Evaluating the Dutch approach to labour exploitation: promises and bottlenecks

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1. Introduction

The Netherlands is a country that is known for its approach to human trafficking. It was for example one of the first countries to have a National Rapporteur dedicated to independent reporting on the problem of human trafficking. In 2018, the Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) indicated in their report that the Netherlands continues to make progress in its approach to human trafficking, whilst also calling on the Dutch authorities to take further action. Some positive steps taken by the Netherlands include the setting up of a national network of regional co-ordinators of assistance provided to victims of trafficking and the increased funding for police and prosecution services dealing with trafficking cases. In addition, the labour inspectorate SZW, which is responsible for the detection and investigation of cases of human trafficking for the purpose of labour exploitation (hereafter: labour trafficking) has also received additional funding.

Although the Netherlands receives praise for its approach, GRETA also expresses concerns about the decreasing number of prosecutions and convictions for human trafficking offences in recent years. It calls on the Dutch authorities to more proactively investigate such offences and ensure that they are prosecuted and result in proportionate and dissuasive sanctions. It is especially the declining number of labour trafficking cases that seems very concerning (Van Meeteren and Heideman 2021).

Every now and then, the Dutch National Rapporteur on Human Trafficking cries out for more attention for labour trafficking. While the number of signals reported to the authorities increased by 70% in 2020, the number of criminal prosecutions of labour trafficking has been decreasing for years. In addition, in 2020, a critical report on the Dutch approach to labour trafficking appeared compiled by the Netherlands Court of Audit (hereafter NCA). This report concludes that the current approach to labour trafficking is not effective (NCA 2021). For years, it has proven to be extremely complicated to tackle labour trafficking effectively. Although there are specific obstacles that only play a role in prosecuting labour trafficking, the combat of other forms of human trafficking – such as criminal or sexual exploitation – also has its problems (Farell et al. 2019; Villacampa and Torres 2017; 2019). Some of these problems are inherent in human trafficking, such as the difficulty of obtaining witness or victim statements as those involved are often fearful of revenge from their trafficker. Another difficulty in human trafficking cases is that there is a duty to act, while in some cases it would be better for the criminal prosecution not to intervene straight away and to collect more evidence first. Due to the difficulties with the traditional criminal law approach to human trafficking, the government developed a so-called 'integrated approach' to combat human trafficking. In 2008, a special Task Force on Tackling Human Trafficking was set up to achieve this. Central to the integrated approach is that solutions are also found in administrative law, and that the approach also incorporates actors outside the traditional criminal justice system. In the prostitution sector, the integral approach was quickly developed and implemented (Van der Leun and Van der Meij 2010; Van Gestel and Verhoeven 2014). For Labour trafficking, this took a little longer. After all, labour trafficking was only added to Article 273f of the Dutch Criminal Code in 2005, and as such criminalized as human trafficking. And it was not until 2007 that the first criminal investigations into
labour trafficking commenced. Ten years later, in 2017, the integrated approach to labour trafficking was started.

Until 2017, severe forms of labour exploitation were only dealt with under criminal law as human trafficking – as labour trafficking. In 2017, the integrated approach to labour exploitation started that marked the beginning of a new perspective on serious infringements of worker rights. The integrated approach outlines an approach combining on the one hand labour trafficking, and what is called ‘severe labour market abuse’ on the other, both under the broader umbrella of ‘labour exploitation’. In 2021, the Centre for Crime Prevention and Security (hereinafter: CCV) published a Guide to an integrated approach to labour exploitation in which the integrated approach is explained. The core of the approach is that suspects are not only dealt with as potential human traffickers, but that administrative sanctions or other criminal sanctions than Article 273f DCC are also used against suspects. In addition, cooperation with various partners, such as municipalities or the tax authorities, is an important pillar of the integrated approach to labour exploitation (CCV 2021). As this is all still relatively new, it is not yet clear what exactly the integrated approach to labour exploitation entails, which parties are involved, and how this approach works out in practice. That is why this contribution focuses on the integral approach to labour exploitation. Section 3 describes how this approach is organized. We then zoom in on the possible benefits that can be achieved with the integrated approach in section 4, and then go into the dilemmas and bottlenecks in practice in section 5. But before we discuss these themes, the bottlenecks in the criminal prosecution of labour trafficking are examined first in section 2. After all, these constitute the main reasons to switch to an integrated approach to labour exploitation in the first place.

2. Bottlenecks in the criminal prosecution of labour trafficking

Although there has been increasing attention for labour trafficking in recent years, as evidenced by the increased number of reports, many victims still go unnoticed. This is partly because both the wider public and professionals believe that labour trafficking is less serious than sex trafficking (Farell et al. 2020). Moreover, the idea that victimization of labour trafficking is perhaps not as harmful as other forms of human trafficking are, is reinforced by a low degree of self-identification of victimization among those who could legally be classified as victims of labour trafficking (Van Meeteren and Hiah 2020). That level of self-identification is low across the spectrum of experiences, even for those who have experienced extreme forms of violence, fraud and coercion (Petrunov 2014). Moreover, many victims experience repeat victimization (De Vries and Farell 2018). Self-identification of victimhood is essential for combating labour exploitation. For example, alleged victims can play a crucial role in prosecuting labour exploitation by issuing a statement or making a report. But if there is no self-identification, they are often less willing to cooperate in criminal investigations (Van Meeteren and Hiah 2020).

Another difficulty is that Dutch criminal law requires supporting evidence to be present in addition to a victim's testimony. Cases of labour trafficking usually concern only a small number of victims. For example, Van Meeteren and Heideman (2021) write that in more than half of the cases there were only one or two victims. This inevitably leads to problems with obtaining sufficient supporting evidence. This was also apparent in the ruling on a large and famous case of labour trafficking in the Netherlands, the Cornwall case. This case involved a
large number of Filipino sailors who worked in inland shipping. Their employment contracts had been forged by the employment agency and those contracts were used to apply for residence and work permits. Victims were also underpaid. The suspects had put the Filipino sailors in a vulnerable position due to the many uncertainties surrounding the rules and rights of the employees, so that in the eyes of the Court of Appeal in The Hague there were indeed bad employment practices. But the court did not consider it proven that there had been systematic overtime, that the working conditions were unsafe and that their housing conditions were substandard. It turned out to be difficult to demonstrate this, because all the sailors were employed individually on different ships, so that there was insufficient supporting evidence because the sailors had not been able to see each other’s the working conditions.

Labour trafficking is also a difficult concept that different people give different meanings to. This is partly due to the complex criminalization. Article 273f DCC is largely a translation of the human trafficking definition in the Palermo protocol, to which Labour trafficking and later human trafficking for criminal exploitation have been added, making it complicated to read and very lengthy. Over the years, case law, especially of the Supreme Court has also given rise to different and additional interpretations (Esser 2019). It has therefore become impossible for regular citizens to understand what human trafficking is by just reading what is in the law. A special course on recent case law is necessary to be able to grasp what type of behaviour can qualify as human trafficking and what does not. But this diversity in interpretations and perspectives on labour trafficking is also due to the different, more everyday connotations that the term labour exploitation carries. Labour exploitation is a literal translation of the term that is generally used in Dutch to talk about labour trafficking. Most citizens therefore do not associate labour exploitation to human trafficking. And in everyday language, many people consider far more circumstances to be labour exploitation than judges qualify as human trafficking. As a result, organizations such as trade unions often come up short when they report a case in which, in their view, there is clear evidence of labour exploitation, but that no criminal investigation is subsequently launched because the case does not meet the conditions of labour trafficking. All in all, because it is so unclear what labour exploitation is, a lot of confusion exists in practice.

Finally, a recent analysis of case law by Van Meeteren and Heideman shows that the threshold for the criminal determination of labour trafficking is high, as a result of which the large bulk of serious abuses in the labour market do not reach that threshold. In the Dutch criminal code, the criminalization of human trafficking is placed under the heading 'Crimes against personal freedom'. The Public Prosecution Service must therefore demonstrate that victims are deprived of their freedom. In addition, they have to prove that the personal integrity of the victim is violated and that his or her human rights are at stake. Where in the case of sexual exploitation a violation of personal integrity is almost automatically assumed because the exploitation involves sex and the body, in the case of labour exploitation it is up to the Public Prosecution Service to show that human rights have been violated. In other words, the judge must rule on 'how bad' the exploitation actually is. If it is so bad that you can consider it a human rights violation. And in many cases the judge then concludes that, although the situation is very undesirable, it is not a violation of human rights (Van Meeteren and Heideman 2021). And concern the few cases that actually reach a courtroom. Research by the Netherlands Court of Audit shows that approximately 85% of reports containing signs of labour trafficking are not dealt with under criminal law.
3. The integrated approach to labour exploitation

The Dutch labour Inspectorate has a coordinating role in combating labour trafficking in the Netherlands. The Inspectorate has two branches. The first is responsible for tackling violations of administrative law, and the second is a special investigative branch charged with the combat of crimes in the domain of work and income. This unit has investigative powers similar to those of the police. The combat of labour trafficking is therefore the responsibility of the investigative unit of the labour Inspectorate. Their investigations take place under the authority of the Public Prosecutor's Office of the Public Prosecution Service. The administrative unit is responsible for labour law violations and carry out inspections at workplaces on a daily basis. The labour market exploitation program runs through this division and is operational in both branches of the organisation.

The labour Inspectorate assumes that different degrees of bad employer ship exist. At the bottom of the pyramid there are employers who occasionally violate a labour law. One step higher are the employers who do this more often. At the very top are the labour traffickers. And in between is what the labour Inspectorate calls the category of 'severe labour market abuse'. This concerns the huge grey area between violations of labour laws on the one hand and labour trafficking on the other. As indicated, the integrated approach to labour exploitation concerns both labour trafficking and severe labour market abuse. The aim of the integrated approach to labour exploitation is to improve the approach to labour trafficking and severe labour market abuse, and to support its victims. This involves stopping the employer or perpetrator and removing the victim from the work situation, offering appropriate help and referring to organizations who can provide assistance if necessary (NCA 2021).

**Figure 1: Enforcement perspective of the labour Inspectorate**
According to the guidelines of the CCV, there is severe labour market abuse if “a violator gains an inappropriate (economic) advantage by having workers perform work or services in such a way that there is a serious violation of labour laws and an infringement of the legal employment position of those workers.” There is no specific legislation for severe labour market abuse. In other words, severe labour market abuse is not punishable by law in itself. In situations where there is severe labour market abuse, or labour trafficking that is difficult to prove, attempts are therefore made to tackle this by making creative use in various possibilities offered by the law to act against these employers. The guideline for an integrated approach to labour exploitation offers tools for tackling labour exploitation effectively in an integrated manner with existing legal instruments (CCV 2021). This could include a (combined) use of criminal, administrative or fiscal instruments. The idea is that various actors – the labour Inspectorate, the Public Prosecution Service, the police, the municipalities, the Tax and Customs Administration – all make a contribution.

All signals of labour trafficking or severe labour market abuse are discussed every two weeks in a special case meeting. A tailor-made intervention mix is then developed for each case. For example, offenders can sometimes be criminally prosecuted for one or more 'minor' offences, including:

- human smuggling (article 197a DCC);
- employment of illegal immigrants (article 197b, c and d DCC);
- money laundering (article 420bis DCC);
- fraud (article 326 DCC);
- forgery (Article 225 DCC);
- taking passport/travel document (article 447b DCC).

In addition, in some situations it is possible to temporarily shut down a company on the basis of the Economic Offenses Act (hereinafter: WED). Not only through criminal law, but also through administrative law, there are various options for dealing with abusive employers by imposing administrative sanctions. The labour Inspectorate can impose administrative fines for violations of the:

- Working Hours Act (Article 10:1; 10:5 and 10:7);
- Working Conditions Act (Article 33 and 34);
- Minimum Wage and Minimum Holiday Allowance Act (Article 18b, 18f and 18i);
- Allocation of Workers by Intermediaries Act (Articles 16 and 19) (hereinafter: Waadi);

Not only the Labour Inspectorate can act, municipalities can also act administratively, for example through the Building Decree or the Housing Act. There are also tax options for tackling a dishonest employer. For example, the Wages and Salaries Tax Act and the General State Taxes Act offer possibilities to act and to screen the employer's administration for irregularities.
It is considered of utmost importance that all kinds of actors do not all impose sanctions independently of each other, but that they work together in a coordinated approach. So that they take each other into account and in this way try to dismantle malicious employers quickly and effectively. This is why we speak of a 'coordinated integral approach'. There are so many opportunities to act that there always seems to be something that can be done to address inappropriate behaviour from employers. Much more than would be the case if all these issues were dealt with as human trafficking.

Finally, it is striking that the guide to the approach of labour exploitation mainly talks about the imposition of sanctions and criminal prosecution (CCV 2021). These are all forms of reactive policing. Much less attention is paid to taking more proactive measures, erecting barriers to prevent labour exploitation. In the guide it is stated that work is being done on structural improvement of the approach to labour exploitation in consultation with the investigative services and the labour exploitation programme. We assume that this also includes improvements in the area of prevention, although it is not very clear what this entails.

4. The promises of the integrated approach and possible pitfalls

For some time now, the idea has been popular in policy circles that organized crime can best be tackled with an integrated approach instead of with a purely repressive approach. By erecting barriers and disrupting opportunities with various parties, it is made difficult for criminals to continue their business, and some of them might be deterred from committing crime in the future. This approach is based on the ideas of situational crime prevention. Police and law enforcement could be much more effective if they not only act with repression, but also proactively disrupt opportunities. Moreover, there are various parties in society who can contribute to this, and not just the traditional criminal justice actors. Although there is no scientific evidence for the effectiveness of the integrated approach to human trafficking, let alone labour exploitation, many experts are enthusiastic about the possibilities that the integrated approach seems to offer (Von Lampe 2011).

In the specific case of labour exploitation, it could also be a major advantage that both the administrative law and the criminal law approach to labour exploitation are accommodated in one organization. After all, there is no need to constantly switch between different organizations and the lines are short. This makes it relatively easy for the labour Inspectorate to assume a coordinating role and social partners should be able to easily contact the labour Inspectorate. The idea of a combined use of criminal and administrative law instruments is that labour exploitation can be spotted through the administrative inspections that the labour Inspectorate exercised on a daily basis. Inspectors who enter the workplace can spot signals of labour exploitation, and the labour Inspectorate can try to regulate the problem. In theory, the inspections carried out by the labour Inspectorate can have a strong preventive and also signalling function. But the enforcement branch of the labour Inspectorate can also do more than monitor compliance with labour laws and pass on signals of labour exploitation. Every day, the inspectors enter in the workplaces that the criminal investigators are interested in, and can come into direct contact with victims and perpetrators in those workplaces. Their eyes and ears are also a potentially rich sources of information that can feed into an evidence based approach to labour exploitation.
Although the integrated approach is praised by many for its potential, there are also scholars who have expressed critique on the integrated approach to human trafficking. Firstly, Holvast and Van der Meij (2011) point to the problem of the blurring boundaries between administrative enforcement and criminal investigation. The mixing of the criminal and administrative spheres can lead to fundamental problems with regard to the legitimacy of the action. According to these authors, the merger of the legal spheres is increasingly manifesting itself and they therefore call for more research into the consequences of such processes. Since the administrative enforcement and criminal investigation of labour exploitation are concentrated in a single organization, the potential problem of legal sphere blurring might be greater than is the case with sexual exploitation, where administrative controls are carried out by the local municipalities.

A second point of criticism of situational crime control is that criminal behaviour might not necessarily disappear, but will mainly displace. Criminals seek other opportunities and try to avoid the barriers raised by the situational crime controls. In the case of labour exploitation, this appears to be a real danger, because the root causes of labour exploitation are not necessarily addressed. In this way, workers continue to struggle with the same vulnerabilities that make them susceptible to exploitation.

A third criticism with regard to the integrated approach to labour exploitation relates to the renunciation of criminal proceedings. It may happen that there is indeed a serious suspicion of human trafficking, but that criminal prosecution is not started but instead an administrative sanction is applied. However, the Netherlands has an international obligation to act at the slightest indication of human trafficking, in order to protect the victims in such cases. So it is not as easy to switch between different instruments as is sometimes thought (Holvast and Van der Meij 2011).

5. The integrated approach to labour exploitation in practice

Since the labour Inspectorate has been working with the integrated approach to labour exploitation, we have seen that the number of criminal prosecutions of labour trafficking has fallen sharply. In the period between 2012 and 2016 we witnessed an initial increase with an average of about fifteen criminal investigations per year, and a peak of nineteen cases in 2016. However, the report by the Netherlands Court of Audit shows that it has steadily declined since then, with only four investigations into labour exploitation being launched in 2019. The decline started approximately at the same time as the start of the integrated approach to labour exploitation in 2017. This does not necessarily mean that there is a causal relationship here. The total number of human trafficking cases has also fallen over this period, so the decline may be part of a broader trend. At the same time, a decline in labour trafficking prosecutions would also constitute a logical consequence of the introduction of the integrated approach if it were accompanied by a rise in other types of sanctions.

If there is a connection between the decrease in the number of investigations into labour trafficking and the new approach, this would therefore be reflected in an increase in the number of administrative sanctions. In addition, the labour Inspectorate expanded the existing capacity for the severe labour market abuse project in 2019 from four to ten inspectors. It could therefore be that cases that were previously picked up as labour exploitation are now being picked up by the team at severe labour market abuse. An investigation by the Netherlands Court of Audit has shown that more investigations into severe labour market
abuse have indeed been launched, but that there has been no increase in the sanctions imposed by the Inspectorate. Moreover, hardly any multiple fines have been imposed: in 2019 only in one case. The somewhat heavier enforcement instruments that the Labour Inspectorate has are shutting down a company or imposing a cease and desist order. The cease and desist order was used once in the period 2017-2019, and no company was shut down because of serious abuse inflicted on its employees (NCA 2021).

It could of course also be the case that cases that were previously dealt with as labour trafficking are still prosecuted under criminal law, but for other crimes than human trafficking. The Netherlands Court of Audit did not investigate this, they only looked at administrative sanctions. In some cases, for example, an investigation into human smuggling is a seemingly good alternative to human trafficking prosecution if the threshold of labour trafficking is not reached. When an employer employs an employee who is not legally resident in the Netherlands, there is a violation of the prohibition on the employment of foreign nationals (Article 2 WAV). In addition, a criminal case can also be started for people smuggling (Article 197a DCC), because in such cases the employer facilitates illegal residence in the Netherlands by offering the migrant in question employment. These criminal cases are much less complex from a legal point of view than the prosecution of labour trafficking cases, and also much easier to prove. Moreover, the sanctions that can be imposed are much higher than in administrative law. For example, a suspect of human smuggling can be sentenced to prison. In 2019, the labour Inspectorate submitted four completed investigations into human smuggling to the Public Prosecution Service (SZW 2020), and in 2020 there were fourteen (SZW 2021). Whereas only one case of labour exploitation was submitted to the Public Prosecution Service in 2020, the number of people smuggling cases appears to be increasing sharply.

The annual reports of the Labour Inspectorate provide little information about and insight into the types of criminal investigations that are conducted every year. For example, according to the annual report, they completed a total of 41 criminal investigations in 2020, compared to 45 in 2019. These are then divided into seemingly arbitrary categories that vary over the years. For example, the Labour Inspectorate reported four cases in the category of ‘working conditions’ in 2019. It is possible that this included cases that would previously have been prosecuted as labour trafficking, but that is of course not clear. Eighteen cases were also reported in the category of ‘other labour market fraud’. In 2020, the Inspectorate introduced the category 'temporary employment agencies' and indicated that in included six criminal investigations. Moreover, this category was previously not distinguished and it is completely unclear what the underlying criminal offense is.

It is difficult to draw conclusions about the effectiveness of the integrated approach to labour exploitation on the basis of these data. The Netherlands Court of Audit's investigation also shows that the Labour Inspectorate does not have the data available for them to draw any conclusions on, because their registrations are not in order. As a result, thorough research into the effectiveness of the integrated approach to labour exploitation is still likely to be years away.

Nevertheless, it is possible to point out some bottlenecks in the current approach. Firstly, as mentioned, it could be a major advantage that both administrative and criminal law approaches to violations in the domain of work and income are accommodated in one organization. The inspections carried out by the enforcement branch also collect data that
could be important for criminal investigations. The inspectors do not have the power to take criminal action. However, they may be able to pass on relevant information about labour exploitation to the investigative unit. For example, if they saw during a check in a restaurant that the cooks are housed in small rooms above the restaurant in very poor conditions, they could report this to their colleagues at the criminal investigation unit. However, experience shows that it often does not get that far, because the inspectors do not have the authority to inspect housing conditions. This is often a task of the municipality. Moreover, in practice there appears to be a strict separation within the Labour Inspectorate between the investigative branch and the enforcement branch of the organization, and information is often not exchanged. For example, research by the Netherlands Court of Audit – in which 216 inspectors were questioned – shows that 60% had seen one or more signs of labour exploitation, but did not report this to the Criminal Investigation unit. So for the time being, the potential problems surrounding the blurring of legal boundaries seem not to be that grave. The CCV guide does, however, state that authorities can ‘shop around between the various measures that can be used’, so it is important to stay alert regarding this point (CCV 2021).

Secondly, it is almost self-evident that bottlenecks can be identified with regard to collaboration and exchange of sensitive information. A lot of improvements have been made in this area, and a guide has also been made that specifies under which conditions information can be exchanged. This makes it clearer for those involved what exactly is and isn’t possible in the field of data sharing. However, the Netherlands Court of Audit’s investigation shows that many chain partners have doubts as to whether reporting signs of labour exploitation to the Labour Inspectorate is worthwhile. They indicate that it is not clear what happens to the signals they report and that due to the lack of feedback they experience a barrier in cooperation with the Labour Inspectorate.

Thirdly, there is the question of which preventive objectives underlie the current approach. The objectives of the integrated approach to labour exploitation are to stop the employer or perpetrator and to remove the victim from a harmful situation, to offer appropriate help and to refer victims to other organisations if necessary. In other words, no objectives in the sphere of prevention seem to have been formulated. As a result, it is difficult to evaluate if the approach is effective. In addition, there is a risk that prevention will receive insufficient attention in the approach. Of course, sanctioning criminal employers through administrative law means that they are punished or hindered which may make it difficult to continue their operations. In a way, such sanctions could be perceived of as having a preventative effect. However, since the number of administrative sanctions has not increased in recent years, it cannot be concluded that the Labour Inspectorate has done more in terms of prevention than before. At the same time, it cannot be concluded that the Labour Inspectorate did nothing. Special barrier models have been developed in collaboration with the CCV to indicate where organizations can intervene and erect barriers to prevent offenders from committing labour exploitation. In addition, the Labour Inspectorate has organized information campaigns and presentations for stakeholders explaining about the issue of labour exploitation.

In order to be able to prevent labour exploitation, it is also important to do something about the underlying problem, the so called ‘root causes’. For example, work could be done on identifying and subsequently removing vulnerabilities on the labour market that easily lead to abuse. The Labour Inspectorate has made a start with such work in their report 'The State of Fair Work'. The Inspectorate has also insisted on special regulations to avoid creating
vulnerabilities. For example, it is no longer possible to automatically deduct the rent from a minimum wage. However, a solution rogue employers found to such a barrier is that they now ensure that the practice is maintained with a PIN machine on the work floor. In addition, the Inspectorate may not have many options in terms of prevention as many solutions lie outside their direct sphere of influence in the field of national politics.

The greatest dilemma with the integrated approach to labour trafficking, however, is situated with the victims. Victims of human trafficking have a wide range of rights, provided they are identified as victims. This ensures protected shelter and victims are also offered a three-month reflection period, during which they can think in peace and in protection about whether they want to report the crime. There are also residence schemes for victims of human trafficking without legal residence in the Netherlands. And a victim can join the criminal proceedings as an injured party in order to reclaim wages and/or claim compensation (Cleiren et al. 2015). Although it can be read in the guideline that the integrated approach considers it 'essential to include the victim's position in the considerations that lead to a particular approach', the possibilities for this are limited outside of the scope of human trafficking. Administrative law offers few possibilities for this. Only when an order subject to a penalty is imposed can an injured party reclaim his or her wages. Criminal remedies other than Article 273f DCC that are available to tackle labour exploitation do not always involve a victim. Where human trafficking is a crime against a victim, human smuggling is essentially a crime against the State. 'Victims' of human smuggling can therefore not invoke victim rights. However, as with human trafficking, they can add an injured party's claim to the criminal proceedings.

6. Conclusion

The analysis presented above points to problems that lie at the heart of the approach to labour exploitation. A large number of labour trafficking prosecutions appear to be replaced by other law enforcement instruments that target severe labour market abuse, and there are no legal grounds for punishing serious labour market abuse in the current legal system. Law enforcement is now forced to put legal labels on situations that do not necessarily do justice to the situation. With a tailor-made intervention mix consisting of relatively minor offenses, an attempt is made to 'approach' the severe offense of human trafficking that is so difficult to prove. One is either forced to interpret the situation in terms of human rights violations and violation of personal integrity, which often does not work, or one has to put any label or combination of labels on it to make a case out of it.

On paper, the integrated approach to labour exploitation represents a shared responsibility. After all, it is a coordinated approach in which various law enforcement actors have responsibilities. The actual practice seems to that of a shifted responsibility, whereby the focus is no longer on the approach to labour trafficking, but on tackling severe labour market abuse. Moreover, the responsibility for this seems to lie primarily with the Labour Inspectorate because other actors are involved in tackling human trafficking, but they have no responsibility in combating severe labour market abuse. Municipalities have a clear mandate with regard to tackling human trafficking. In the national action program Together against Human Trafficking, municipalities are called upon to develop local policies to combat human trafficking. But there is no such policy prioritization for tackling severe labour market abuse and there is much less sense of urgency. Many municipalities are therefore rudderless in their
efforts tackle labour exploitation. They want to deal with it as human trafficking but have often found that this does not lead them anywhere.

The government has realized that the approach to labour exploitation is not yet going well. Some explorations have also been started. The Ministry of Justice and Security has for example investigated the Belgian criminalization of human trafficking, to see what can be learned from that. In Belgium, the element of coercion does not have to be proven in human trafficking cases. However, since proving coercion is not the main problem, but proving the intent of exploitation is, this is not a solution (Van Meeteren and Heideman 2021). Moreover, it appears that Belgium does not substantially prosecute more suspects than the Netherlands does. In addition, together with a group of scientists, it was examined whether the criminalization of human trafficking could be altered. Hopefully a newly elected government, once installed, will take further steps in this direction. It is also promising that many, especially large municipalities such as Rotterdam, and The Hague, Utrecht and Ede, are taking their administrative approach to labour exploitation seriously and are exploring their local problems to find suitable solutions.

The National Rapporteur on Human Trafficking, Herman Bolhaar, has been raising the alarm for years when it comes to labour exploitation. In an interview with a well-read national newspaper, de Volkskrant, the current rapporteur, Herman Bolhaar, indicates that it is problematic that so few cases of labour exploitation are brought to court, because “if more cases were brought to court, it could lead to new case law on labour trafficking which makes it easier to convict future offenders.”1 In other words, more case law in the courts should then lead to a clearer definition of the concept of labour trafficking, resulting in more perpetrators behind bars. For several reasons, this appears to be wishful thinking. First, all the numbers presented here seem to indicate that the number of cases of labour trafficking before court is more likely to go down than up. Secondly, there is now quite a lot of case law already from which a fairly unambiguous picture emerges. The human rights bar against which labour exploitation is tested is simply too high for the majority of serious abuses in the labour market (Van Meeteren and Heideman 2021). Without a change in the law, judges will not suddenly remove or lower this threshold, no matter how many cases they are presented with.

The current integrated approach to labour exploitation does not seem to offer ready-made solutions for the time being. The only way out of the current impasse seems to be to increase our insight into the nature and extent of the various manifestations of labour exploitation on the one hand, and on the other to develop a set of instruments that are in line with and actually do justice to the underlying problem. In this way, victims can be done justice and they can actually be helped in a way that makes sense to them. On the one hand, if law enforcement has something to offer to victims, these will be more inclined to cooperate in (criminal) cases against their employers. On the other hand, criminal employers can be prosecuted for a fact that actually touches the core of the criminal behaviour and be punished accordingly.

Moreover, the integrated approach to crime is particularly promising in the area of prevention. However, the current approach to labour trafficking does not focus as yet on seeking solutions to the underlying problem of vulnerabilities on the Dutch labour market. More insight into the

11 https://www.volkskrant.nl/economie/weer-slaat-de-rapporteur-alarm-over-arbeidsuitbuiting-waarom-is-het-zo-moeilijk-op-te-lossen“bd0de39d/
underlying vulnerabilities and the functioning of the criminal markets in which labour exploitation arises and occurs is therefore important. Labour exploitation does not take place in a vacuum between an employee on the one hand and an employer on the other. Labour exploitation takes place in the broader context of the regulation and functioning of labour markets (De Vries 2018). In addition, there are various conscious and unconscious facilitators, including employment intermediaries, transporters, people smugglers, and (rogue) landlords. It is important to understand the nature and consequences of labour exploitation in the context in which it takes place (Van Meeteren and Bannink 2020). Only in this way can vulnerabilities be removed and barriers erected in the appropriate places.

There are serious abuses in the labour market that people without knowledge of the Dutch legal system refer to as labour exploitation. The integrated approach has taken an important first step in a more effective approach by no longer relying solely on criminal prosecution of labour exploitation via Article 273f DCC. However, this has exposed a deeper problem. The current set of instruments to tackle these criminal employers is inadequate and has little to offer to victims. Thorough evidence-based reflection on the integrated approach to labour exploitation seems highly warranted. In the first place, it is important to establish clear criteria for the evaluation of the approach to labour exploitation, both in terms of repression and in terms of prevention. In addition, it is crucial to register the information required for evaluation research in such a way that it is accessible to independent research.

**Literature**


