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The responsabilization of entrepreneurs in legalized local prostitution in the Netherlands

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Abstract

By way of a case study on the regulatory role of owners and managers of brothels and rented rooms for prostitution, this study focuses on the strategies deployed by a municipality to govern these intermediaries. The analysis is based on a typology of responsabilization distinguishing between who the responsible should govern (themselves or others) and forms of power (repressive or facilitative). The regulator concomitantly renders these entrepreneurs responsible for their own possible criminal conduct (self-governing) and empowers them to keep out traffickers and pimps and to control sex-workers (others-governing). Moreover, the municipality applies both repressive and facilitative power. Although the responsabilization strategy succeeds in having entrepreneurs govern themselves, it also unintentionally undermines sex-workers' independence and favors the largest entrepreneurs. Our study enriches the regulator intermediary target model by showing how varied and contentious the interactions between regulators and involuntary intermediaries are and by demonstrating the power game that the responsabilization strategy entails.

Keywords: forms of power, intermediaries, legalized prostitution, responsabilization, regulator intermediary target model.

1. Introduction

A common denominator of a broad range of regulatory approaches such as “new governance” (Lobel 2004), “regulatory governance” (Majone 1997), “responsive regulation” (Ayres & Braithwaite 1992), “decentered regulation” (Black 2001), “polycentric governance” (Ostrom 2010), and “regulatory capitalism” (Levi-Faur 2005) is that state actors are no longer conceived *a priori* as the only or even ultimate regulators of economic activity (Almond 2015). Rather, centralized command and control regulation is deemed to have made way for multi-actor governance networks, characterized by the fragmentation of responsibility and accountability, and the dispersion of regulatory power. Private actors can either assume regulatory responsibilities on their own initiative or public actors can mobilize private actors, for instance by delegating regulatory responsibilities or by facilitating or orchestrating private actors in order for them to contribute to public goals (Green 2014).

The latest body of literature that focuses on private authority initiated by public actors builds on the regulatory intermediary model (Abbott et al., 2017a). In this model, attention is drawn to actors playing important regulatory roles beyond the classic regulator-target dichotomy. Instead a trichotomy is proposed in which the intermediary (I) is placed between the regulator (R) and the target (T). Intermediaries are conceived as “go-between actors,” mediating between the end point of regulation – a (non-)compliant target – and the source of the regulatory strategy – the monitoring and overseeing regulator.

The “startup” (Abbott et al., 2017b) volume in which the RIT model is theorized and applied shows that intermediaries are active in a multitude of regulatory environments and perform many different tasks. Intermediaries thus come in many shapes and forms. They “range from profit-making firms such as inspection companies and credit rating agencies, to non-governmental organizations (NGOs) such as human rights advocacy groups, to transgovernmental

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networks of regulatory agencies” (Abbott et al., 2017a, p. 7). Even actors whose responsibilities for auditing or oversight may be secondary, such as businesses that produce goods or services, may assume an intermediary role.

A study of the relations between regulatory actors raises important questions on how regulators deal with intermediaries to acquire positive regulatory outcomes and target compliance. We will argue that the largely separately developed literature on responsibilization can help to better understand the ways in which intermediaries as “responsible” entities are shaped and controlled. “Responsibilization” generally concerns a governmental strategy that aims to create or transfer the responsibility for public tasks to societal actors. The RIT model has made an important contribution by pointing out the urgency of conceptualizing regulatory interactions in terms of a trichotomy (R-I-T). The literature on responsibilization complements the RIT model by distinguishing between the different and sometimes contentious roles of the different actors and the interactions between them which responsibilization can engender, and by drawing attention to how the introduction of intermediaries affects power relations.

We present a case study on the governance of the regulatory role of owners and managers of brothels and rented rooms for prostitution – “windows” – in the Netherlands to enrich the RIT model with the responsibilization literature. Since the lifting of the ban on brothels – often referred to as the legalization of prostitution – in 2000, local governments have enacted a new strategy to fight what is deemed the most problematic aspect of prostitution: the existing influence of traffickers and pimps. Lifting the ban on brothels has enabled local government to involve the operators and owners of brothels and windows – referred to as entrepreneurs¹ – in fighting off pimps and traffickers and disciplining sex-workers. It thereby molded the entrepreneurs into regulatory intermediaries that stand between the regulator – local government – and the target – pimps, traffickers, and sex-workers – and acting on behalf of the regulator.

Besides entrepreneurs, other intermediaries have come into play since the legalization. Municipalities are active as intermediaries in the national prosecution of pimps and traffickers through their responsibility for a licensing system. Support agencies perform a role as intermediary through their responsibility to signal suspicions of human trafficking or exploitation of sex-workers. However, our study focuses on the entrepreneurs. Due to their commercial interests and dubious reputation, entrepreneurs are most likely to be viewed as a problematic extension of regulators’ capacity, performing tasks in accordance with the regulator’s goal to expel traffickers and pimps. Consequently, the regulator may be inclined to monitor and oversee not only the ultimate target but the intermediary as well. Our prostitution case explores the entrepreneur’s double role as intermediary and target and how the process of turning entrepreneurs into responsible intermediaries affects power relations in the prostitution field. We therefore seek to answer the question: *How does a strategy of responsibilization affect regulatory roles and power relations in a local legalized prostitution field?*

The case of municipal governance of entrepreneurs in prostitution adds to the literature in two respects. First, policy studies on prostitution so far have primarily addressed the national or transnational level. By focusing on the role of entrepreneurs of sex enterprises, this study contributes to calls to expand the scope of research on prostitution to local multi-actor studies, beyond national policy analysis and sex-worker behavior (Agustin 2005; Weitzer 2005). Second, combining the responsibilization literature with the RIT model enables us to provide a detailed description of the governing strategies deployed and of the various ways in which intermediaries operate within a regulatory system. Moreover, our responsibilization typology directs attention to the ways in which regulators think about and construct the image (“trustworthy” or “risky”) of those to be governed and the implications of these images for the strategies chosen. It thereby provides an understanding of the regulatory strategies deployed to govern intermediaries and how these strategies affect power relations.

We will proceed by setting out a typology of responsibilization. Next, we combine the responsibilization typology and the RIT model and theoretically explore how the responsibilization of intermediaries may affect power relations. After the methodological section, we briefly describe the history of regulatory roles in the prostitution sector and analyze the impact of the licensing system on regulatory roles and power relations. Finally, we present the discussion and conclusion.

2. Responsibilization

In a broad sense, responsibilization refers to the strategy of “rendering individual subjects ‘responsible’ (and also collectives, such as families, associations, etc.) [which] entails shifting the responsibility for social risks such as

illness, unemployment, poverty and so forth, and for life in society, into the domain for which the individual is responsible and transforming it into a problem of ‘self-care’” (Lemke 2002, p. 59). As we will set out in our typology below, responsibilization can also extend to the care for others. Foucault understood responsibilization as a central characteristic of modern government – a neoliberal governmentality containing two elements. First, governing directly is substituted by governing at a distance (Garland 1996); a shift from influencing the conduct of (collectives of) citizens directly to governing the conduct of conduct through manipulation of the context in which the governed live (Foucault 2007). Second, a new form of power is introduced. The “old” disciplining or repressive power is accompanied by more enabling forms of power. Modern governing is thus characterized by governing “through” freedom. The rising importance and influence of regulatory intermediaries can thus also be reformulated in terms of responsibilization, as a move toward indirect and enabling forms of governance.

Foucault’s suggestion that responsibilization is a key characteristic of modern government is substantiated by the wide range of sectors in which responsibilization strategies have emerged. Scholars see it reflected in activation policies in so-called New Welfare regimes (Brandsen et al., 2017), crime (Garland 1996), migration (Van der Veer 2016), and regulatory environments such as environmental protection (Barkay 2009), accounting (Bay 2011), and workplace safety (Mascini et al. 2013). These studies reveal a wide range of manifestations of responsibilization, which underline its importance for understanding policies and behavior.

2.1. A typology of responsibilization

Our typology of responsibilization is based on the distinction between who the responsible should govern (themselves or others) and forms of power (repressive or facilitative).

A *self-governing strategy* induces individuals or groups to take care of, or regulate, themselves. Gray’s (2009) research on the changing face of Canadian workplace safety governance provides a clear example of self-governing. Where traditionally only employers were held accountable for workplace safety, Gray critically observes that, increasingly, individual workers are also given responsibility for safety at work via a ticketing regulatory system (Gray 2009, p. 326), transferring regulatory responsibilities from employers to individual employees, thereby reforming the employees into targets. Similar strategies of rendering vulnerable groups increasingly responsible for their own fate are identified in migration (Van der Veer 2016) and New Welfare (Brandsen et al., 2017).

In prostitution we recognize self-governing responsibilization in both abolitionist and legalized prostitution regimes. Scoular and O’Neill (2007) show how exit programs for sex-workers in the UK – a country labeled as abolitionist – at the same time try to “educate” sex-workers and criminalize and exclude those who choose to stay in street prostitution. This effectively renders sex-workers who remain in street work responsible for their own misery or well-being and leads to them becoming targets via criminalization. Outshoorn (2014) reports a similar divisive strategy in the legalized Dutch regime. As such, these individualizing self-governing strategies, wherein individuals or groups become direct targets of regulation, are often criticized as neoliberal forms of social exclusion (Scoular & O’Neill 2007). While being given responsibility may initially suggest a shift in power toward those given responsibilities, a closer look at these strategies often reveals them to have disempowering effects.

Other-governing strategies are aimed at stimulating actors to take care of or regulate others. The bulk of studies on regulatory governance address this type of responsibilization and it also pervades the prostitution literature. For instance, the criminalization of clients of prostitution in Scandinavian countries can be conceived as a form of regulating others. In these countries, prostitution is prohibited altogether, because buying sex is viewed as inherently exploitative and the influence of traffickers and pimps as unavoidable. This policy means that those targeted for prosecution, fines, and/or imprisonment are not the sex-workers but their clients. Regulatory rules and efforts to prohibit sex-work itself are thus directed at clients rather than sex-workers. The clients are then rendered (co)responsible for everything deemed wrong with prostitution, which implies that the clients of prostitutes are turned into intermediaries whose task it is to rule out exploitation, pimping, and trafficking and to eradicate sex-work. Furthermore, in the UK (Matthews 2005) and the Netherlands (Daalder 2014) a plethora of private and public welfare organizations perform governing tasks, such as running exit-programs and providing healthcare and consulting services. Erikson and Larsson (2019) show that even in Sweden, the strategy of client criminalization is supported with an elaborate collaborative governance regime, wherein multiple actors –

including intermediaries – play important roles. Obviously, many of these newly created intermediaries are in some way targets of regulation themselves. However, what makes them intermediaries is that they are clearly not the endpoint of regulatory ambitions, but are go-between actors given responsibility to act on others.

Hence, responsibilization has in many cases followed the logic of taking care of or regulating others, or, in other words, incorporating intermediaries into the governance system (c.f. Euchner 2017).

The second dimension distinguishes between the intervention strategies deployed. From Van Houdt and Schinkel's (2014) study on municipal crime and safety policies, we take that responsibilization strategies range from *facilitative* to *repressive*. This whole range of strategies can be applied to both governing selves and others. The choice of strategy depends on how the image of the targeted actor (whether as intermediary or target) is construed by the regulator in terms of willingness (motivation) and skills (capability) to help achieve their goals. *Facilitative responsibilization* calls upon *trustworthy* – willing and capable – actors, “only to be mobilized and called into active service” (Van Houdt & Schinkel 2014, p. 61). As such, the associated strategy can be labeled as *activation* and is applied through enabling forms of power. *Repressive responsibilization* is directed at *risky* actors, whose motivations and capabilities are in question. The accompanying strategy here is closer to *disciplining*. Whereas facilitative strategies resemble the “governing at a distance” approach commonly associated with neoliberal responsibilization, repressive strategies are profoundly more interventionist and “at close range.”

Reinterpreting the examples mentioned above in terms of types of intervention strategies, prosecuting pimps and traffickers as well as clients of prostitutes in abolitionist regimes is an example of a *repressive* strategy using disciplinary power, whereas the multi-agency approach (Matthews 2005) of providing health care and social support resembles the *facilitative* variant deploying enabling forms of power. In short, we recognize that a multitude of actors – selves and others – are made responsible for the well-being of sex-workers and both repressive and facilitative strategies are utilized in governing selves and others (see Table 1).

2.2. Regulatory intermediaries and strategies of responsibilization

The special issue on the RIT model primarily focuses on responsibilization by activation to govern others (quadrant 4 of Table 1). It deals with intermediaries who are called upon to act on behalf of regulators or targets, to perform tasks regulators are unable or unwilling to perform themselves. Furthermore, it aims to explain the role of intermediaries who voluntarily assume regulatory responsibilities. Hence, these intermediaries usually need not be disciplined, which explains the focus on facilitative intervention strategies. The same applies to the orchestration literature which addresses relationships with intermediaries at the transnational level (Abbott 2012; Abbott & Bernstein 2015). Although “directive orchestration” is not entirely absent or impossible in transnational governance regimes, the lack of a central authority or “world state” with a legitimate monopoly on the use of force implies that “facilitative orchestration” is more practical and prevalent at this level (Abbott & Snidal 2009, p. 512). Consequently, the literature has paid relatively little attention to the use of repressive strategies on intermediaries.

However, sporadically the special issue on the RIT model points toward other parts of the typology. First, it indicates the potential of the idea of governing selves. Havinga and Verbruggen's (2017) contribution highlights that in complex food regulation regimes, it is often hard to draw clear lines between the three regulatory roles (R-I-T). Regulators can overlap the role of intermediaries, while intermediaries can become targets. “They may be regulators or targets themselves in relation to the same or other actors in the regime; they may thus ‘change color’ (function) depending on the relationship studied” (Havinga & Verbruggen 2017, p. 59). Hence, sometimes intermediaries are the ones called upon to regulate others, while in other situations they are targeted to govern themselves.

Second, the startup volume also suggests that more repressive strategies may be applied. As Van der Heijden (2017) demonstrates, intermediaries may largely ignore their public task and pursue their own interests.

Table 1 Typology of responsibilization

	Intervention strategy	
	Repressive	Facilitative
Governing selves	Forced to govern oneself	Activated to govern selves
Governing others	Forced to govern others	Activated to govern others

Furthermore, intermediaries can become closer allies of targets than regulators. Although some propose facilitative strategies to counter “dysfunctional intermediaries,” others opt for more repressive strategies (De Silva 2017). Hence, some literature suggests that besides facilitative responsibilization, repressive responsibilization is also relevant for studying intermediaries.

2.3. Regulatory intermediaries and power dynamics

Integrating responsibilization literature into the RIT model not only directs attention toward the different intervention strategies, it also sheds light on power dynamics.

A common assumption of the new governance literature is that the delegation of regulatory responsibility empowers private actors (Abbott & Snidal 2009, p.528). On the other hand, responsibilization literature challenges this empowerment thesis and argues that the delegation of regulatory responsibility may even increase subordination of already marginalized communities (Lee 2013, p. 406). For regulators, delegating regulatory responsibility can simply be a way to shift responsibility for “wicked problems” (O’Toole & Meier 2004), rather than to share power. Furthermore, the delegation of regulatory responsibility is often linked to the substitution of direct forms of repressive power by indirect forms of facilitative power such as governing at a distance and constructing identities that promote self-disciplining. Whereas this substitution may at first sight suggest a decrease in power asymmetries between regulators, intermediaries, and targets, upon closer inspection the responsibilization literature views it as an attempt by regulators to maintain their power by more legitimate means (Arts 2014). Moreover, delegating regulatory responsibility does not automatically promote ownership and self-determination: “In practice, deliberative regulatory processes are often formal and hierarchical in nature, seeking input rather than outsourcing decisions” (Almond & Gray 2017, p. 15).²

The responsibilization literature also challenges the empowerment thesis by showing that power does not necessarily shift unambiguously in one direction. Rather, the mobilization of intermediaries can both empower them by involving them in regulation *and* disempower them by holding them responsible for regulating. For example, the Australian government relied on highly prescriptive legislation and direct roadside enforcement exclusively targeting truck drivers and truck owners until 1999. In order to extend the compliance responsibility along the transport chain, it has since then adopted a self-regulatory system whereby all parties who exercise some degree of control over on-road outcomes, for example the consignors of freight, persons involved in the packing and loading of vehicles, and the management of trucking operations, are mobilized as intermediaries. The scheme represents a tradeoff for industry where concessions against regulatory restrictions are granted in exchange for more regulation re-fashioned as voluntary accreditation and paid for through private audits. As such, the process simultaneously liberates and constrains the stakeholders in the trucking sector (Walker 2016).

The delegation of responsibilities may affect the balance of power between these actors in unforeseen ways because the actions of regulators, intermediaries, and targets are not preordained by the working out of some logic of productive forces (Rose et al. 2006). Rather, the actions of the different actors are constantly changing in the face of each newly identified problem or solution, coalescing into contingent, shifting, and contested practices (Bevir 2011). “Recent trends in the regulation of prostitution [indeed] suggest governmental apparatuses will often have what appear to be contradictory and provisional strategies, which produce a patchwork of local norms, of which law forms only one component” (Scott 2011, p. 68). Based on the responsibilization literature it may therefore be expected that the responsibilization of entrepreneurs will affect power relations in a local legalized prostitution field, but that it is difficult to predict how.

3. Method

Our study can be labeled an instrumental case study (Stake 1994), in which the case plays a supportive role in advancing theory. For such a study, which is based on a deep understanding and an eye for context, careful case selection and a mix of qualitative methods for triangulation purposes (Grandy 2010) are necessary.

Within the Netherlands, our single case, the city of The Hague, can be seen as a more or less “typical” case (Seawright & Gerring 2008) for two reasons. First, because it accommodates a broad range of prostitution types – brothels, massage parlors, window prostitution, home prostitution, and escort services. Second, the business is

conducted in a way that is far more representative of Dutch prostitution than the much studied city of Amsterdam. Amsterdam's red light district has become an amalgamation of tourism, entertainment, and night life. Window prostitution in The Hague,³ as in other cities, is situated in relatively isolated streets, where only those with "business" in prostitution go. Window prostitution takes place in two separate streets within walking distance of the city center, whereas the brothels are spread across the city in anonymous buildings, just as in other Dutch cities.

This study is part of a larger PhD project in which the whole regulatory field is studied at the municipal level. For this study a between-methods triangulation (Flick 2018) was used combining document analysis, observations, and semi-structured interviews, allowing for as much depth as possible within the single case (c.f. Hyett et al. 2014).

The document analysis was carried out on municipal policy documents, licensing procedure prescriptions for entrepreneurs, open letters directed at policymakers by entrepreneurs, and examples of sex-workers' intake procedure documents. Overt observations were made during vice team inspections. These observations were included for two reasons: First, to understand directly the atmosphere (Wästerfors 2018) of the field in question, and second, to witness first-hand how personal views and policy are transformed into action. For two days, two different teams of officers were followed while visiting sex enterprises. The observations focused on the police officers' views and practices in general, and the interactions between police and entrepreneurs in particular. Field notes were made of all conversations and situations. For this study, with its focus on entrepreneurs, 13 interviews were selected from the 39 semi-structured interviews that were conducted with clients, sex-workers, welfare organizations, and NGOs for the purpose of the overarching project.⁴ The respondents for the selected interviews were police officers (5), a municipal policymaker (1), owners and managers of brothels (3) or prostitution windows (4), and accountants specialized in providing services to sex-workers (2). Furthermore, interview data were collected during the course of many more informal conversations with these respondents, some of whom are more or less functioning as informants to date. These conversations were held to monitor changes and important events and enhance validity by more prolonged engagement in the field (Creswell & Miller 2000).

The municipality assisted in the selection of the policymaker and the police officers for the interviews. Entrepreneurs were found via email and phone and through attending a sector organization meeting. The interviewed brothel managers and owners were male and female, and window managers and owners represented both large and small entrepreneurs. There are no reasons to assume that any specific types of entrepreneurs were excluded. Confidentiality and anonymity were guaranteed. Interviewees were asked to reflect on what they believed prostitution should be like, how they understood that ideal to be different from the current situation, how they viewed and interpreted the other relevant actors in the regulatory field, and what their daily activity consisted of – policymaking, police work, or running a brothel.

All the data were combined in a single database and coded in three rounds using a hybrid approach (Fereday & Muir-Cochrane 2006), in which inductive data-driven thematic and deductive theoretical coding are combined in an iterative fashion. The hybrid coding approach fitted our instrumental case design best because we were able to code our data broadly in terms of our sensitizing theoretical concepts, while we used particular data to thematically enhance and enrich these concepts. In the first round data were coded broadly using our theoretical concepts as sensitizing concepts – image of entrepreneurs, deployed strategies, regulatory roles, and power dynamics. Subsequently, more fine-grained codes, for instance specific elements of the normality accounts on sex-work and entrepreneurs (thematic) and a categorization of strategies in repressive and facilitative categories (theoretical) were subsumed under the headings of these broad subject categories. In the final round, all the material was recoded across subjects, taking the fine-grained theoretical and thematic within-subject-codes (Thornberg & Charmaz 2014) as the starting point.

4. A brief history of regulatory roles

In order to understand the changing nature of governing prostitution, a brief history of regulatory roles is necessary to provide the right context.⁵ Before the lifting of the ban on brothels in the year 2000, the regulatory field consisted predominantly of regulators and targets. Human traffickers and pimps were the targets, mainly addressed directly via criminal law. Entrepreneurs, when involved in trafficking and/or exploitation, would also

be directly prosecuted via criminal law. Hence, there was not a clear-cut division between entrepreneurs, pimps and traffickers. There was no specific licensing system in play, since brothels were officially illegal but tolerated. Local police officers visited the brothels on a regular basis, but entrepreneurs were left to conduct their business more or less undisturbed, except in case of criminal offenses – trafficking or pimping – or safety issues. They were thus merely targets of national legislation and local law enforcement. However, entrepreneurs already played a small intermediary part, in the sense that they were to exclude underage prostitutes and illegal (non-European) prostitutes, but back then the targets were mainly sex-workers themselves. Thus, in fighting trafficking and exploitation, national and local government played the regulatory part and traffickers, pimps, entrepreneurs, and sex-workers were the targets. Mainly repressive strategies of criminal sanctioning were applied.

The lifting of the ban on brothels meant that brothels and window prostitution could be officially licensed, which brought with it a significant change of regulatory structure and roles. Responsibility for designing and policing regulatory systems was delegated from state level to the municipalities, leading to a plethora of different regimes across the country (Daalder 2014). Since the ban, municipalities govern the owners of brothels and windows as targets of “normal” management practices and mobilize them as intermediaries in the fight against human trafficking, exploitation of sex-workers, and criminal conduct by sex-workers and/or their clients. We will focus on the impact of the licensing system on regulatory roles and power relations, by exploring: (i) how the image of entrepreneurs is construed; (ii) what type of governing strategy is applied to entrepreneurs and how it is aligned with the image of the entrepreneurs; and (iii) how this strategy impacts regulatory roles; and (iv) power dynamics. In Table 2 we will refer to the responsabilization strategies the municipality actually uses to govern entrepreneurs.

5. Constructing the image of entrepreneurs

In the first period following the legalization The Hague’s stance toward the entrepreneurs was pragmatic and constructive, aiming at consultation and cooperation (Wagenaar 2006, p. 198). However, since the unmasking of two trafficking cases – the so-called Sneep case in 2008 and the Hungarians case in 2015 – the municipality toned down its optimistic view of prostitution as a clean and completely legitimate sector and of entrepreneurs as trustworthy (Wagenaar & Altink, 2012; Den Haag 2015). These cases revealed that sex-workers who worked in licensed environments could still be victims of “external” pimps and traffickers because the entrepreneurs did not always check whether the sex-workers were coerced to work by pimps or traffickers, or even made deals with them. Consequently, entrepreneurs were blamed for not doing enough to prevent the intrusion of pimps and traffickers.

Although the image of prostitution as a clean sector lost much of its sway, the ambition to normalize entrepreneurs remained. The *Kadernota Prostitutie 2015–2018* – the founding municipal policy document on prostitution – and the interviews with police officers and the policymaker show that local authorities wish entrepreneurs to behave in the future according to what they consider as “normal.” The *Kadernota* (Den Haag 2015) broadly sets out the long-term vision, and describes what the sector should be like in the future as follows:

The long-term goal is that prostitution becomes a normal form of small and medium-sized enterprising. This implies, among other things, that the sector is solely employed by professional sex workers who choose this work out of their own free will, and work in acceptable working conditions. (p. 7)

This quote captures the essence of what the municipality understands as a “normal” sector by focusing the description on “normal” small and medium sized enterprises that facilitate “voluntary” sex-workers. How does it further define its vision of a “normal” sector? First, the desired “normal” sector is occupied by entrepreneurs who are capable of managing a business professionally, just as with any other small or medium-sized enterprises. Moreover, the desired image of a normalized sector is constructed by explicitly contrasting legitimate entrepreneurs with illegitimate pimps and traffickers. The creation of these two separate identities is highlighted, first by the fact that the *Kadernota* (Den Haag 2015) proposes to use the licensing system for entrepreneurs but to pursue prosecution for pimps and traffickers. Second, it emphasizes this distinction by envisioning entrepreneurs as responsible providers of work spaces. Responsible entrepreneurship is defined in terms of a contractual relationship between entrepreneur and sex-worker that is restricted to the renting of a work space.⁶ Sex-workers should have control over their working hours, be free to determine the prices they ask for their services and the clothes

they wear, although full nudity is forbidden by municipal laws. Furthermore, they should be able to choose and refuse clients freely, and to quit the occupation whenever they wish to do so. These aspects are all clearly defined as part of the image of the desired entrepreneur who does not interfere with the sex-workers' autonomy. Thus, the envisioned entrepreneur feels responsible for offering acceptable working conditions, safeguards sex-workers' freedom by keeping out traffickers and pimps, and refrains from meddling with sex-workers' autonomy.

However, the municipality and police officers do not believe entrepreneurs live up to their normal "ideal-type" yet. First, they question entrepreneurs' professional capacity in terms of literacy and administrative skills, as a vice team officer explains:

You have managers who cannot read or write, owners who cannot read and write, people who do not have e-mail. Of course, they are smart as businessmen though. (Police officer 1)

However, the municipality also recognizes that the entrepreneurs are not a homogeneous group.

There are also operators who don't care that much. But the others There are those who have always been good entrepreneurs. (Policymaker)

And it observes a growing professional capability in the younger generation of window and brothel owners and managers alike, especially when it comes to the administrative requirements that are increasingly part of the licensing system:

But we do have the idea that a younger generation is rising slowly. Supplanting those older folks who aren't accustomed to writing things down and can't handle this. (Policymaker)

As such, the municipality has a mixed image of entrepreneurs. The envisioned image of a "normal" entrepreneur, providing services in a "free" market and managing a legitimate business, not meddling with sex-workers' working conditions and preferences, is deemed applicable to some owners and managers of brothels and windows. However, other entrepreneurs are viewed as not *a priori* concerned with the well-being of the sex-workers or fighting off criminal influences, as exemplified by the Sneep and Hungarian trafficking cases. As such, some entrepreneurs are classified as "risky" and others as "trustworthy." How is this mixed image transformed into regulatory intervention strategies and roles?

6. Entrepreneurs as targets

In part, the municipality continues to address entrepreneurs as targets of regulation.

Municipalities regulate the prostitution sector via bylaws (*Algemeen Plaatselijke verordeningen* or *APV*) based on licensing. In essence this system of administrative law regulates who does, and who does not have the right to run a prostitution business. The demands on prostitution businesses differ in many respects from those directed at regular businesses such as restaurants and bars, whose licenses are also regulated via bylaws. Unlike most other businessmen, entrepreneurs in prostitution have to account for their past and have to provide an operating plan.

Via the BIBOB Act (*wet Bevordering Integriteits Beoordelingen door het Openbaar Bestuur*, or Public Administration Probity Screening Act), financial backgrounds of entrepreneurs applying for a license are checked for criminal alliances.⁷ Furthermore, owners and on-site managers are not allowed to have criminal records connected with vice, violence, or human trafficking. This means owners and their managers and employees have to account for their past and criminal antecedents, which corresponds with the image of the entrepreneur as a risky individual. The municipality deploys this part of the licensing system to make sure entrepreneurs have not committed crimes. It operates as a repressive intervention strategy forcing entrepreneurs to discipline themselves (quadrant 1, Table 2). In other words, it has tightened regulatory control over entrepreneurs as targets. However, it further tightens its control on entrepreneurs by molding them into intermediaries at the same time.

7. Entrepreneurs as intermediaries, sex-workers, and clients as targets

Besides abiding by the BIBOB Act, entrepreneurs have to provide operating plans in order to get a license, which are also included in the planned new national prostitution act. Although it is still pending, a number of larger

cities including Amsterdam, Rotterdam, The Hague, Groningen, and Eindhoven have already implemented some elements of the act and have aligned their regulatory strategies accordingly. Apart from raising the minimum age of sex-workers to 21 (previously 18) and implementing new rules governing home-prostitution, the bulk of the new prostitution act is directed at entrepreneurs owning or managing brothels, massage parlors, and prostitution windows. Two articles of this act are dedicated to describing and evaluating the impact of the mandatory *bedrijfsplan* (operating plan).

The plan contains four different categories: (i) hygiene; (ii) protection of the health, safety, and autonomy of the prostitutes; (iii) protection of the health of customers; and (iv) prevention of criminal offenses. It requires entrepreneurs to install measures to protect the health and safety of sex-workers and clients, such as fire safety measures. Moreover, entrepreneurs are obligated to supply sufficient condoms (health), and a manager must be present at all times during opening hours, in order to act if the mandatory panic alarms are activated (safety). When applying for a license, entrepreneurs must write down what measures they will take in order to comply with these demands and deliver a copy of this plan for evaluation to the municipality.

Furthermore, compliance is checked during inspections by a special police prostitution team and whenever the license is renewed or changed. These prostitution teams aim to visit each premises at least six times a year while licenses are renewed annually. When compliance is absent, the municipality can shut down the business quickly by revoking the license, either temporarily or permanently, without intervention of the law. Entrepreneurs are thus frequently monitored and risk being shut down when non-compliant.

In summary, the municipality deploys this part of the licensing system to make sure the entrepreneurs limit their duty to providing working space and offering good working conditions, as a “normal” entrepreneur is supposed to. As such they are forced into an intermediary position to regulate the client sex-worker interaction (quadrant 3, Table 2).

8. Entrepreneurs as intermediaries, traffickers, and pimps as targets

The operating plan also renders entrepreneurs increasingly responsible for preventing human trafficking and exploitation. As such, they not only play an intermediary role in relation to sex-workers and clients as targets, but are intermediaries in relation to traffickers and pimps as well.

Until recently, the most prominent part of the operating plan was dedicated to forcing entrepreneurs to evaluate the autonomy of sex-workers via a so-called intake procedure,⁸ turning them into intermediaries in keeping out trafficking and pimping. This evaluation was meant to prevent entrepreneurs from employing forced or under-aged sex-workers. A police officer explains:

We wanted to get to the core of the problem. The entrepreneur must have done everything possible to ensure that he never enabled a victim of trafficking to work in his business. (Police officer 1)

In 2012, the municipality implemented this intake procedure. Although it was forced to abandon this strategy on the basis of privacy laws in 2018,⁹ it has occupied a central position in its regulatory regime for six years and clearly indicates the municipality’s inclination regarding its conception of normalization. The intake procedure was not regulated via any official article in the bylaw, but presented as a “service” (written communication with policymaker) to entrepreneurs “to aid their compliance.” However, this intake procedure was not as open-ended as suggested, since entrepreneurs who refused to implement the intake procedure risked losing their license.

How did it operate? All entrepreneurs were obligated to report the arrival of a new sex-worker – new to their specific premises – to the police vice team. They had to check some basic information on nationality and age via passports and verify the sex-worker’s registration with the Chamber of Commerce. Furthermore, they had to ask whether the sex-worker had worked in other premises before and, most importantly, to try to determine whether the sex-worker was a victim of trafficking or exploitation. This forced entrepreneurs to acquire privacy sensitive information about sex-workers, which was heavily criticized by both the sex-workers advocacy group Proud and by scholars (Wijers, 2009).

After this self-assessment, entrepreneurs had to report the sex-worker to the vice team, which offered consultation hours for sex-workers. Police officers then conducted a second interview and checked police information systems for extra intelligence. This resulted in a certification of the sex-worker in terms of a permission to work

Table 2 Identified responsabilization techniques directed at entrepreneurs

	Intervention strategy	
	Repressive	Facilitative
Governing selves	Forced to abstain from criminal conduct	Activated to write operating plans Emerging activation to participate in regular municipal dialogues
Governing others	Forced to fend off pimps and traffickers Forced to govern sex-worker-client interaction	Activated to fend off pimps and traffickers

(*werkadvies*). This permission could be awarded, withheld, or given with caution. Withholding permission signaled a high perceived risk of trafficking or exploitation. This status was then communicated back to the entrepreneur. When permission to work was withheld, entrepreneurs had to refuse letting the sex-worker rent a window or room or to work in their brothel. If they nevertheless allowed such sex-workers to work in their business, they faced the risk of administrative sanctions, including possible forced closure.¹⁰ As such, the municipality used repressive strategies on entrepreneurs to force them to become “partners” in fighting trafficking and exploitation (quadrant 3, Table 2).

However, in governing entrepreneurs as intermediaries, the municipality intends to complement the use of repressive strategies with facilitative strategies (quadrant 4, Table 2):

We must take them by the hand, and just be honest with them. It's not us against them. We have to tackle the problems together, and build a good sector together. We are here to help them. We are not like, let's chuck it over the fence, and this is what you have to do. No, we have to think with them. (Policymaker)

These facilitative strategies include help with writing the aforementioned operating plans in the form of a document comprising seven pages of detailed instructions for composing an operating plan, and by helping to compose a questionnaire for the now abandoned intake procedure. Moreover, the municipality wishes to engage in more regular meetings and discussions (Table 2, quadrant 2), in addition to the already established annual meetings which, as the policymaker acknowledged, were primarily a one-way communication event. At these meetings:

we hold talks about the latest state of affairs, but it is more to inform them than to actually talk. (Policymaker)

Thus, a complex web of regulatory roles has evolved (see Table 2). On the one hand, the municipality continues to treat entrepreneurs as targets via the BIBOB Act. On the other hand, the municipality forces and motivates entrepreneurs to control others, pushing them into multiple intermediary roles. These “others” consist of several targets simultaneously: sex-workers, their clients, traffickers, and pimps, and for each of these targets separate intermediary roles are introduced. Entrepreneurs thus perform a gatekeeping role on pimps and traffickers and are forced concomitantly to control the interactions between sex-workers and clients. As intermediaries the entrepreneurs are governed by a combination of repressive and facilitative strategies, thus aligning the governance strategies with the municipalities’ image of owners of brothels and windows as either “risky” or “trustworthy” actors. The responsabilization of owners of brothels and windows thus implies that entrepreneurs are governed as both intermediary and target by means of a combination of repressive and facilitative strategies. But what power dynamics have been set in motion by the municipality’s responsabilization strategy?

9. Power dynamics

9.1. Shift in power from entrepreneurs to the municipality

First, the power balance has shifted in favor of the municipality at the expense of the entrepreneurs. Some entrepreneurs continued to voluntarily use the intake procedure even after its abolishment because they support it:

I think this advice to withhold permission to work is a very good instrument ... because it is very effective against human trafficking. (Window manager 1)

However, most entrepreneurs were always opposed to the intake system for different reasons. One reason was that they questioned it in terms of fairness in relation to other sectors:

Is it really our responsibility to take action when we discover a pimp or trafficker is involved? Are we the police? Let's say you own a pallet factory. So many illegal Poles work there. And are they registered? Nothing is done about that. They are exploited like crazy. But that is simply allowed. (Brothel manager 4)

Another entrepreneur (Brothel manager 2), although supporting the idea of screening sex-workers, was afraid it would scare away sex-workers, especially those who might work involuntarily:

Look, if I am supposed to send them to the vice team for interviews, and I tell that to a girl who's forced to do this work, what do you think she'll do? She's afraid, so won't go to the police, and as a result I'll lose her, and she'll disappear.

The same entrepreneur also questioned the ability of owners and managers to successfully determine whether sex-workers are in this work voluntarily, and wondered why entrepreneurs should do the work for the police:

They shouldn't be able to force me to research a girl in depth on this topic. You need someone with a specialized education to do that kind of work, I'm not a psychologist! ... and who is going to pay me for that work? (Window manager 4)

The most frequently voiced criticisms were made on a more general level and reached beyond the intake procedure, as most entrepreneurs believed too much responsibility was assigned to them.

I mean, there is nothing wrong with regulation, but these sex-workers, they are independent workers. I am not their employer ... leave the entrepreneurs out of the equation. (Brothel manager 4)

Still, entrepreneurs refrained from actively opposing the intake procedure or acting against it. The entrepreneurs complied reluctantly out of fear of losing their license should they not comply. Asked about what would happen if he did not comply with the intake procedure, a brothel owner replied:

They'll destroy you. If I have to close down for three or six months, I'll go bankrupt. (Brothel manager 4)

Hence, although not always happy with the intake procedure, entrepreneurs reluctantly accepted it.

The responsibilization strategy has shifted the power balance further in favor of the municipality because it has forced entrepreneurs to self-govern (quadrant 1, Table 2). The municipal demands have forced entrepreneurs to hire new more “professional” staff, and according to police, local government, and some entrepreneurs, the gradual rejuvenation of the sector has also contributed to further professionalization. Furthermore, the window entrepreneurs have reinstated (in fits and starts) their local branch association SOR,¹¹ which represents the sector in negotiations with the municipality.

One remarkable initiative that illustrates this coercion to self-govern also involved the SOR. Window entrepreneurs faced increasing criticism of the prices they charged sex-workers to hire windows.¹² They countered this argument by setting minimum rates for customers in order to decrease competition between sex-workers. Especially in the Doubletstraat, fierce competition between prostitutes resulted in lower prices. The street was known for the lowest prices in the Netherlands, and prices could fall as low as 15 euros for 20 minutes. That meant it took the sex-workers' first ten clients to simply pay the rent, and earning reasonable profits was difficult.

To tackle the price wars and counter the critique of high rental prices, an entrepreneur printed stickers and placed them on all windows in the Doubletstraat (Fig. 1). The stickers not only call for safe sex, but clearly state that the minimum price from January 2016 onwards is 30 euros. Below the price it reads: “And still the cheapest in the Netherlands!!”

Most entrepreneurs agreed to stick the advertisement on their windows. Another entrepreneur later revealed that some (non-Dutch) sex-workers had removed the “still the cheapest” sentence when they found out what it actually meant, or removed the sticker entirely. However, the city and police officers evaluated this initiative



Figure 1 The minimum price sticker the entrepreneurs placed on their windows.

positively, as a genuine sign of proactive care for the well-being of sex-workers. This is a clear example of how repressive strategies deployed by the municipality induced self-disciplining by entrepreneurs.

In short, the power balance has shifted away from entrepreneurs and sex-workers and toward the municipality because, although generally unhappy with the responsabilization strategy, entrepreneurs have complied with it by self-disciplining.

9.2. Shift in power from small entrepreneurs to large entrepreneurs

Second, due to the municipality's responsabilization strategy, the power balance has also shifted toward the largest entrepreneurs (as predicted by Brants 1998 and established by Huisman & Nelen 2014). According to some of the stakeholders, the increasing administrative demands, which form the driving force behind the professionalization and rejuvenation of the sector, favors large entrepreneurs with competitive advantages, crowding out the smaller entrepreneurs and thus creating almost monopolistic structures, especially in window prostitution:

I am a small entrepreneur, and I am obligated to always be at the premises, I can't even leave for two hours to take a break. I sit here all day long. (Window manager 2)

More or less, in our street, three people own everything. (Window manager 1)

As a result, prices of the real estate have risen, which, additionally, has made it more difficult for new entrepreneurs to enter the market. This monopolization effect is further heightened by the city's refusal to issue new licenses beyond the current allocation of 85. As such, the municipality takes an ambiguous position regarding its attempt to normalize the sector by transforming it into a regular business sector. On the one hand, it advocates competition in an open market with room for new players, but on the other it implements measures that curtail competition between entrepreneurs.

9.3. Shift in power from sex workers to entrepreneurs

Third, although sex-worker autonomy has increased in some respects, overall the power balance has shifted from sex-workers to entrepreneurs. The municipality intended to empower sex-workers by introducing new regulations regarding the freedom to choose working hours, clothing, and setting prices for services. However, these rules accomplish much less in terms of autonomy than sex-workers wish for. After all, on a national level, entrepreneurs have successfully fended off the normalization of labor relations by allotting sex-workers a legal status as employee with accompanying rights to obtain sick pay, maternity leave, and so on.¹³

In addition, the implementation of these regulations that are meant to empower sex-workers are counterbalanced by other dynamics that undermine their autonomy. For one, police officers claim that sex-workers sometimes engage in selling illegal clothes and drugs from their windows. Entrepreneurs are expected to prevent such illegal trade on their premises as well. As such, entrepreneurs are not only pressed to safeguard sex-workers from harm, but also to prevent sex-workers and their clients from committing crimes. By being given the responsibility to prevent criminal activity by sex-workers and their clients, entrepreneurs are stimulated to tighten their grip on sex-workers.

This became very clear in an observation of a vice team inspection. A couple of days before the inspection, the most prominent building in the Geleenstraat had been forced to close temporarily after police officers found sex-workers in possession of large quantities of cocaine and other drugs. The sex-workers were arrested, but

closure was also forced on an entrepreneur. All the entrepreneurs that the vice team visited that day started asking about the situation, fishing for details, and openly voicing their concerns about being made responsible for the drug trading of their tenants. They were not only concerned, but some took rigorous action; one entrepreneur started to hire sniffer dogs to regularly carry out drug checks, while another began to frequently inspect all sex-workers' lockers with his master key. This is a clear demonstration of how enforcement action resulted in an intensification of entrepreneurs' control over sex-workers (quadrant 3, Table 2).

Entrepreneurial control has further increased (temporarily) with the demands on entrepreneurs to question sex-workers via the intake system and requiring them to obtain in-depth knowledge of sex-workers' personal situations. Rendering entrepreneurs increasingly responsible for health and safety issues further undermines sex-worker independence and increases entrepreneurial power over sex-workers in the form of intensified surveillance. This means that, overall, the new regulatory regime has decreased sex-workers' independence by intensifying surveillance by entrepreneurs, even though increasing their independence is proclaimed to be at the heart of municipal governing ambitions. This supports the critique that, although legalization may provide some measure of safety and social acceptance, it can also institutionalize surveillance and control over the workers, in this case via the pressuring of entrepreneurs as intermediaries (Ham 2017, p. 24).

10. Discussion

We have seen how the legalization of prostitution in the Netherlands has been accompanied by the delegation of regulatory responsibilities to the owners and managers of brothels and windows. In their role as intermediary, entrepreneurs have been allocated responsibilities for preventing pimps and traffickers from intruding on the sector and for making sure that sex-workers are adults, are in this profession of their own volition, and do not commit crimes. At the same time, entrepreneurs have remained subject to regulatory supervision regarding their operation plans, their own possible criminal conduct (even in the past), and their non-interference with sex-worker's autonomy. Although facilitating strategies are not entirely absent in how the municipality governs entrepreneurs, repressive strategies dominate, and have led to a stricter form of control over entrepreneurs (c.f. Post et al. 2018). This responsibilization of entrepreneurs induces self-disciplining and intensified surveillance of sex-workers, thereby unintentionally undermining sex-workers' independence.

Our study is limited to a single case study. Therefore, to determine whether our findings can be generalized requires replication in other municipalities, in different countries, on other policy levels and/or other policy domains. Additionally, any follow-up research should scrutinize more closely the dynamics involved in the double roles of intermediary and target. One of our goals has been to show that entrepreneurs in prostitution fulfill both roles simultaneously. Studying the role of anticipation among the different actors in relation to the double role of intermediary and target may be a fruitful avenue for further research. For instance, a regulator may anticipate that using repressive or facilitative strategies on an actor in its role as target may impact the performance of the very same actor in its other role as intermediary. Conversely, an actor in a double role may anticipate that regulators' dependence on him as intermediary provides him with leverage to perform his role as target (c.f. Abbott et al. 2017a).

In line with this, another potential avenue for future research concerns the role of image construction and power relations. We have seen that the municipalities' image of entrepreneurs influences how they govern the entrepreneurs. This suggests that a lot is at stake with the prevailing image of all the actors in regulatory fields. Precisely because these images determine action, they may be contested and alternative images may be presented. These processes of establishing, maintaining, and challenging images of selves and others as regulators, targets, and intermediaries also deserves further study.

11. Conclusion

Taking into account the limitations of our study, what does it contribute to the literature?

First, our study enriches the RIT model. This model directs attention toward the importance of the role of intermediaries. This is particularly important in the current era where the sharing of regulatory responsibilities with private actors has been normalized to such an extent that situations where regulatory responsibilities are

concentrated in the hands of public authorities raise questions, even if there are no indications of problems (Almond 2015). So far, the RIT model has primarily been applied to intermediaries whose main tasks and responsibilities are already related to standard setting, monitoring or assuring compliance. In our case, regulatory responsibilities were forced upon entrepreneurs whose primary task, up until the legalization, was running a business. Therefore, it was clear to the municipality from the outset that the intermediaries it had initiated could not automatically be fully trusted to further the municipality's own goals. This has led to the complex governance regime where the regulator relies on both facilitative and repressive intervention strategies and oversees not only the ultimate targets – sex-workers, pimps, and traffickers – but the intermediary as well. These insights are not entirely new, but the purposeful selection of a private actor that is coerced into the double role of intermediary and target has brought sharply into focus the tensions and complexities that may ensue from three-way regulatory relationships.

Second, interpreting the RIT model in terms of responsibilization has drawn attention to the shifting power balance between the actors that are involved in the regulatory regime. The responsibilization literature is critical of the assumption that the delegation of regulatory responsibilities automatically empowers private actors while disempowering public actors. Instead, the delegation of responsibilities is conceived as a tool to enable public actors to maintain and legitimize control by governing at a distance or by shaping self-disciplining identities (Arts 2014). The municipality has also reverted to these two forms of indirect power by subsequently monitoring the operational plans of the owners and managers of brothels and windows and creating an image of these entrepreneurs as morally superior to the pimps and traffickers whom the entrepreneurs are supposed to prevent from intruding on the sector. As such, our findings that the responsibilization strategy has tightened the control on entrepreneurs and sex-workers alike further undermine the assumption that the delegation of regulatory responsibilities automatically empowers private actors.

The main contribution of linking the RIT model to the responsibilization literature is therefore that it directs attention to the importance of power dynamics in governance networks. The governance literature has been accused of a tendency to overlook the power dimension by focusing on institutions and instruments that can help overcome the limitations of command and control regulation. This omission could legitimize market actors to increase control over regulation and transform the means and relations of political authority (Shamir 2011; Tombs & Whyte 2017). Our study has also shown that the introduction of the role of intermediaries has not resulted in a unidirectional shift of power toward the entrepreneurs, but rather to a patchwork of contradictory provisional power strategies. As such, our responsibilization typology has brought the focus onto power dynamics while at the same time problematizing the empowerment thesis.

To conclude, even though, doubtlessly, there are multiple ways in which the discovery of the crucial role of intermediaries in regulatory regimes can be enriched, our study has done so by establishing that the interactions between regulators and intermediaries can be varied and riddled with tensions. Intermediaries' roles therefore cannot be adequately understood without acknowledging the power game that emanates from responsibilization strategies.

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Endnotes

- 1 While owners and managers of brothels and windows are commonly viewed as exploiters and criminals, we use the non-pejorative term of “entrepreneurs” because this is how they are addressed in prostitution policies in the Netherlands.
- 2 Incidentally, the responsibilization literature does not justify the conclusion that the balance of power will never shift in the direction of intermediaries and/or targets. For instance, once introduced, intermediaries can also create a dependency on regulators, which means that the balance of power persistently shifts to their advantage. An illustration of this is that

- the lengthy regulatory reliance on private credit ratings empowered credit rating agents by delegating regulatory authority to them. This dependence subsequently prevented regulators from successfully disempowering dysfunctional credit rating agencies (Kruck 2017).
- 3 The Hague has the second largest number of windows in the Netherlands.
 - 4 Eight entrepreneurs did not respond or refused to participate, motivating their refusal by a lack of time and/or interest.
 - 5 An in-depth study on the recent Dutch history of governing prostitution is provided by Outshoorn (2007).
 - 6 In brothels this situation is different. Clients pay directly to the entrepreneur (who sets prices per hour), who subsequently pays out the sex-worker after deducting income taxes via a so-called “opting-in” tax system. However, their relationship is supposed to be limited to the financial transaction, and sex-workers should remain in control of the same aspects as written above.
 - 7 The city of The Hague uses the BIBOB Act in licensing gambling companies, martial arts galas, and for restaurants and bars.
 - 8 A report by Verhoeven and Verstralen (2015) provides a description and evaluation of the different intake procedures in Amsterdam, The Hague, and Utrecht
 - 9 In August 2017, the Dutch Privacy Authority ruled that the municipality is not allowed to use these intakes to register privacy-sensitive information of sex-workers, after a formal complaint by the sex-workers’ rights organization Proud. The mayor of The Hague’s appeal to this ruling was rejected by the administrative court in March 2018. Subsequently, the city has suspended the police’s role of recommending or withholding working permits based on the information emanating from the intake procedures.
 - 10 In 2015, 227 intakes were conducted, resulting in 15 withholdings of a permission to work. In 2016, 327 conversations led to 7 withholdings, and in the first half of 2017, 138 intakes resulted in one withholding.
 - 11 The Dutch abbreviation for Samenwerkend Overleg Raamprostitutie (Cooperative Consultative Body Window Prostitution).
 - 12 Depending on the street, time of day and entrepreneur, it ranges from 150 euros per day to 250 euros.
 - 13 In the *Kadernota* (Den Haag 2015), the municipality is very critical of this and calls on sex-workers to go to court to claim a legal status as employee. It also states it will explore possibilities of including regulations on the relation between sex-workers and entrepreneurs in its licensing system.

References

- Abbott KW (2012) The Transnational Regime Complex for Climate Change. *Environment and Planning C: Government and Policy* 30, 571–590.
- Abbott KW, Bernstein S (2015) The High-Level Political Forum on Sustainable Development: Orchestration by Default and Design. *Global Policy* 6(3), 222–233.
- Abbott KW, Snidal D (2009) Strengthening International Regulation Through Transnational New Governance: Overcoming the Orchestration Deficit. *Vanderbilt Journal of Transnational Law* 42, 501–578.
- Abbott KW, Levi-Faur D, Snidal D (2017a) Introducing Regulatory Intermediaries. *The Annals of the American Academy of Political and Social Science* 670(1), 6–13.
- Abbott KW, Levi-Faur D, Snidal D (2017b) Enriching the RIT Framework. *The Annals of the American Academy of Political and Social Science* 670(1), 280–288.
- Agustín L (2005) The Cultural Study of Commercial Sex. *Sexualities* 8(5), 621–634.
- Almond P (2015) Revolution Blues: The Reconstruction of Health and Safety Law as “Common-Sense” Regulation. *Journal of Law and Society* 42(2), 202–229.
- Almond P, Gray G (2017) Frontline Safety: Understanding the Workplace as a Site of Regulatory Engagement. *Law & Policy* 39(1), 5–26.
- Arts B (2014) Assessing Forest Governance from a “Triple G” Perspective: Government, Governance, Governmentality. *Forest Policy and Economics* 49, 17–22.
- Ayres I, Braithwaite J (1992) *Responsive Regulation: Transcending the Deregulation Debate*. Oxford University Press, New York.
- Barkay T (2009) Regulation and Voluntarism: A Case Study of Governance in the Making. *Regulation & Governance* 3(4), 360–375.
- Bay C (2011) Framing Financial Responsibility: An Analysis of the Limitations of Accounting. *Critical Perspectives on Accounting* 22(6), 593–607.
- Bevir M (2011) Governance and Governmentality after Neoliberalism. *Policy & Politics* 39(4), 457–471.
- Black J (2001) Decentering Regulation: Understanding the Role of Regulation and Self-Regulation in a “Post-Regulatory” World. *Current Legal Problems* 54(1), 103–146.

- Brandsen T, Trommel WA, Verschuere B (2017) The State and the Reconstruction of Civil Society. *International Review of the Administrative Sciences* 83(4), 676–693.
- Brants CH (1998) The Fine Art of Regulated Tolerance: Prostitution in Amsterdam. *Journal of Law and Society* 25(4), 621–635.
- Creswell JW, Miller DL (2000) Determining Validity in Qualitative Inquiry. *Theory Into Practice* 39(3), 124–130.
- Daalder AL (2014) *Prostitutie in Nederland Anno 2014 (Prostitution in The Netherlands in 2017)*. WODC, Den Haag.
- De Silva N (2017) Intermediary Complexity in Regulatory Governance: The International Criminal Court's Use of NGOs in Regulating International Crimes. *The ANNALS of the American Academy of Political Science and Social Science* 670(1), 170–188.
- Den Haag G (2015) *Kadernota Prostitutiebeleid 2015–2018*. Gemeente Den Haag: Den Haag.
- Erikson J, Larsson OL (2019) Beyond Client Criminalization: Analyzing Collaborative Governance Arrangements for Combating Prostitution and Trafficking in Sweden. *Regulation & Governance*. <https://doi.org/10.1111/rego.12259>.
- Euchner EM (2017) Responsibilization by Criminal and Social Liability: New Governance Modes in European Prostitution Policy. Paper presented at ECPR Standing Group on Gender and Politics in Lausanne, Switzerland.
- Fereday J, Muir-Cochrane E (2006) Demonstrating Rigor Using Thematic Analysis: A Hybrid Approach of Inductive and Deductive Coding and Theme Development. *International Journal of Qualitative Methods* 5(1), 80–92.
- Flick U (2018) Triangulation in Data Collection. In: Flick U (ed) *The Sage Handbook of Qualitative Data Collection*, pp. 527–544. 55 City Road. SAGE Publications Ltd, London. <https://doi.org/10.4135/9781526416070>.
- Foucault M (2007) *Security Territory Population, Lectures at the Collège de France 1977–1978*. Picador, New York.
- Garland D (1996) The Limits of the Sovereign State: Strategies of Crime Control in Contemporary Society. *British Journal of Criminology* 36(4), 445–471.
- Grandy G (2010) Instrumental case study. In: Mills AJ, Durepos G, Wiebe E (eds) *Encyclopedia of Case Study Research*, pp. 474–475. SAGE Publications, Thousand Oaks, CA.
- Gray G (2009) The Responsibilization Strategy of Health and Safety: Neo-Liberalism and the Reconfiguration of Individual Responsibility for Risk. *British Journal of Criminology* 49(3), 326–342.
- Green JF (2014) *Rethinking Private Authority: Agents and Entrepreneurs in Global Environmental Governance*. Princeton University Press, Princeton, NJ.
- Ham J (2017) *Sex Work, Immigration and Social Difference*. Routledge, London and New York.
- Havinga T, Verbruggen P (2017) Understanding Complex Governance Relationships in Food Safety Regulation: The RIT Model as a Theoretical Lens. *The Annals of the American Academy of Political and Social Science* 670(1), 58–77.
- Huisman W, Nelen H (2014) The Lost Art of Negotiated Tolerance? Fifteen Years of Regulating Vices in Amsterdam. *Journal of Law and Society* 41(4), 604–626.
- Hyett N, Kenny A, Dickson-Swift V (2014) Methodology or Method? A Critical Review of Qualitative Case Study Reports. *International Journal of Qualitative Studies on Health and Well-Being*. <https://doi.org/10.3402/qhw.v9.23606>.
- Kruck A (2017) Asymmetry in Empowering and Disempowering Private Intermediaries The Case of Credit Rating Agencies. *The Annals of the American Academy of Political and Social Science* 670(1), 133–151.
- Lee J (2013) “Can You Hear Me Now?” Making Participatory Governance Work for the Poor. *Harvard Law & Policy Review* 7(2), 405–441.
- Lemke T (2002) Foucault, Governmentality, and Critique. *Rethinking Marxism* 14(3), 49–64.
- Levi-Faur D (2005) The Global Diffusion of Regulatory Capitalism. In: Levi-Faur D, Jordana J (eds) *The Rise of Regulatory Capitalism: the Global Diffusion of a New Order*, pp. 217. Sage, Thousand Oaks, California.
- Lobel O (2004) The Renew Deal: The Fall of Regulation and the Rise of Governance in Contemporary Legal Thought. *Minnesota Law Review* 89, 342–384.
- Majone G (1997) From the Positive to the Regulatory State: Causes and Consequences of Changes in the Mode of Governance. *Journal of Public Policy* 17(2), 139–167.
- Mascini P, Achterberg P, Houtman D (2013) Neoliberalism and Work-Related Risks: Individual or Collective Responsibilization? *Journal of Risk Research* 16(10), 1209–1224.
- Matthews R (2005) Policing Prostitution: Ten Years On. *British Journal of Criminology* 45, 877–895.
- Ostrom E (2010) Beyond Markets and States: Polycentric Governance of Complex Economic Systems. *American Economic Review* 100(3), 641–672.
- O'Toole LJJ, Meier KJ (2004) Desperately Seeking Selznick: Cooptation and the Dark Side of Public Management in Networks. *Public Administration Review* 64(6), 681–693.
- Outshoorn JV (2007) Pragmatism in the Polder: Changing Prostitution Policy in The Netherlands. *Journal of Contemporary European Studies* 12(2), 165–176.
- Outshoorn JV (2014) The Contested Citizenship of Sex-Workers: The Case of The Netherlands. In: Showden CR, Majic S (eds) *Negotiating Sex Work: Unintended Consequences of Policy and Activism*, pp. 171–195. University of Minnesota Press, Minneapolis, MN.
- Post C, Brouwer J, Vols M (2018) Regulation of Prostitution in The Netherlands: Liberal Dream or Growing Repression? *European Journal on Criminal Policy and Research* 25, 99–118. <https://doi.org/10.1007/s10610-018-9371-8>.
- Rose N, O'Malley P, Valverde M (2006) Governmentality. *Annual Review of Law and Social Science* 2, 83–104.
- Scott J (2011) Governing Prostitution: Differentiating the Bad from the Bad. *Current Issues in Criminal Justice* 23(1), 53–72.
- Scoular J, O'Neill M (2007) Regulating Prostitution: Social Inclusion, Responsibilization and the Politics of Prostitution Reform. *British Journal of Criminology* 47, 764–778.
- Seawright J, Gerring J (2008) Case Selection Techniques in Case Study Research. A Menu of Qualitative and Quantitative Options. *Political Research Quarterly* 61(2), 294–308.

- Shamir R (2011) Socially Responsible Private Regulation: World-Culture or World-Capitalism? *Law & Society Review* 45, 313–336.
- Stake RE (1994) Case Studies. In: Denzin NK, Lincoln YS (eds) *Handbook of Qualitative Research*. Sage, Thousand Oaks, CA.
- Thornberg R, Charmaz K (2014) Grounded Theory and Theoretical Coding. In: Flick U (ed) *The SAGE Handbook of Qualitative Data Analysis*, pp. 153–169. SAGE Publications Ltd, London. <https://doi.org/10.4135/9781446282243>.
- Tombs S, Whyte D (2017) Worker Health and Safety. *Oxford Research Encyclopaedia of Criminology*, pp. 1–27. Oxford University Press.
- Van der Heijden J (2017) Brighter and Darker Sides of Intermediation: Target-Oriented and Self-Interested Intermediaries in the Regulatory Governance of Buildings. *Annals of the American Academy of Political and Social Science* 760(1), 207–224.
- Van der Veer L (2016) Governing through Responsibilization: Managing Unwanted Migrants in The Netherlands. *Krisis* 2, 1–13. [Correction added on 04 October 2019, after first online publication: Initial of Van der Veer has been corrected to 'L' from Reference list.]
- Van Houdt F, Schinkel W (2014) Crime, Citizenship and Community: Neoliberal Communitarian Images of Governmentality. *The Sociological Review* 62, 47–67.
- Verhoeven M, Van Straalen E (2015) *Contactmomenten Tussen de Overheid en Prostituees (Moments of Contact between the State and Prostitutes)*. WODC, Den Haag.
- Wagenaar H (2006) Democracy and Prostitution: Deliberating the Legalization of Brothels in The Netherlands. *Administration and Society* 38(2), 198–235.
- Wagenaar H, Altink S (2012) Prostitution as Morality Politics or Why It Is Exceedingly Difficult to Design and Sustain Effective Prostitution Policy? *Sexuality Research and Social Policy* 9(3), 279–292.
- Walker CK (2016) Neoliberalism and the Reform of Regulation Policy in the Australian Trucking Sector: Policy Innovation or a Repeat of Known Pitfalls? *Policy Studies* 37(1), 72–92.
- Wästerfors D (2018) Observations. In: Flick U (ed) *The Sage Handbook of Qualitative Data Collection*, pp. 314–326. 55 City Road. SAGE Publications Ltd, London. <https://doi.org/10.4135/9781526416070>.
- Weitzer R (2005) New Directions in Research on Prostitution. *Crime Law and Social Change* 43, 211–235.
- Wijers M (2009) Aan rechten is niets liberaals: Over vrouwenhandelslachtoffers en geëmancipeerde sekswerkers (Rights Are Not Liberal: On Female Victims of Trafficking and Emancipated Sex-Workers). *Tijdschrift voor Genderstudies* 1, 80–86.