the application of the principle, for example by formulating a clearer policy on the interpretation of the principle and of the situations in which it applies.

4.1.6.4 The protection of victims of criminal exploitation

The fourth issue relates to the question of how children who are victims of exploitation can best be protected. Is returning a child to a family that might include the exploiter the preferred option, bearing in mind the risk of revictimization? At first glance, it would not appear so, but the familial context in which the crimes were committed does make it more difficult to find a correct solution in these situations. There does not seem to be any ready answer. Ultimately this dilemma has to be addressed on a case-by-case basis, with the appropriate measures being determined according to the child's interests in each specific case. Sometimes a child protection measure will be needed, sometimes not. Although it is difficult to formulate general principles, the youth-care services or the Child Care and Protection Board should always be consulted. Furthermore, there should always be consultation with the relevant school attendance officer, who can then enquire whether the child is registered at a school and, if so, whether the child actually attends classes.⁹⁵ Municipalities should also share best practices in order to develop the best approach to dealing with this complex issue, for example through the existing Programme to Combat the Exploitation of Roma Children. It is also important to retain a centre of expertise on this subject when that programme ends in 2016. The involvement of both central government and municipalities is essential for ensuring that the problem continues to receive the necessary attention.

4.1.6.5 Children who are members of mobile groups

Children who are members of a mobile group that migrates around Europe are more difficult to protect. There are warnings from professionals that the major problem in relation to these children is establishing the identity of both the child and the person claiming to be the child's parent or guardian. It is also difficult to design a comprehensive approach to the problem because of the obstacles to tracking the mobile group's whereabouts at any given time. There have been occasions when a child from a mobile group, who has been arrested and released again, has never been seen again because the group has moved. It is important for this unusual context to be taken into account in every decision that is made with regard to these children. For example, the mobile nature of the group could be explicitly considered when decisions are being made on whether a child protection measure should be requested or

94 See also the inclusion of a reference to the non-punishment principle in the PPS's Instructions on the Use of Grounds for Dismissal. *Government Gazette*. 2014, 23614.

95 See also the approach adopted in Den Bosch as described in the study by De Witte and Pehlivan, 2014.

ordered. Another recommendation is that the child should only be returned to the family if it has been properly established that the child is directly related to members of the group.

4.1.7 Concrete actions

This study of the vulnerability of children from Roma communities has produced a worrying picture. For example, there have been several cases in recent years in which children have been forced by family members to steal on the street, a form of criminal exploitation and therefore human trafficking. The review has shown that Roma children are vulnerable to human trafficking for various reasons (poverty, absence from school). A link has also been found to exist between human trafficking and sexual violence against children, on the one hand, and arranged child marriages on the other. The discussion has shown that insufficient use is made of criminal-law instruments to combat this problem. Since there is now sufficient evidence to assume that children who are members of a Roma community are vulnerable to human trafficking, and it has been shown that some actually are victims of human trafficking, the analysis of this group leads to their being assigned to the category 'Concrete actions'. The steps that need to be taken have been described above and are discussed further in Chapter 6.

4.2 Children living illegally in the Netherlands who have to work within a family

4.2.1 Vulnerability of children living illegally in the Netherlands

Children living illegally in the Netherlands are, by definition, vulnerable to human trafficking, although they are not all equally vulnerable. For example, some may be living in a relatively safe social environment, for example because they are taken in by relatives already living in the Netherlands, legally or illegally. Unfortunately, however, although families play a protective role in many children's lives, that is not always the case. In the European Commission's study into vulnerable groups that was referred to earlier, it specifically referred to children who are subjected to a 'migration project' organized by their family. This is not always their own family; it can also relate to children who are taken in by other families and who – as time passes – become a de facto member of the new family (*extended family*). In addition to the vulnerability inherent to these children's illegal status, their situation in the 'new family' often also creates vulnerability. Children who are living illegally in the Netherlands will generally not speak the language and are therefore far less able to establish roots in Dutch society. The closed setting in which they live – within a family – also makes it difficult for the authorities to keep track of them. These children generally have little contact with people outside the family, never mind Dutch agencies.

There have been a number of cases in recent years in which children living illegally in the Netherlands have been required to work for years for a family, either their own or another. These are children who are forced to work, do not attend school and are often deprived of any contact with Dutch society. It is particularly difficult for them to report their situation because of their illegal status, a status that exploiters can use to blackmail the child: 'Make a complaint and you will be arrested.' An additional factor is that the children who have to work for a family are, by definition, subject to the family's authority. The parents or other family members are automatically in a dominant position because of their relationship to the underage members of the family. In that context, the child can also easily be intimidated with the threat that failing to perform the work properly or refusing to perform it any longer will embarrass the family.⁹⁶ It is hard to imagine that this would not be an effective mechanism for keeping children in a state of dependence.

4.2.2 Nature and scale of the problem

Little research has been conducted into the exploitation in families of children who are living illegally in the Netherlands, and the hidden nature of this phenomenon makes it difficult to say how serious the problem is. There is also a lack of research into the reasons for this type of exploitation or the motives of exploiters and the mechanisms they use to keep children in a state of dependence. In 2013, Kaandorp and Blaak briefly touched on the situation of children working in households.⁹⁷ Their report mentions the case of a Ugandan girl who was brought to the Netherlands by a diplomat stationed here to perform household duties and to care for the diplomat's children. The researchers point out that the exploitation of children in a household seems to occur primarily within families, and most frequently involves nieces and daughters, who have to do the cleaning, care for the children in the household, do the shopping and act as an interpreter for the adults in the family. Kaandorp and Blaak observe that the children sometimes appear to perform the domestic work in return for being allowed to live with a family already settled in the Netherlands.⁹⁸

96 See, inter alia, Amsterdam District Court 3 December 2013, ECLI:NL:RBAMS:2013:8461.

97 Kaandorp and Blaak, 2013: p. 32.

98 Ibid: p. 32.

4.2.3 Cases in the Netherlands

As mentioned above, it is difficult to express a judgment about the nature and scale of the problem. The information that is known is mainly anecdotal in nature. At the same time, there have been a number of cases in recent years in which people who have forced children to work in a family for years have been prosecuted for human trafficking. These cases are discussed below.

4.2.3.1 Case 1: Exploitation in the household⁹⁹

A recent case that came before The Hague District Court involved a girl who was believed to be six or seven years of age¹⁰⁰ when she was brought from Morocco¹⁰¹ to the Netherlands by the suspect. The suspect had contacted the girl's father in Morocco, who had given his consent for her to go to the Netherlands to perform domestic work for the suspect and care for his handicapped daughter. The girl herself declared that she had been 'sold' by her father to the suspect. The suspect took the girl into his home in the Netherlands, where for seven years she had to perform household duties and was entirely responsible for caring for the handicapped daughter. She had to get up at 7.00 a.m. every day and help the daughter to get up, shower and get dressed. She was also required to clean the house every day. The girl's freedom of movement was restricted; she was not allowed outside the kitchen. She was also told that if she contacted the police she would be sent back to her own country. During the period of more than seven years the girl was never paid for her work. She also never attended school and was deprived of any form of medical care. She did have occasional contact with doctors, but that was to assist the suspect's handicapped daughter. In 2012, when the girl was seventeen, she ran away from the family. Shortly afterwards she made a complaint to the police. The suspect received an unconditional prison sentence of 24 months and was prohibited from having any contact with the girl or her family for a period of two years.

'Through his actions the suspect deprived the victim of a free and carefree childhood' [Court in the grounds for sentencing in the so-called Cinderella case in The Hague].

4.3.3.2 Case 2: Exploitation of niece by uncle and aunt¹⁰²

This case involved a Turkish girl who was approximately ten years of age when she came to the Netherlands with her aunt in 2000. The girl had previously been abused by her father, because he blamed her in part for her mother's adultery. On arrival in the Netherlands, the girl moved in with her uncle, who had been living in the Netherlands with his family for some time. No residence permit was ever requested for her. She also did not go to school or receive medical care. From the age of thirteen, the girl was expected to perform domestic work and care for the children in the family. The court found that she had been required to perform this work for seven years. In the grounds for sentencing, the court found that the uncle had violated his niece's mental integrity and 'placed his and his wife's personal comfort above that integrity. Through his actions the suspect had deprived the victim of a free and carefree childhood.' The uncle received an unconditional prison sentence of twelve months. The court also prohibited the man from having contact with the niece for two years.

99 The Hague District Court 26 February 2016, ECLI:NL:RBDHA:2016:1968.

100 It is not clear from the judgment precisely when the suspect brought the victim to the Netherlands. On the basis of the victim's statement – that she was six or seven at the time – it will have been 2001 or 2002. The period covered in the indictment was only from 1 January 2005, the date on which exploitation *outside* the sex industry was also criminalized in the Netherlands in Article 273a (old) DCC.

101 Written information from the PPS on 7 March 2016.

102 The Hague District Court 30 January 2015, ECLI:NL:RBDHA:2015:996.

4.2.3.3 Case 3: Exploitation of nephew by uncles¹⁰³

A Turkish man living in the Netherlands decided, during a visit to Turkey, to take his nephew back with him to the Netherlands. The 14-year-old nephew was informed that he would have a better future in the Netherlands. On arrival, however, the nephew was quickly put to work by his uncle in his drapery shop in Amsterdam. He generally worked six days a week, for around nine or ten hours a day. The work performed by the nephew consisted of moving rolls of fabric, loading and unloading lorries with fabric and helping his two uncles in the drapery shop. The nephew ultimately worked in the uncles' shop for more than eight years. For all that time the nephew was living illegally in the Netherlands and did not go to school. He lived in various places, sometimes sleeping in his uncles' homes, but also regularly staying with his grandmother and grandfather, who were also living in the Netherlands. The uncles were given unconditional prison sentences of 22 and 32 months, respectively.

4.2.4 Problems

These three cases involved children who were exploited for years within families in the Netherlands. In each of these cases the child was smuggled to the Netherlands, no residence permit was ever requested for the child during their stay in the Netherlands and the child never went to school or received medical care. Furthermore, in all three cases the child had to perform onerous work for a lengthy period (ranging from seven to more than eight years), and always during a highly formative period of their lives, between the ages of ten and eighteen. All of the children in the cases were from the same country as the perpetrators and in two cases they were immediate family.

As this summary shows, there are clear parallels in the cases discussed. Taken as a whole, the cases paint a picture of children who were required to work continuously and had to be available at a moment's notice to meet the demands made by the family. Naturally there is no immediate solution for these situations, which take place largely out of public view. However, there are several observations that can be made that should be addressed by specific measures.

First, children living illegally in the Netherlands who perform work in a household generally remain hidden from public view. In these cases, every occasion when a child does have social contact can be crucial, because they provide an opportunity to recognize the child's situation and report it, for example to the police, the municipality or Stichting M (Report Crime Anonymously). A few examples derived from the first of the cases described above illustrate where and how such contact can be established in situations like this.

Opportunities for establishing contact in case 1

A **home-care worker** visited the suspect's home for one day a week over a lengthy period. During that time she observed that the girl 'did everything' for the handicapped daughter. She also noted that the girl was spoken to in a commanding tone by the suspect and that she often had the impression that the girl had already cleaned the entire house. The home-care worker also knew that the girl assisted the handicapped daughter when she had to visit the **doctor**.

A **hairdresser** who cut the hair of the family members on several occasions declared that the girl was always busy keeping the house clean.

103 Amsterdam District Court 3 December 2013, ECLI:NL:RBAMS:2013:8461.

The **manager of the complex** that included the suspect's home declared that the girl 'did nothing but clean' and never went out alone. He had the feeling that the girl was treated as a 'slave' by the suspect.

Various **neighbours** observed that the girl was always working. She never left the house alone and often cared for the handicapped daughter. One of the neighbours had the impression that the girl was a 'glorified domestic help'. He doubted whether the girl was living voluntarily in the house.

It is evident from Case 1 that there were various occasions when someone or other could have reported the girl's situation. Occasions when there is contact with a possible victim of human trafficking are essential for identifying them, especially when the trafficking occurs in private settings such as households. It is very important to inform the general public about human trafficking so that people can identify possible human trafficking situations and to encourage them to report it. It is also important for certain categories of professionals, such as GPs and dentists, to receive training in how to recognize human trafficking.¹⁰⁴ Visits by the children to these professionals can be very valuable because of the opportunity they provide to learn more about the children's situation and to report it. There have been some recent initiatives to help medical professionals to recognize victims of human trafficking, for example by the Belgian organization Payoke.¹⁰⁵ It is also important for steps to be taken to increase the knowledge about human trafficking among medical practitioners in the Netherlands and so increase the possibility of human trafficking situations being identified and reported.

A second observation relates to academic and policy-related research into the issue of children living illegally in the Netherlands who have to work in families. As already mentioned, the nature and size of this group of children is not known, so it is important to learn more about them. As we have seen, in all of the cases described above, all of which were heard by the courts between 2013 and 2016, children were deprived of fundamental rights during their formative years.

4.2.5 Concrete actions

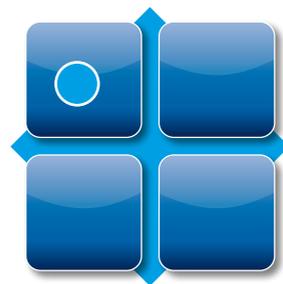
As this section has illustrated, children who are living illegally in the Netherlands are, by definition, particularly vulnerable to human trafficking. The cases discussed also showed that these children are abused, abuse that can culminate in a human trafficking situation. In those cases children living illegally in the Netherlands were exploited for years and were deprived of a normal childhood and development. In light of the findings, this group is assigned to the category 'Concrete actions', which should consist mainly of measures to increase the general public's knowledge of human trafficking, but more especially the expertise of professionals such as family doctors and dentists. More research is also needed to determine the nature and size of this group of children in the Netherlands.

104 Although the girl in case 1 was deprived of medical care, it is likely that even hidden victims will come into contact with medical professionals if urgent care is required.

105 Payoke has produced a guide for medical professionals with advice on how to recognize human trafficking and what to do if they encounter a possible victim. The handbook can be found at [www.payoke.be/websites/52/uploads/file/Guide For Practitioners.pdf](http://www.payoke.be/websites/52/uploads/file/Guide%20For%20Practitioners.pdf), consulted on 2 March 2016.

Child labour is outlawed worldwide, but nevertheless still occurs on a large scale. The Dutch government and the business sector have an obligation to prevent child labour in production chains. A characteristic of the existing obligation is its non-binding nature; companies can choose to sign up voluntarily to particular sets of rules, but the rules are not enforced on a scale sufficient to make them effective. Various international treaties and the EU's Human Trafficking Directive appear to prescribe a more binding system. Child labour, and measures to prevent it, should be approached more from the perspective of human trafficking

so that the obligation to prevent child labour is more compelling for Dutch companies and the government. On the basis of this analysis, this group of children is assigned to the category 'Concrete action'.



5.1 Introduction

Despite a significant drop in the number of children at work, child labour is still common. According to a report by the International Labour Organization (ILO), 168 million children perform work worldwide, 85 million of whom have to perform dangerous work.¹ Combating child labour demands a comprehensive approach that also addresses the underlying ‘root causes’ – such as poverty, unemployment and the absence of a properly functioning education system (structural vulnerability). It is also important to prosecute anyone who permits child labour. However, in addition to tackling the countries where child labour *takes place*, it is also essential to adopt measures in the countries where the products manufactured with child labour are purchased. The Dutch economy depends heavily on other countries.² A good example chosen at random is toys: 75% of the toys sold in the Netherlands are produced in China. Naturally, the toys produced in China are not all manufactured by children, but China is one of the countries where the risk of child labour is greatest.³

‘Child labor and poverty are inevitably bound together and if you continue to use the labor of children as the treatment for the social disease of poverty, you will have both poverty and child labor to the end of time’ [Grace Abbott].

5.2 Child labour is a form of exploitation and human trafficking

Child labour takes many forms and occurs in many contexts. The fact is that child labour is sometimes not even seen as a problem. Work performed by children that does not affect their attendance at school, does not damage their health and contributes to their personal development is even regarded as positive.⁴ However, if that is not the case the consequences of child labour are without exception very harmful; children are deprived of education and their personal development, and hence their prospects of a better future, is impaired. Child labour is also cheap labour, thus sustaining a market with low prices. An important ILO convention lists the ‘worst forms of child labour’.⁵ Because they represent the most urgent problems in relation to child labour, the Convention imposes far-reaching obligations on States in relation to them. One of the ‘worst forms of child labour’ is labour similar to slavery, which is defined in the Convention as including trafficking in children and forced or compulsory labour. These are forms of exploitation, and therefore constitute human trafficking.

‘The term “child labour” is often defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development’ [International Labour Organization]

1 Diallo et al. 2012: p. vii.

2 SER, 2014.

3 Hendriksen and Tholen, 2014: p. 73.

4 Diallo et al. 2012: p. 19.

5 Convention of the International Labour Organization on the worst forms of child labour, No. 182 (Geneva, 17 June 1999), Bulletin of Treaties. 2000, 52.

5.3 Children vulnerable to human trafficking in other countries

The 168 million children who were found to be performing work worldwide in the ILO study represent almost 11% of the total number of children on earth.⁶ Children are desirable workers not only because they are cheaper than adults, but also because they are less articulate and therefore easier to control.⁷ There are also a number of institutional factors that make children vulnerable to this form of exploitation. For example, a report by UNICEF⁸ shows that a high level of poverty is a major factor in explaining child labour. The definition of the term 'child' is another factor mentioned in the report. In some cultures, for example, children are regarded as adults at an earlier age than in the West and the society therefore considers it legitimate that they should also take part in the labour process. A third factor mentioned by UNICEF is access to education. Particularly in poor countries where education is relatively expensive, families frequently choose to have their children work rather than go to school in order to save the expense of education and bring in what the child can contribute to the family's income.

Although child labour occurs in many more countries and regions,⁹ this section focuses on three locations in different regions of the world where child labour occurs on a large scale. These countries have also been selected because child exploitation occurs in three different sectors and Dutch companies operate in all three countries. Naturally this does not mean that companies that trade with these countries are guilty of permitting child labour, but it does mean that they need to be particularly vigilant.

One of the countries where child labour occurs very frequently is Bangladesh. According to a report by UNICEF, more than five million children are at work in that country.¹⁰ In a study by the International Trade Union Confederation, it was even argued that there are more like seven million children working there, of whom 1.3 million are 'engaged in the worst forms of child labour'.¹¹ One sector that employs a large number of children is the Bengali textile and clothing industry,¹² which is one of the largest in the world and accounts for roughly 80% of the country's gross national product.¹³ The industry employs approximately four million people, but it is uncertain what percentage of them are children. The collapse in 2013 of the Rana Plaza, an eight-storey building where clothing was mass produced for Western companies and in which more than 1,100 persons died, drew a lot of international attention to the working conditions in Bangladesh. Although improvements have been made, many employees still find

6 More than half of them perform work under dangerous conditions (ILO, 2013: p. vii).

7 Moulds, 'Child Labour in the Fashion Supply Chain. Where, Why and What can be Done', *The Guardian*, available at <http://labs.theguardian.com/unicef-child-labour/>, consulted on 8 December 2015.

8 UNICEF, 2007: p. 7.

9 As illustrated by a recent report on forced labour on coffee plantations, for example. Hodal, 2 March 2016, 'Nestlé Admits Slave Labour Risk on Brazil Coffee Plantations', *The Guardian*, available at http://www.theguardian.com/global-development/2016/mar/02/nestle-admits-slave-labour-risk-on-brazil-coffee-plantations?CMP=share_btn_link, consulted on 7 March 2016.

10 UNICEF, 2011: p. 28.

11 International Trade Union Confederation, 2012, 'International Recognized Core Labour Standards in Bangladesh', p. 1, available at <http://www.ituc-csi.org/IMG/pdf/bangladesh-final.pdf>, consulted on 8 December 2015.

12 SOMO, 2014: p.1.

13 TU Delft and Fair Wear Foundation, 2013: p. 6.

themselves in a very vulnerable position.¹⁴ An additional problem is that child labour is often already used before the start of the production process in Bangladesh, for example in Uzbekistan where much of the cotton is picked, and in India where the cotton is spun into fabric.¹⁵

A second region in which child labour increasingly occurs is West and Central Africa. According to estimates by UNICEF,¹⁶ a third of all children in the region work full-time, sometimes paid and sometimes unpaid. One sector that employs a relatively large number of children is the cocoa industry. A recent study estimated that two million children are working as ‘child labourers’ on cocoa plantations in Ivory Coast and Ghana, 360,000 more than in 2009.¹⁷ According to the researchers, more than 64% of the workers on the cocoa plantations in Ivory Coast and 14% in Ghana are minors, and a large proportion of them work under dangerous conditions. These figures should also be a cause for concern in the Netherlands, which is the world’s largest importer of cocoa beans.¹⁸ According to a report by KidsRights and the University of Leiden,¹⁹ more than 95% of the cocoa beans imported by the Netherlands come from West Africa, mostly from Ivory Coast and Ghana.

A final sector in which there is a high level of child labour is mining. An estimated one million children are working in gold mines, for example.²⁰ Companies operating in the metal and electronics sectors face a particular risk of being affected by this.²¹ One country where child labour occurs on a relatively large scale in the mining industry is Peru, which is one of the largest gold producers in the world.²² Research by the Centre for Research on Multinational Corporations (SOMO) has shown that roughly 50,000 children are working in the country’s gold mines, an industry with a total workforce of between 100,000 and 500,000 employees.²³ There are also reports that children are given cocaine so that they can work longer hours and to still their hunger pangs.²⁴

5.4 Child labour and the responsibility of companies established in the Netherlands for their subcontractors

Child labour seems remote, but the Dutch economy’s dependence on international trade means that Dutch companies can be links in the chains in which child labour occurs. A study in 2014 showed that

14 Van Straaten, 24 April -2014, ‘Ook na de ramp mag kleding niets kosten’ [Even after the disaster clothing must not cost anything], *NRC*, available at <http://www.nrcreader.nl/artikel/5230/ook-na-de-ramp-mag-kleding-niks-kosten>, consulted on 8 December 2015; Owen, 18 March 2015, ‘Bangladeshi Factory Collapse. Clothing Companies Fail to Pay into Rana Plaza Fund that Provides Compensation for Victims of 2013 disaster’, *Independent*, available at <http://www.independent.co.uk/news/world/asia/bangladeshi-factory-collapse-clothing-companies-fail-to-pay-into-rana-plaza-fund-that-provides-10187129.html>, consulted on 8 December 2015.

15 Moulds, ‘Child Labour in the Fashion Supply Chain. Where, Why and What can be Done’, *The Guardian*, available at <http://labs.theguardian.com/unicef-child-labour/>, consulted on 8 December 2015; SOMO 2014b; Bureau of International Labor Affairs, 2014.

16 Thorsen, 2012: p. 2.

17 Tulane University, 2015: p.4. The same figures were found by Thorsen, 2012: p. 3.

18 Hendriksen et al. 2014: p. 157.

19 KidsRights and University of Leiden, 2014: p. 15.

20 Hendriksen and Tholen, 2014: p. 75.

21 Ibid: p. 19. See also Amnesty, 2016.

22 SOMO, 2015: p. 64.

23 Ibid: p. 25 and 98.

24 Ibid: p. 19.

the Netherlands depends heavily on foreign industries in which child labour occurs,²⁵ illustrating that child labour is not so distant as we might sometimes think. That is not to say that the phenomenon occurs ‘close to home’. Production chains are usually lengthy and opaque,²⁶ and it is often difficult to reconstruct the precise origin of a product because of the number of producers and sub-producers in the chain.²⁷ In addition to the physical distance, this creates a mental distance that can result in producers shifting responsibility for the production process to other companies in the chain. This is why the policy measures that have been taken to combat child labour in the production chains of Dutch companies have focused mainly on getting companies to analyse their own production chains in order to determine whether child labour occurs in the chain or where the greatest risk of child labour lies.

This ‘requirement of transparency’ is an important component of the UN Ruggie framework, for example, and is also to be found in the OECD Guidelines for Multinational Enterprises on corporate social responsibility.²⁸ The Ruggie framework prescribes that States – and companies – have an obligation to protect citizens against violations of human rights. Companies have the duty to respect human rights and to conduct due diligence to prevent child labour in their production chains.²⁹ In addition to this ‘requirement of transparency’, many sectors have taken measures themselves to arrange inspections at the factories from which they source their products. For example, more intensive supervision and enforcement by inspection agencies was one of the principal instruments adopted following the collapse of the Rana Plaza factory in Bangladesh. These initiatives are most common in the regulation of companies that operate in other countries and are part of what are often lengthy production chains. Individual sectors have also taken initiatives to prevent the use of products that are the result of child labour.³⁰

A striking feature of these initiatives is the voluntary nature of participation in them. Although companies are encouraged to join the initiatives, and in some cases their reputation and government financing depends on it, there is often no accompanying legislation that can actually be enforced, for example

25 Hendriksen and Tholen, 2014: p. 73.

26 The lengthy production chain makes it difficult to adopt measures. For that reason, the Minister for Foreign Trade and Development Cooperation is critical of a private member’s policy document from the House of Representatives (which is discussed below) calling for the introduction of a ban in the Netherlands on the sale of products of child labour (policy document submitted by Van Laar): ‘The relevant child labour will usually have taken place abroad, sometimes in remote areas and at the end of a lengthy production chain’ (*Parliamentary Documents II* 2014/15, 33 963, no. 5, p. 6). See also the recent study by Amnesty International into child labour in the mining of cobalt (Amnesty, 2016).

27 This also makes it very difficult to determine at which point in the production chain inspections should take place. It has also been found in practice that the lack of transparency in production chains can be consciously used by producers to fend off inspection agencies. For example, it is known that products are moved between bad factories (where the products are actually manufactured) and ‘model factories’ (where the inspection takes place). On this point, see Clifford and Greenhouse, ‘Fast and Flawed Inspections of Factories Abroad’, *New York Times*, 2 September 2013, p. A1: ‘The inspections are often so superficial that they omit the most fundamental workplace safeguards like fire escapes. And even when inspectors are tough, factory managers find ways to trick them and hide serious violations, like child labor or locked exit doors.’

28 Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, ‘Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework’, A/HRC/17/31: <https://www.ser.nl/nl/-/media/files/internet/tema/imvo/nederlandse-vertaling-un-guiding-principles-on-business-and-human-rights.ashx>, consulted on 2 March 2016. For the OECD guidelines, see http://www.oesorichtlijnen.nl/sites/www.oesorichtlijnen.nl/files/oeso-richtlijnen-versie_2011_nederlandse_vertaling_2.pdf, [the English version is at oecd.org/corporate/mne] consulted on 2 March 2016.

29 On this *soft law*, see also Jägers and Rijken, 2014.

30 SER, 2014.

with sanctions. Although this says nothing about the effectiveness of the rules, enforcement does sometimes appear to leave a gap; there is no possibility for the State to impose sanctions, in addition to measures geared to 'compliance', if investigations show that companies are doing too little to prevent child labour in their chains.

5.5 Problems

Child labour is a complex, diverse and multi-faceted phenomenon. Child labour is also entwined with larger themes for which there is no obvious solution. What is needed is a comprehensive approach that transcends specific policy areas and national boundaries. The fact that child labour occurs primarily in production chains in countries outside Europe must not be a reason for shutting our eyes to the problem. The interaction between the Dutch economy and other countries and the country's enormous dependence on production chains in which there is a risk of child labour should actually provide an impulse to continue developing new measures to eliminate the risk of child labour and to end the sale and use of products that are the result of child labour.

A drawback of many of the measures that have been taken up to now is that they are non-binding. That is the first issue that needs to be addressed in relation to this problem. A characteristic of both the Ruggie framework and the OECD guidelines – instruments that are relevant in this context – is that subscribing to them is voluntary. Naturally, the same applies for covenants drawn up by individual sectors. Another factor is that it is difficult to force companies to comply with these standards of corporate social responsibility by law.³¹ That is not to say that non-participation or non-compliance with such standards never has any consequences; the Dutch government, for example, 'expects' multinational enterprises established in the Netherlands to adhere to the Ruggie framework and the OECD guidelines, and non-compliance can result in the government withdrawing financing from them or refusing to procure goods or services from them.³² Nevertheless, enforcement of these rules remains difficult and there are no instruments for direct intervention.³³ An effort should be made to find ways of improving the enforceability of the rules of corporate social responsibility, for example by anchoring in law the duty of care that these rules impose on enterprises.³⁴ Another option would be to legislate that compa-

31 For greater detail on this point, see the dissertation by Louise Vytöpil, in which she concludes that multinationals are practically immune under civil law and are difficult to sue for breaches of rules falling under the heading of corporate social responsibility. Vytöpil draws the tentative conclusion '[...] that the law at this moment perhaps does not have much to offer in terms of long-term improvement of CSO conditions in trade chains' (Vytöpil, 2015). See also Vytöpil, 2016.

32 For more information on this point, see www.oesorichtlijnen.nl, consulted on 2 September 2015.

33 Also illustrative is that the Minister for Foreign Trade and Development Cooperation leaves the initiative for corporate social responsibility mainly with the business sector. The government's position is one of 'facilitating' and 'activating'. But the minister has also said that 'voluntary agreements are not without obligation as far as the government is concerned. We will hold talks about the underlying reasons with parties that do not make sufficient effort to reach ICSR agreements in relation to the risks indicated in the SRA' (letter from the Minister for Foreign Trade and Development Cooperation and the Minister of Economic Affairs of 19 November 2014 concerning the CSR Sector Risk Analysis).

34 To this end, the Minister for Foreign Trade and Development Cooperation has commissioned research by the Utrecht Centre for Accountability and Liability Law. The results are expected in the spring of 2016. See also the reply to questions from member of parliament Gesthuizen (SP) about the absence of adequate mechanisms to hold multinationals liable for disasters that occur further up the production chain, 1 September 2015, MINBUZA-2015.476172.

nies have a duty to be transparent about their own production chains and the measures they have taken to prevent child labour in their chains, as the United Kingdom did recently.³⁵

Another possibility might be the introduction of a prohibition – subject to criminal sanctions if necessary – on the sale of products that have been manufactured with child labour. Member of parliament Van Laar drafted a private member’s policy paper on this subject in 2014, which is being amended in response to a debate on it in parliament.³⁶ The Minister for Foreign Trade and Development Cooperation has also referred to the fact that the article on human trafficking in national law could play a role in shaping a ban on such sales; for example, Article 273f (1)(6) DCC, which criminalizes profiting from the exploitation of another person, could be used in these cases.³⁷ To date, this provision has not in fact been used in this type of case. If the minister feels it should be, it would have to be discussed with the PPS via the Minister of Security and Justice. This approach seems to have little chance of success, however, especially since the requirement was recently introduced that to prove this offence it also has to be shown the perpetrator also intended the exploitation itself.³⁸

The second problem is connected with the first one, particularly the observation that the debate about how child labour can or should be prevented is not being conducted in terms of human trafficking. What stands out, for example, is that although the relevant ILO Conventions and *soft law* – instruments such as the Ruggie framework or the OECD guidelines – are always referred to, no mention is made of the instruments relating to human trafficking that have been adopted by various international organizations. This is all the more striking since the provisions of the conventions and the directive provide a roadmap for further defining the obligations of States and enterprises in preventing child labour. For example, in Article 19 of the Council of Europe Convention, States are asked to consider making it a criminal offence ‘to use services which are the object of exploitation [...], with the knowledge that the person is a victim of trafficking in human beings [...]’.³⁹ Article 18(4) of the EU Directive is phrased in similar terms and calls on States to consider ‘taking measures to establish as a criminal offence the use of services which are the object of exploitation [...], with the knowledge that the person is the victim of an offence referred to in Article 2 [human trafficking]’.⁴⁰ At the moment, there is a great deal of uncertainty about the precise scope of these articles and there is also no obligation to create a criminal offence; States are only asked to ‘consider’ criminalizing those actions. However, those provisions are relevant for the present discussion and it is worth recommending that in future more account be taken of them in the debate about the duties of governments and enterprises to prevent child labour in production chains. In short, the human trafficking perspective must assume a more prominent role in discussions about child labour, and what governments and companies must do to prevent it.

35 Such a statutory duty was recently introduced in the United Kingdom with the entry into force of the Modern Slavery Act. Article 54 of that act prescribes a duty for large companies to publish an annual report setting out the measures the company has taken to prevent slavery and human trafficking in the production chain or in other parts of the company. It also includes specific obligations with regard to the approval and publication of these reports.

36 *Parliamentary Documents II* 2014/15, 33 963, no. 6.

37 *Parliamentary Documents II* 2014/15, 33 963, no. 5, p. 4. In fact the minister expressed reservations about the feasibility of a ban on sales. The trade restrictions that such a ban would entail are problematic in light of the free movement of goods (under EU law) and some of the World Trade Organisation’s principles.

38 Supreme Court 8 September 2015, ECLI:NL:HR:2015:2467.

39 Council of Europe Convention on Action against Trafficking in Human Beings (Warsaw, 16 May 2005), Bulletin of Treaties. 2006, 99.

40 Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, replacing Council Framework Decision 2002/629/JHA (OJ EU 2011, L 101/1).

5.6 Concrete actions

In light of the vulnerability of children highlighted here and the fact that human traffickers actively recruit children in production chains, this group of children is assigned to the category 'Concrete action'. As mentioned above, it is particularly important to work towards a more robust statutory basis for obligations in the field of corporate social responsibility. It is also important to consider problems relating to corporate social responsibility more from the perspective of human trafficking.

'The human trafficking perspective must assume a more prominent role in discussions about child labour, and what governments and companies must do to prevent it.'

6 Groups that are vulnerable to human trafficking

6.1 Groups that are vulnerable to human trafficking

In the last fifteen years, the definition of human trafficking has steadily expanded. Not only was the definition of the crime of human trafficking expanded in 2005 to include forms of exploitation outside the sex industry, in recent years the concept of exploitation has also been broadened to encompass more sectors and vulnerable groups. Whether it is the boy who sets up his uncle's market stall every day, the girl who is forced to have sex or the boy who is forced to steal a television, they are all victims of human trafficking. It is essential to remain alert to human trafficking even in situations one would not automatically associate with exploitation. This is precisely the purpose of this study: to provide an insight into new groups of children who might also be vulnerable to human trafficking.

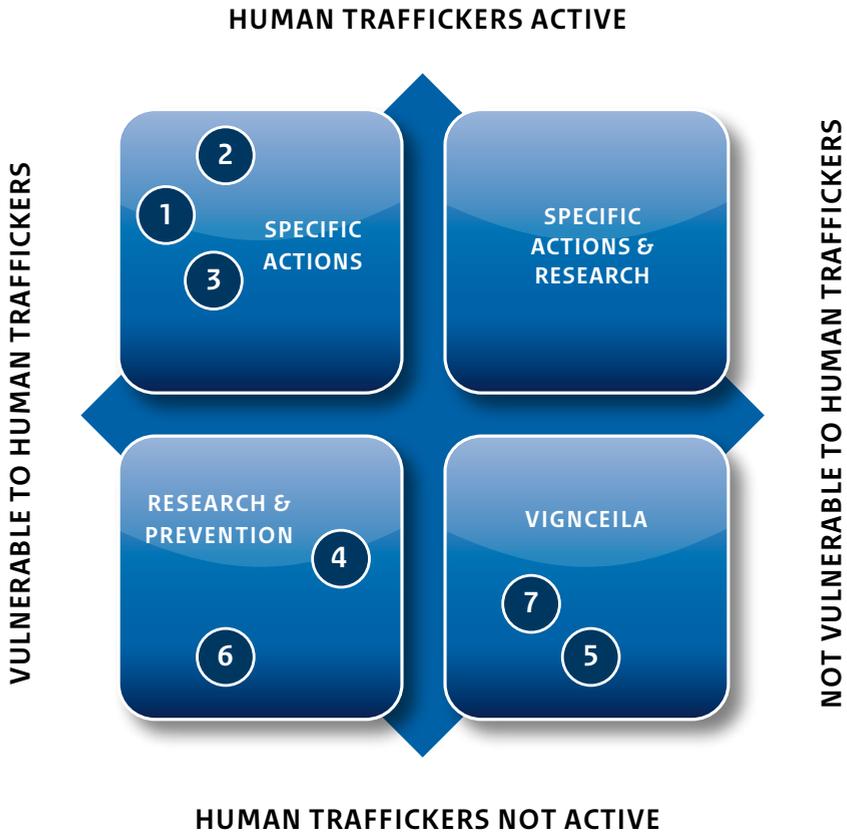
Seven groups are discussed in this exploratory study, which addressed two key questions:

- (1) *To what extent are there indications that these groups of children are vulnerable to human traffickers?*
- (2) *To what extent are there indications that human traffickers specifically target these groups?*

In Figure X the groups are ranked in relation to each other in terms of their vulnerability and the actions that need to be considered as a priority for each group are identified.¹ Each group is assigned to one of the four following categories: (a) *concrete action*, (b) *concrete action and research*, (c) *research and prevention* and (d) *vigilance*.²

1 The categorization used in this report is nevertheless a snapshot and is based on an exploration of the different vulnerable groups that have been linked to human trafficking (see also [Chapter 1](#)).

2 See also [Chapter 1](#).



1. Illegally resident children in family situations;
2. Roma children;
3. Children working in production chains;
4. Lesbian, bisexual, gay and transgender children;
5. Kinderen met de eetstoornis anorexia nervosa;
6. Syrian child brides;
7. Children who join or wish to join ISIS.

Figure X. Seven groups in a single model

As Figure X shows, the seven groups fall into three of the four categories. None of them falls into the category in the top right segment of the figure. This is not surprising, since human traffickers are unlikely to target a group to which few of the risk factors apply because of the additional effort it would take to entice members of these less vulnerable groups into a situation of exploitation and keep them there. It is therefore logical that human traffickers choose not to do so. The other three categories are discussed below, together with a description of the next steps that could be taken with respect to each group.

6.2 Concrete steps

Concerns Roma children (Section 4.1), children living illegally in the Netherlands who have to work in families (Section 4.2) and children working in production chains (Chapter 5)

Groups that are found to be vulnerable and specifically targeted by human traffickers should receive priority and deserve the most comprehensive protection. Wherever possible, specific steps should be taken to ensure they receive that protection. In that context, it is important to develop a multidisciplinary approach designed both to protect victims and apprehend and prosecute human traffickers. For that purpose, it is important to investigate whether the problems facing these groups are seen from a human trafficking perspective and whether enough is being done to ensure they are identified.

Turning to the individual groups in this category, the discussion of the exploitation of Roma children revealed that court cases involving theft by these children are only sporadically dealt with in the context of human trafficking. Consequently, evidence of human trafficking can be missed. A number of international legal instruments prescribe training for all front-line professionals who could come into contact with possible victims of human trafficking: providing education and training is therefore an obligation under international and European law. Units of the police force and the PPS that do not specialise in human trafficking but could come into contact with possible victims should also receive more training than they do at present. They would include the units responsible for investigating and prosecuting cases of theft involving minors aged twelve or older. In cases where there is a suspicion that a crime has been committed by a person in a human trafficking situation, it is important for the human trafficking specialists within the organization to be consulted. Furthermore, the non-punishment principle should automatically apply in these cases. If there appears to have been coercion, the principle serves as an important contraindication for prosecution: ‘in principle not, unless’.³

Identification is also the key when it comes to arranged child marriages within the Roma community. The challenge here is being able to recognize plans for a marriage at an early stage. This is very difficult in practice, but some indicators have clearly emerged in this study. The basic principle is that arranged marriages of minors must be prevented. This report expresses a preference for an approach that explores the possibilities of applying criminal law. There are a number of criminal offences that could possibly apply in relation to an arranged child marriage, from the perspective of both human trafficking and sexual violence against children. This report explored whether the arranged marriage of a minor can in itself be regarded as a form of human trafficking. It has also drawn attention to the element of criminal exploitation associated with an arranged marriage, both prior to and after the wed-

3 De Meijer and Simmelink regard the principle as a contra-indication to prosecution (De Meijer and Simmelink, 2014: p. 242).

ding. Finally, minors should not be required to consummate their marriage in a created setting. The PPS should devote more attention to the prosecution of parents who arrange the consummation of a marriage involving minors.

Identification is also important in relation to children who are living illegally in the Netherlands and are forced to work in families. Providing better information to the public about this form of human trafficking could make a world of difference. These children have only sporadic contact with other people and agencies, because they are consciously secluded from the 'outside world'. Any form of contact that there is should therefore be seen as an opportunity to identify human trafficking. It is important to increase public awareness of human trafficking, but also to ensure that professionals who could encounter human trafficking in a professional capacity know what they need to look out for. For example, doctors could play a crucial role in identifying children who are living illegally in the Netherlands and are forced to work, since appointments with medical professionals are sometimes the only opportunities for establishing contact with members of this group of victims of human trafficking.

The human trafficking perspective is often lacking in policies to address the problem of children who work in the production chains of large companies. When it comes to enforcing the obligations of companies to prevent child labour, the duties arising from policies and legislation in the domain of human trafficking should also be considered. That might even mark a step towards the adoption of more legally binding rules for companies on the measures they have to take to prevent human trafficking in their production chains.

6.3 Research and prevention

Covers LHBT children (Section 2.2) and Syrian child brides (Section 3.2),

This category covers vulnerable groups that are not specifically targeted by human traffickers. The risk factors that were identified nevertheless give sufficient cause to conduct further research and/or address the issues that make them vulnerable with a view to preventing human trafficking in the future. Preventive measures might include campaigns to increase awareness of human trafficking among the general public or more specifically among professionals who come into contact with these vulnerable groups.⁴

The first group is LHBT children. Although this group was discussed as a whole, more risk factors were identified for homosexual and bisexual boys and transgender boys than for lesbian and bisexual girls. Moreover, it was found that young LHBTs who grow up in a migrant or religious community can experience more problems because of their sexual orientation, which can sometimes even lead to them losing contact with their social environment, forcibly or otherwise. These boys are possibly even more vulnerable to sexual violence and human trafficking. No research was found that has specifically examined the relationship between sexual orientation and human trafficking. Although some studies into youth prostitution did look at the sexual orientation of boys who provide sexual services for payment, it is not known how many homosexual and bisexual boys are active in male prostitution or whether they are exploited. However, the impression that arises from a number of exploratory studies is that sexual exploitation of boys, including heterosexual boys, does not occur on a large scale in youth prostitution.

4 The European Commission says on this point: 'Awareness-raising campaigns were once again identified as a strong resilience factor that can counteract such tendencies in society; however, practitioners warned that such campaigns should be undertaken in a targeted manner, and avoid sensational reporting' (European Commission, 2015: p. 8).

Most boys who sell sexual services seem to do so voluntarily, regardless of their sexual orientation. However, reservations can be expressed about this conclusion because of the difficulty of forming a clear picture of this group of boys in light of the so-called triple taboo: the taboo on homosexuality and bisexuality, the taboo on prostitution and the taboo on boys seeing themselves as victims. This exploratory analysis provides plenty of leads for further research to discover more about whether and to what extent homosexual, bisexual and transgender boys are victims of human trafficking. One possibility lies in the research announced by the Minister of Security and Justice and the State Secretary for Health, Welfare and Sport into young male victims of human trafficking.

The second group in this category is Syrian child brides. This group is relatively vulnerable to human trafficking. These girls are vulnerable if they find themselves heavily dependent on their husband, become socially isolated and disappear into their home and out of public view. These risks increase if the girls are married at a young age to an older man, if fewer conditions are attached to the arranged marriage than used to be the case and if the girls feel they cannot seek a divorce, for example because of the threat of honour vengeance. All of these conditions can result in a girl feeling forced to accede to her husband's wishes and, for example, starting a family at a young age and leaving school prematurely. The risk of these girls being heavily dependent on the husband is all the greater because they are in a strange country where they do not speak the language or know the culture and the law and where they are unlikely to be aware of where they can go for help if they are victims of sexual violence or exploitation. If girls disappear inside the home and go through life as hidden women, it becomes difficult to actively spot signs of sexual violence and human trafficking. Consequently, sexual violence, and possibly also exploitation, can persist for a long time. Human trafficking could then take the form of years of servitude, with severe restriction of the girl's liberty, with the result that she remains a captive of her situation. This is not to say that all these girls end up like this. All this exploratory analysis has shown is that they could be vulnerable. It is therefore important to keep this group in sight, and one way of accomplishing that is to create opportunities for establishing contact with these girls, so that signs that they need protection can be picked up at an early stage.

6.4 Vigilance

Concerns children with the eating disorder anorexia nervosa (Section 2.3) and children who join or wish to join ISIS (Section 3.3)

This category covers groups that have been found to be at little or no risk of human trafficking or of being specifically targeted by human traffickers. The only question arising in relation to the groups in this category is whether there is a need to remain alert for possible signs of human trafficking.

The exploratory analysis has shown that two groups currently fall into this category. The first is the group of children who suffer from the eating disorder anorexia nervosa. The members of this group are not very vulnerable, with the exception of girls who go online in search of others with the same disorder, who might be more at risk of becoming victims of human trafficking. This initial study has also shown that there are only slight indications that human traffickers (under the guise of 'pro-ana coaches') target this group. What signs there are point more in the direction of sexual violence. However, professionals who work with girls in this group would be well-advised to remain alert to possible signs of sexual violence and human trafficking.

The second group is children who join or wish to join ISIS. There is not yet sufficient empirical research to show whether members of this group, both boys and girls, are particularly vulnerable to hu-

man trafficking or whether they are actively targeted by recruiters whose intention is to exploit them. Nevertheless, it has emerged from exploratory studies and media reports that some children who have travelled to join ISIS or were planning to do so may have been recruited by a person who employed techniques that are broadly similar to the methods adopted by human traffickers to trap victims in a situation of exploitation. This process can include elements such as isolating the victim, creating a position of dependence and the use of deception. However, this initial exploratory study has not shown that recruiters for ISIS actually have the intention of exploiting young people, so this group has been assigned to the category 'vigilance'. The most obvious requirement is for professionals who work with these young people, including those who have returned from Syria and/or Iraq, to remain alert to possible signs of human trafficking.

6.5 A look ahead

This initial study has provided more insight into the extent to which seven groups of children are vulnerable to and are in fact victims of human trafficking. This research must continue in the future and should also encompass new vulnerable groups, since it has been found that human traffickers are inventive and are not averse to exploiting new opportunities if there is money to be earned from it. It is therefore important that known phenomena that might be related to human trafficking are also investigated from a human trafficking perspective and to remain alert to new phenomena that could have a connection with exploitation. There is widespread responsibility for this that extends to everyone with a part to play in combating human trafficking: researchers, the police and PPS, NGOs, municipalities, community teams, social workers and judges. They can all play a crucial role in combating human trafficking. By remaining alert to the many forms and guises that human trafficking can take, together they can take effective action against it. That is the major challenge for the future.

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