

**Speech by Ms. Corinne Dettmeijer-Vermeulen, Dutch Rapporteur
on Trafficking in Human Beings and Sexual Violence against
Children, on the occasion of the OSCE Alliance against Trafficking
in Persons Conference**

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‘Changing the way we look at forced criminality’

Wayne Dyer, an American writer, once said: ‘Change the way you look at things and the things you look at change’.

Forced criminality is about our ability to change the way we look at things. The ability to see the old lady as well as the young Parisian.

Forced criminality is manifest in many ways. The 2011 EU Directive on Human Trafficking refers to pick-pocketing, shop-lifting and drug trafficking, but the list is even longer and in effect human trafficking may be involved in any crime. If we look at the cases involved in different countries we find that there are often four basic categories of forced criminality which in turn include sub categories.

Category	Manifestation	Offences involved
<i>Cases where people are forced to steal</i>	Shop lifting, pick pocketing, burglary, theft of valuable materials (such as expensive metals like copper), theft of clothing collected for developing countries	Section. 310 Dutch Criminal Code ff.
<i>Cases where people are forced into the production, processing, transport or sale of prohibited resources or goods.</i>	Growing cannabis, trade and production of other types of drugs (crystal meth), illegal production of cigarettes, sale of fake goods	Opium Act, Section 337 Dutch Criminal Code
<i>Cases where people</i>	Fraudulent application	Section. 231, Section.

<i>are forced to commit fraud or a crime connected with fraud.</i>	for allowances (benefit fraud), sham marriages	225 Dutch Criminal Code
<i>Cases of forced aiding and abetting of human trafficking (cycle of abuse)</i>	The victim plays a role in the human trafficking process	Section 273f Dutch Criminal Code with Section... (aiding and abetting)

Figure 1. **Categories and forms of criminal exploitation**

For me the great diversity of forms of forced criminality only serves to emphasise how important it is to have knowledge about human trafficking. Normally speaking there is no way of telling whether a perfectly ordinary case of shop-lifting has anything to do with human trafficking. A 'Wayne Dyer look' is then a must.

The forms in which forced criminality occurs demonstrate the huge range of organisations that come into contact with this phenomenon. As soon as organisations find themselves confronted with forced criminality, a decisive moment arises. A moment referred to in organisation science as 'the moment of truth'. That is the point at which a company comes into contact with a customer and has the perfect opportunity to prove itself.

In tackling forced criminality one can also speak of a 'moment of truth'; it occurs at an early stage, at a decisive moment. If a police officer finds a child who is pick-pocketing, does he see only the offender or also a potential victim? Only the old lady or also the young Parisian?

The degree to which organisations are able to adjust to the many faces of forced criminality determines whether they can see the victims as well as the offenders and this is crucial to what happens next in the process. If all they see is the offender then the logical next step is to continue the criminal proceedings. If the victim is seen as well, the desirability of the usual route becomes debatable. I'll come back to this later. The main point I want to make at this stage is that when the moment of truth arises those parts of an organisation are involved which are not

necessarily trained in spotting the signs of human trafficking. That's why it is absolutely vital for front line professionals to have a basic knowledge of the signs of human trafficking they need to watch out for. And then those signs must be fed through to those parts of their own organisation that *do* specialise in human trafficking.

Recognising offenders as victims is ultimately all about protecting the victims as best we can. The non-punishment principle plays a big role here. The principle is stated in Article 8 of the EU Directive on Human Trafficking. Although the principle strictly speaking implies no obligation to apply it in a specific case it can be seen as a significant incentive to spare victims from being prosecuted and punished as much as possible.

Having said that I should like to share with you some of my observations regarding the non-punishment principle. The discussion often remains rather abstract. I suspect that few of you would not share the idealistic ratio that underpins the principle. But the main thing with the non-punishment principle is putting it into effect.

First of all that means that all the organisations need to know about it. And second, that the professionals need to be clear about how they can apply the principle. Broadly speaking there are two avenues that can be taken:

1. *Codification*, whereby the principle is enshrined in law;
2. Or, *incorporation*, whereby the principle can be applied through modalities that are already available in existing law. In the Netherlands these are the grounds that exist for exemption from punishment and the discretionary powers of public prosecutors and of judges.

Besides these implementation methods, clarity about the scope of the principle is the other main issue. Certainly if the non-punishment principle is applied through the discretionary freedom of prosecutors and judges it

is critical for there to be protocols or policy documents that throw more light on its interpretation and significance. For example, how water tight must the causal link be between the offence committed and the human trafficking situation?

Most important of all to my mind is for the principle to be given much wider application than is presently the case. The principle should be applied in *punitive* criminal law, but also in *punitive* administrative law. The trend internationally is for more and more contraventions to be penalised through administrative law. Examples that spring to mind are cases of people having no work permit or an administrative fine being imposed on a beggar for disturbing the peace. For a wider application of the non-punishment principle I think we need a shift in thinking more towards 'the moment of truth'. The principle needs to be in our sights right at the point of the first confrontation between forced criminality and the authorities, so that justice can be done for the victims.

Ladies and gentlemen, that brings me to my closing remarks. The diversity of manifestations of forced criminality requires flexible organisations and knowledge of human trafficking, also in departments that do not specialise in the phenomenon. The non-punishment principle moreover imposes upon us the obligation to see offenders as victims. Altogether, forced criminality forces us to look at things differently more so than any other form of human trafficking. We would do well to take Wayne Dyer's message to heart.

Thank you.