

**From the Red Light to the Red Carpet: Legalization,
Deliberation, and the Paradoxical Challenges to Sex Work
Policy in the Netherlands**

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ABSTRACT

This dissertation utilizes deliberative democratic theory to analyze two moments of Dutch policy-making around sex work. The first moment covers the period from 1990 to 2000, the decade prior to the full legalization of the sex industry in the Netherlands, and includes a focus on the national, legal-parliamentary process that resulted in the lifting of the *Brothel Ban*. The second moment explores the decade after the legalization of sex work, when sex work policy was decentralized, and narrows the focus to Amsterdam's local policy-making system. Sex work advocates heralded the lifting of the *Brothel Ban* as a victory for the legal rights of all sex industry personnel and cited its democratic character, a feature resulting from the meaningful inclusion of marginalized political subjects. Soon after legalization, however, the sex industry was politically excluded from the local policy-making processes that had recently been given responsibility for sex work regulation. In the absence of the sex industry, Amsterdam's private and public sector elites partnered to create Project 1012, a set of policies that sought the physical restructuring of Amsterdam's core and aimed to revamp its image by reducing the number of window brothels by at least forty per cent. To implement Project 1012, the project's proponents purchased a number of window brothels and restricted the emergence of new brothels in Amsterdam's core with the use of an exclusionary zoning plan. Amsterdam's municipal authorities also used the national Public Administration Probity in Decision-Making Act (the BIBOB), passed in 2003, to put the Red Light District's (RLD) remaining window brothels under routine investigation on grounds of suspicion of criminal activity. Under such pressure, several window brothel owners sold their properties for other uses. By comparing and contrasting these separate policy moments using a set of criteria I derive from deliberative democratic theory, I demonstrate a shift in the political character of sex work policy-making. Through the description of these two policy periods, it becomes clear that the development of these policies, their framing and the municipal tools used to enact them evince a marked shift in both the degree of legitimacy that sex work was ascribed and in the involvement of sex industry personnel in the policy-making process. The contrasts that emerge between these two time periods clearly sets them apart with respect to their democratic legitimacy. In

assessing the consequences of this shift for those involved in the sex industry I show that while all who hold a stake in the RLD's sex businesses have been negatively impacted by Project 1012, the sex worker, particularly the migrant sex worker, is the most disenfranchised by this political shift. The discussion of consequences is followed by an investigation of those factors that most strongly contributed to the shift, such as the discovery of human-trafficking rings within Amsterdam, the emergence of a strong anti-trafficking campaign, rising racial tensions and xenophobia, as well as an intense, neoliberal, European intra-urban competition. These social and economic forces, discourse and factors have all combined to change the way in which sex work is understood and have compelled a need to close the RLD, a symbol of Dutch progressive tolerance, in order to protect it and its workers from 'foreign' influence, as well as improve Amsterdam's international competitiveness. Project 1012 reimagines the RLD in the absence of both sex workers and 'foreigners,' aims to make it more commercially profitable and return the space to those deemed more deserving. The sense of urgency instilled by these discourses has trumped the use of deliberative democratic policy mechanisms as a way to address the morally contentious topic of sex work and uncover alternate visions for the RLD.

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CHAPTER 1

INTRODUCTION

Introduction

Red light districts are known as places for escapism, where all sorts of desire are catered to and sex is made available for sale. Amsterdam's Red Light District (RLD) is one of many within the Netherlands that serves this purpose, but is unique in that it is perhaps the most internationally well known and has the longest history. Nestled within one of Amsterdam's oldest historical neighborhoods (Janssen, 2007; Therese van der Helm, 2007), the RLD has existed since the 14th century. It began as a distillery district and brothels sprung up in response to demand from international sailors.

The Dutch have a different name for the Red Light District, preferring to call it "De Wallen." This term refers to the medieval retaining dam walls in the old center of Amsterdam, and emphasizes the historical character of the neighborhood rather than the activities the area has housed for centuries. Amsterdam's RLD occupies the city's most central neighborhood, running along the two canal streets, Oude Zidjs Voorburgwal and Oude Zijds Achterburgwal, as well as smaller alleys and side streets surrounding the Oude Kersksplein (the old church). A vast network of narrow alleys that contain rooms for rent by the hour sprawl along these streets and canals. The red light district also hosts sex shops, sex theatres, peep shows, a sex museum, a cannabis museum, and coffee shops selling marijuana.

The RLD is an urban public space that is subject to the overlapping desires and requirements of multiple and sometimes competing users, including but not limited to its sex workers, inhabitants, property owners and investors, as well as public agencies. Access to this space has long been a question of power and contestation (Brants, 1998), as it is physically located in the center of the city and has traditionally housed activities that stand at the intersection of various discourses. An analysis of this space, therefore, sheds light on the variety of complex social and political forces working within the Netherlands that produce and prioritize demands for space. Indeed, it is easy to look at the way the RLD has been managed as representative of the Dutch approach to sex work more generally. Studying the policies that target the area and the democratic character of

processes that allocate space within the RLD allows us to identify the interests that are vying to change the RLD's function and the discourses affecting spatial distribution. All of these factors make Amsterdam an excellent location in which to situate a study of the politics of sex work in the Netherlands.

In 2010, I moved to Amsterdam to examine two Dutch policy-making processes and examine how these processes and their effects impacted the management of Amsterdam's RLD. The first regulatory framework existed prior to 2000, when the sale of sex within brothels was made illegal by a nearly century-old ban on brothels (the *Brothel Ban*). While I provide a brief historical review of the regulation of sex work in the Netherlands in Chapter 4, the majority of my analysis focuses on the political processes between 1990 and 2000 – the decade prior to the lifting of the *Brothel Ban*. The first half of the dissertation thus includes a focus on the national deliberative forums and the legal-parliamentary processes culminating in the legislative decision to lift the ban on brothels.

In the year 2000, the Netherlands lifted its *Brothel Ban*, which effectively amended both the national Penal Code and the Municipality Act. The Penal Code was affected in that brothels were now allowed to exist. The Municipality Act was affected in that municipalities were required to develop regulations to manage brothels in line with objectives outlined by the Penal Code. Lifting the *Brothel Ban* was a legislative move tantamount to the full legalization¹ of the sex industry because until then only sex work within brothels was illegal.

Sex workers rights advocates heralded legalization as a victory for the legal rights of all sex industry personnel as they felt it opened the door for rights. Also, since the sex industry was active in the political deliberations that led to removing the *Ban*, including these marginalized political subjects in negotiating the conditions of their governance

¹ Legalization differs from decriminalization in that a “legalized system permits some, but not necessarily all, types of sex work,” whereas a decriminalized system treats sex work like all other occupations (Lutnick and Cohan, 2009: 38-39). Under a legalized system, sex industry personnel “face regulations and licensing procedures that other businesses do not” (Lutnick and Cohan, 2009: 38-39). Within a decriminalized system, on the other hand, the sex industry is treated as equal to other industries, meaning that “relevant tax, zoning and employment laws as well as occupational health and safety standards also apply to sex workers and sex work establishments” (Lutnick and Cohan, 2009: 38-39). While it is often claimed that the Netherlands has a decriminalized system, this dissertation demonstrates that after the *Brothel Ban* was lifted, a unique set of regulatory requirements was imposed upon the sex industry and that, on the suspicion of criminal activity within the industry, workers and business owners have been subject to a disproportionate amount of criminal investigations. These findings (which will be elaborated on in Chapters 5 and 6) support the use of the term legalization as opposed to decriminalization to describe the policy effects of lifting the *Brothel Ban*.

was also regarded as significantly democratizing. Immediately following legalization, municipalities were required to develop local regulations to manage the sex industry, which led to the emergence of the second regulatory framework from 2000-2012. In my analysis of this time period, I look at Amsterdam's local policy-making system and the way in which local regulations and policies were designed and implemented. I pay close attention to the emergence of an urban growth coalition² comprised of private developers, housing corporations and city agencies (Aalbers and Deinema, 2012), which has collaborated in its efforts to revamp Amsterdam's image by displacing forty percent of sex-work-related businesses from Amsterdam's Red Light District(s) under Project 1012. Project 1012 is the strategic framework at the base of efforts to restructure Amsterdam's central neighborhood (postcode 1012) by using a series of regulatory instruments such as zoning, licensing, administrative law and purchasing power to eliminate the visible presence of sex work.

Purpose, Goals and Argument

Less than five years after brothels were legalized, Amsterdam's local government took bold steps to significantly reduce the size of its RLD and re-orient itself with regard to the practice of sex work within its boundaries. Based on preliminary conversations with those in the industry, I suspected that the sex industry was prevented from meaningfully contributing to the design of Project 1012, which contrasted sharply with Wagenaar (2011)'s observations that constituent interests in the sex industry had been key deliberative democratic agents in the political processes leading to legalization. Given a broader concern with the dynamics, possibilities and limits of democratic inclusion in policy-making processes, there were three research questions that primarily guided my study, and a fourth, reflective question, emerging from my findings.

- (1) How did the sex work policy-making process differ in these two time periods? More specifically, when assessed in terms of the character and quality of

² Aalbers and Deinema (2010) have described Amsterdam's growth coalition as comprised of local political elites and private partners that have or had commercial interest or investment in Amsterdam's core.

deliberation and democracy in policy making, what are the key points of contrast between policy-making prior to and after legalization?

(2) What factors best explain the shift in the character of sex-work policy-making processes following legalization in 2000?

(3) What effect did the shift in the location and character of policy-making have on the content of sex-work policy and, in turn, the impact of policy on the sex-work industry and sex workers?

(4) What does the experience of sex-work policy-making in the Netherlands from 1990 to 2012 reveal regarding the value of deliberative democratic models of policy making, both at a general theoretical level and specifically in relation to the making of sex work policy?

To reiterate, the dissertation examines the sex work policy-making processes in two time periods (1990-2000 and 2000-2012) to assess their deliberative democratic character, uncover reasons for their divergence and consider the ways in which different processes lead to different policies and consequences for those affected by them. A number of secondary research questions guide my study. These questions are outlined throughout the discussion of the chapters below.

In accordance with the criteria that are laid out in the theory Chapter, the two political processes are found to differ significantly with respect to their democratic legitimacy. The dissertation explores the social and political conditions and discourses within the Netherlands that contributed to this shift in democratic legitimacy, including nationalism, Europeanization, depillarization and neoliberalism. The paradox that stands at the centre of this research is that just at a time when sex workers' rights advocates thought that legalization would usher in the normalization of the profession, the parliamentary institutions handed regulatory responsibility off to the unelected bureaucracy. As a result, Amsterdam's municipal bureaucracy created policy that effectively undermined the national legislation and its intended effects. Another key

contradiction that emerged from my research relates to the policy rationale provided for Project 1012, the central policy shaping sexualized space within Amsterdam's post-legalization period. On the one hand, neoliberal and moral discourses aligned to pressure the government to oust the sex worker in favour of higher-level order consumption practices and, on the other hand, the government is trying to "protect" the sex worker from those forces and practices it claims to be of external origin, such as "trafficking." However, by associating the harms of the industry with the "other," the state fails to acknowledge that its own involvement in gentrification is partly to blame for sex workers' disenfranchisement. I argue that the inclusion of deliberative democratic mechanisms would recognize these contradictions and unintended consequences by offering a better way to examine the issues associated with urban development and sex work, and would also hold the government to account for its decisions. Thus, in addition to challenging the way in which sex work policy is made, I also criticize the content and effects of the policies themselves. In essence, I argue that deliberative democratic mechanisms, if modified to account for group inequalities, are a way to empower sex workers and bring them closer to full sexual citizenship.

Chapter Breakdown

Chapter 2: Scope of Study, Research Participants and Mode of Analysis

In line with the objective of evaluating my two study periods and the political processes that lie at the heart of them, this chapter first defines the objects of study, including the policy-making process, policy and policy networks. This critical first step allows me to describe my approach to analyzing these objects of study. My approach stands as a unique blend of interpretive policy analysis and deliberative democratic policy analysis. My approach differs from routine policy analysis because it attends to the role that discourse and social construction play in setting the agenda, identifying policy instruments and implementing the strategy. In this way it can be understood as interpretive policy analysis, which differs from the work done by deliberative democrats because these scholars often overlook the role of discourse in policy formation. Yet I apply a deliberative democratic lens to the evaluation of *all* stages of the policy process (Mead, 2000), which distinguishes my approach from interpretive policy analysis in that

my work has a normative bent. Deliberative democratic theory is driven by the assumption that government should create and implement good policy through good processes, defined as those that incorporate deliberative reasoning and demonstrate a commitment to democratic procedure and principles. I also view the policy-making process as a potential means to enhance the democratic citizenship of marginalized individuals, a point that I articulate in more detail in Chapter 3. The central aim of Chapter 3 is to demonstrate how I blend deliberative democratic policy analysis with interpretive policy analysis to develop a comprehensive and normative approach to evaluating these processes.

The second purpose of this chapter is to describe the geographic scope of the study and the interviewees. In this section, I expound on and justify my choice of location. I also address the challenges of shifting my political focus from the national parliamentary process to the local, bureaucratic policy-making process.

Chapter 3: Defining the Normative Criteria for Evaluating the Democratic Legitimacy of Sex Work Policy-Making

This chapter opens with a discussion of citizenship and describes the relationship between sexual, civic and democratic citizenship. I expand on the role of citizenship prior to elaborating on deliberative democratic theory, as citizenship is an ideal state to which my normative evaluation of these policy processes is oriented. As I explain, sexual citizenship offers a more comprehensive framework than democratic citizenship in that it allows me to more thoroughly address the consequences of political alienation. Moreover, sexual citizenship allows me to address how sex workers are marginalized along informal political lines, which hampers their ability to achieve democratic citizenship. In other words, social alienation may prevent an entire group from being included in political processes. Full sexual citizenship requires a mix of civic, democratic and social citizenship (Gaventa, 2002). Each type of citizenship is somewhat constitutive of the other, meaning that an individual cannot attain full democratic citizenship if he or she is precluded from full social membership in the dominant society. After describing the normative ideal in detail, Chapter 3 discusses the limits to full citizenship. For instance, I describe the concept of the “capitalist state,” which directed

my attention to the discourses of neoliberalism and state-led gentrification. Other concepts and theories that help me to articulate the variables responsible for undermining the citizenship of sex workers include heteronormativity, xenophobia, cultural racism and depillarization. I conclude that deliberative democracy is a normative frame with practical tools that can help sex workers approach full citizenship through inclusion into the formal political realm.

With this discussion in mind, the chapter moves on to provide a set of deliberative democratic criteria from which to evaluate the performance of the sex work policy-making processes that are at the center of the two time periods under examination. The set of criteria I develop outlines what features a deliberative democratic policy-making system should have, and thus allows me to qualify or fail these processes as deliberative democratic. The more detailed the criteria, the more useful they are in describing the character of the leading policy-making process in each time period and the richer the evaluation of policy practices. Ultimately this kind of policy analysis can help to determine significant gaps of democratic legitimacy in the system and what can be done to realize the emancipatory potential of deliberative democracy (Stie, 2003) and move sex workers closer to full sexual citizenship. Such a detailed set of criteria allows me to assess the difference in character of Amsterdam's sex-work policy-making process in each time period and pull out differences in the way in which the state manages its relationship with the sex industry pre- and post-legalization.

A point made clear throughout this chapter is that deliberative democratic policy analysis is not without its challenges, particularly when laying claims to democratic legitimacy. Factors that impinge upon the operationalization of deliberative democracy for evaluative purposes include but are not limited to the wide scope of deliberation (it is present in some form or another almost everywhere) and activists' preferences for adversarial methods, both of which complicate assessments of democratic legitimacy. For example, if it is one's choice not to be included, then does this mean the formal process itself is illegitimate based on absence from the decision-making process? A discussion centered on difficulties of evaluation leads into an overview of different perspectives of state-society relations, including the nature of the state and the responsibility for democratic reform in those instances where there is indeed a gap in legitimacy. In light

of this analysis, this dissertation takes a society-driven view of the state that assumes it to be more than a simple product of capitalist forces and assigns responsibility for deliberative democratic reform to both the state and civil society.

Chapter 4: History of Regulating Sex Work in the Netherlands and the Political Processes Leading to Legalization

To begin the evaluation of these two processes, Chapter 4 provides a brief description of the history of sex work in the Netherlands. This description highlights those cultural attributes that are said to constitute the uniquely Dutch approach to sex work, as well as draw the reader's attention to those forces that have characteristically featured in political change regarding sex work in the earlier period. The chapter argues that when prompted by a growing international sex workers' rights movement, the Dutch citizenry formed a shared understanding of the "problem," culminating in what became known as the need to lift the *Brothel Ban* (Dutch National Rapporteur, 2001: 17; Gemeentebblad, 2000).

As the campaign to eradicate the *Brothel Ban* grew, it became increasingly obvious to a wide spectrum of politicians and the general public that the policy of toleration needed to be both politically and legally reconsidered (Bernstein, 2007: 43). The ousting of the Christian Democrats from the governing coalition in 2002, in combination with a well-organized, feminist policy network, enabled an opening in the policy processes and created space for sex workers' demands to shape the outcome. In the effort to find a solution to the problem of the *Brothel Ban*, the Ministry of Justice partnered with the Association of Dutch municipalities to host a series of national deliberative forums from 1998 to 2000. These forums were coupled with intense parliamentary debates that recruited and represented a diversity of perspectives. The inclusivity of the democratic methods used clearly satisfied the deliberative democratic criteria outlined in Chapter 3. Deliberations were based on a shared understanding of the problem, included the most directly affected stakeholders and were linked to real decision-making power. Moreover, all interested parties were exposed to the same information and, arguments that came to define aspects of the problem were subject to scrutiny, thus satisfying the criteria of openness and transparency. Other evidence of a

deliberative democratic process included the reciprocal nature of the deliberations and the instilling of mutual respect and compromise by a skilled facilitator.

The output of this process, as I argue, was democratically legitimate in so far as it represented a communicatively secured consensus (Dryzek, 2005). This term does not simply denote an agreement between all groups, but rather it refers more to the pragmatic concessions, integrative negotiations and compromises that are achieved through transparent, open and reasoned deliberations (Dryzek, 2005). The outcome of these deliberative processes, then, can be considered communicatively secured because affected stakeholders deliberated aspects of the proposed Bill in an open and transparent process. The series of compromises and negotiations that took place eventually led to a wide acceptance of the deliberative outcome across stakeholders. Moreover, because lifting the *Brothel Ban* fell within the human rights frame, it secured the notion of Dutch “progressive tolerance” (Outshoorn, 2004), and appealed to the public’s wider general interests. As will be described in greater detail throughout the chapter, frames offer cognitive short cuts in that they simplify complex problems by organizing them into value-based categories that are linked to solutions. The human rights frame, for instance, gained prominence alongside the emergence of an international human rights regime that emphasized the need for international cooperation to prevent genocide and large-scale human abuse (Brysk, 2009: 8). In short, the international human rights regime is a form of institutionalized international cooperation that holds governments to account by jointly supported principles. However, rather than enforce these rights through interstate action, the international human rights regime empowers individuals to bring suit to challenge their own governments on the basis of these principles (Moravcsik, 2000: 217). Like any frame, the human rights frame has bias, granting “greater resonance to certain types of abuses and actions” than others and thus creates both victims and violators in the process (Brysk, 2009). As Brysk contends, human trafficking, particularly sex trafficking, has become a critical point of focus for the frame. This feature may, in the short-run, offer benefits to sex workers, but “this spotlight may limit attention to equally salient abuses and, in the long run may over-emphasize [some abuses] like sex trafficking” (2009: 8). For instance, Wagenaar and Altink (2012), in addition to Weitzer (2011), argue that the lack of evidence surrounding sex trafficking causes the human rights frame to be a

moralistic interpretation of the issue. In Wagenaar and Altink's view, the normativity of the frame precludes sound policy formation (2013). These points will be elaborated in Chapter 7. The central argument here is that the political acceptance of the Bill was secured by both the use of deliberative democratic methods and the framing of the issue as the most acceptable political alternative. In October 2000, the Bill to lift the *Brothel Ban* was passed. The Penal Code was amended to allow the presence of brothels and the Municipality Act was amended to transfer the responsibility for sex work regulation to the municipalities.

Immediately following legalization, the responsibility for sex work regulation was downloaded to the municipalities, but there continued to be a lack of any kind of national standardization regarding sex work policy. Ironically the fragmentation that resulted post legalization undermined the *Act's* ability to tackle the types of illegal activity that the coalition had originally intended these legal changes to address. Legalization also instilled feelings of achievement that may have halted collective efforts aimed at broader social transformation that would benefit sex workers. While these immediate outcomes contributed, in part, to the later shift in political approaches to sex work, I reserve a more thorough analysis of causal structural factors until after I have explained the post-legalization period, including the development and implementation of various political instruments in more detail. Thus, Chapter 4 primarily examines the post-legalization period, using as referents the set of criteria described in Chapter 3.

To conclude this chapter, I draw the reader's attention to those political and historical features that combined to create the conditions for legalization. The analysis explores what motivated the state to use deliberative democratic methods, such as a history of collaborative governance at the national level, a socially liberal coalition, a willing and capable coalitional government, and the existence of a strong policy network (Dryzek and Niemeyer, 2006; Oorschot, 2006). This history of governance had, in part, fostered the inclusion of and debate amongst stakeholders in the pre-legalization period (Outshoorn, 2004). In Chapter 7, I turn my attention to the wider political, social and structural changes in the post-legalization period that combined to undermine Dutch corporatist culture. Before elaborating on these structural shifts, I focus on Amsterdam in

particular to describe more closely the political outcomes as a result of the transference of responsibility.

Chapter 5: Post-Brothel Ban, from the Red Light to the Red Carpet

Chapter 5 focuses on the post-legalization period (2000-2012) and examines the municipal policies targeting Amsterdam's RLD. These policies were developed in alignment with the aforementioned Project 1012. Project 1012 is strategic policy framework that was developed in 2005 and outlines a vision for Amsterdam's future that does not include sex work, thereby ignoring the contribution of the sex industry to the economic vitality and vibrancy of the city center. The concept of an Amsterdam without sex workers first appeared in a paper, *Heart of Amsterdam: Future Perspectives*, which preceded Project 1012. One of the catalysts for the paper was the work of the Van Traa Team, a group of criminologists driven by the view that the RLD rests upon a deeply rooted criminal infrastructure.

Following legalization, the Van Traa Team, consisting of Amsterdam's City Council, criminal enforcement personnel, criminologists and administrative authorities, gained influence. The Van Traa Team had long suspected that Amsterdam was home to organized crime and that legalization would enable its expansion (Nelen and Huisman, 2007). To dismantle the criminal infrastructure of the RLD, the Van Traa Team proposed a collaborative, administrative approach to crime that relied on civil and administrative instruments at the local level and encouraged greater alignment with European crime fighting efforts (Gemeente Amsterdam, 2012; Nelen and Huisman, 2007). While the Van Traa Team's suspicions about the criminogenic nature of RLD businesses were never proven (Nelen and Huisman, 2007), two sensational discoveries of human trafficking rings operating out of Amsterdam (Operation SNEEP) served to support the claims of the Van Traa Team that the RLD, particularly its window brothels, was rife with corruption. These episodes fortified the linkage between the increasingly strong, international anti-trafficking narrative and the development of local policy. The effects of the anti-trafficking discourse are more thoroughly explored in Chapter 7. The central objective of Chapters 5 and 6 are to show how the factors motivating the choice of political mechanisms was entirely different from those that served as motivators in the period

leading to legalization. The sex industry was no longer viewed as a morally and politically contentious issue that was amenable to deliberative democratic procedure, but as a barrier to urban development that needed to be removed. To set policy within Amsterdam's RLD, Amsterdam's political elite forged a strong coalition and developed policy that relied on a limited set of findings and opinions that were not democratically tested. As a result, these political processes do not satisfy the deliberative democratic criteria outlined in Chapter 3.

In addition to the pressure to address alleged criminal activity operating behind brothel windows, an underlying neoliberal logic emphasized the need for Amsterdam to fight crime as a part of its efforts to aggressively market itself to international capital. Indeed, capital interests and neoliberal ideology have significantly influenced the City of Amsterdam's policy-making agenda. As a result of pressure to perform on the international stage, Amsterdam's bureaucracy has undergone a neoliberal reconfiguration that saw its urban planning, crime fighting and city marketing initiatives offloaded to joint public-private sector agencies and real estate markets. These collaborative partnerships and "growth coalitions" are framed as increasing the capacity of local governments to grow their economies and compete internationally. The neoliberal paradigm leads the state to support those projects that promise capital growth and, in the process, fails to acknowledge the costs associated with profit-driven urban gentrification. The same paradigm may also cause the state to hesitate to expose its political processes to interests that may challenge quick returns on investment. Policy derived from these types of arrangements often privilege political expediency over a commitment to consensus building, or even well-reasoned decision-making.

As local politicians struggled to attract international capital, they recognized that their ability to do so relied, in large part, on the way in which they managed Amsterdam's sex industry. The problem, as politicians then saw it, was that Amsterdam's sex industry was thriving (Bindel, 2012), as were reports of crime and a dominant,³ international anti-trafficking narrative. The work of the Van Traa team was thus followed by a city marketing campaign run by Topstad (translates to "Top City") that contested Amsterdam's image as a sin city and outlined a "more modern" and innovative vision for

³ The "dominant discourse" is that which is most consistently expressed by the EU (Wadley, 2009: 15).

the city's future. This vision, as previously described, necessitated reducing the size of the RLD by 40 percent (Topstad, 2010). In an intense "interurban competition" (Matthews, 2010), Topstad attempted to bolster Amsterdam's image by gentrifying the city center so that it could compete for international business with the likes of Madrid, Barcelona and Brussels. Project 1012, Topstad and the Van Traa Team thus became mutually supportive of one another in their attempts to regenerate Amsterdam's core. The political actors within the urban growth coalition justified the introduction and use of various policy instruments to restructure the core by pointing to the research of the Van Traa Team and heavily relying on Topstad's framing of Project 1012. Political actors within the Project developed an aggressive policy package that relied on zoning and administrative law to force the sale of brothels, prohibit additional brothel licenses and put the sex industry under routine suspicion. In particular, I discuss how the national Ministry of Justice's introduction of the Public Administration Probity in Decision-Making Act (the BIBOB) enabled a wide range of measures for municipalities to investigate businesses suspected of criminal activity (Nelen and Huisman, 2007). The City of Amsterdam used the BIBOB to force a strict regime of monitoring and surveillance upon the sex industry, on the assumption that the sex industry was more vulnerable to criminal influence than were other types of business. Using the BIBOB and other municipal instruments that will be discussed in Chapter 5, the City of Amsterdam was able to reduce the presence of brothels by at least 25%⁴ by 2012 and usher in new, more welcome businesses.

The compulsion to revitalize Amsterdam's core, in part through crime reduction, has redirected political efforts away from the normalization of sex work, one of the many expected outcomes of legalization, to its continued criminalization. Normalization, in this regard, refers to a process whereby sex workers are released from the stigma surrounding their profession by treating sex work like any other commercial exchange (Liberto, 2009: 138). Indeed, Project 1012 has criminalized the sex industry and made sex workers more vulnerable than they were prior to legalization. The first set of brothel purchases that fell under the auspices of Project 1012 effectively uprooted sex workers and moved them to

⁴ The City has not made available the exact number of the number of brothels closed as a result of Project 1012. By piecing together various news reports it appears that by 2012, nearly 25% of brothels that were present in 2000 were vacated.

areas less visible and less safe, making it more difficult for these individuals to connect with outreach programs (Metje Blaak, Documentary 2009, shown at the 25-year anniversary of the Red Thread)⁵. The proliferation of the unregulated sector at the behest of Project 1012 is further troubling because this is the sector that is presumed to be most dominated by the vulnerable sections of the industry, including those with irregular citizenship status and addictions.

Had these policies been constructed in a more democratic fashion, inclusive of sex workers, it is more likely that the City and its partners would have anticipated the growth of the unregulated sector due to these closures and would have been able to develop plans to address its perverse effects (Interview, Scharlaken Koord: 2011). As Project 1012 was implemented, sex industry personnel were unable to contest their displacement and the consequences of these political developments through official channels. Thus, the growth coalition was never held accountable for its decisions. The failure to consider these effects is curious, since the City justifies Project 1012 in terms of the need to rid criminal activity, like sex trafficking, from the RLD. Although this justification suggests a concern for the human rights and dignity of sex workers, the neglect of its consequences demonstrates that the City has little regard or concern for sex workers' health, safety and well-being. The exclusionary and elite character of the policy-making processes leading to Project 1012 thus stands in sharp contrast to the deliberative democratic processes that characterized the period of legalization which afforded a voice to sex workers. Thus, these recent processes fall well short of achieving democratic legitimacy as outlined by Chapter 3 and thus negatively impact sex workers' aspirations to full sexual citizenship. Chapter 5 concludes with an argument for incorporating deliberative democratic mechanisms at the local level. Such a move can help to anticipate negative consequences and conceive of capital growth in less restrictive ways by exposing and tempering the intense racial and capitalist motivations underlying such joint projects.

⁵ The Red Thread Union is one of the primary representative bodies for sex workers in the Netherlands. It was founded in 1985 by (ex) sex workers with the aim of fighting for the rights of all sex workers who work in the Netherlands, whether male, female, Dutch or foreign. In 2001, after many years of trying, the Red Thread Union was finally included in the Miscellaneous Workers Union (FNV), the largest trade union in the Netherlands.

Chapter 6: Red Light Art and Red Light Fashion

Chapter 6 narrows in on the Red Light Art and Red Light Fashion (RLA/RLF) programs that the City of Amsterdam developed in collaboration with private interests. To speed the process of cultural transformation reflected in the zoning plan and to mitigate the costs associated with the brothels that had been sitting vacant since the City purchased them, the growth coalition invited in the creative class. By focusing on these two programs, Chapter 6 explores how the creative class was instrumentalized by Amsterdam's growth coalition in its attempts to alter the consumption patterns within the RLD by offering different products and services for sale. The developers of the RLA/F programs emphasized the commercial value of the art, perceiving the programs as part of a cultural strategy that could transform the district into a more upscale destination for Dutch residents and wealthier international clientele. Indeed, it was explicitly recognized that artists occupy a unique socio-political role within the neoliberal process of gentrification as producers of livable and attractive urban space. The contradiction, as Chapter 6 shows, is that where investors afforded artists a high degree of respect as the "very producers of the urban space" that they were investing in (Smith, 1996: 19), artists did not qualify as equal partners in the gentrification process by way of their socio economic position and were thus excluded from the decision-making processes in which they should have had at least some creative control. As with those involved in the sex industry, artists played a subsidiary role in these strategies despite the fact that they were helping to drive gentrification and thus implicated in its consequences. The stakeholders eventually lost interest in seeing the project through. This program's failure to achieve its goals speaks not only to the challenges of blending commercial and artistic interests, but how undemocratic policy-making can undermine policy-makers' intended outcomes and preclude a program's sustainability.

Chapter 7: The Alignment of Discourses and the Closure of the Policy-Making Process

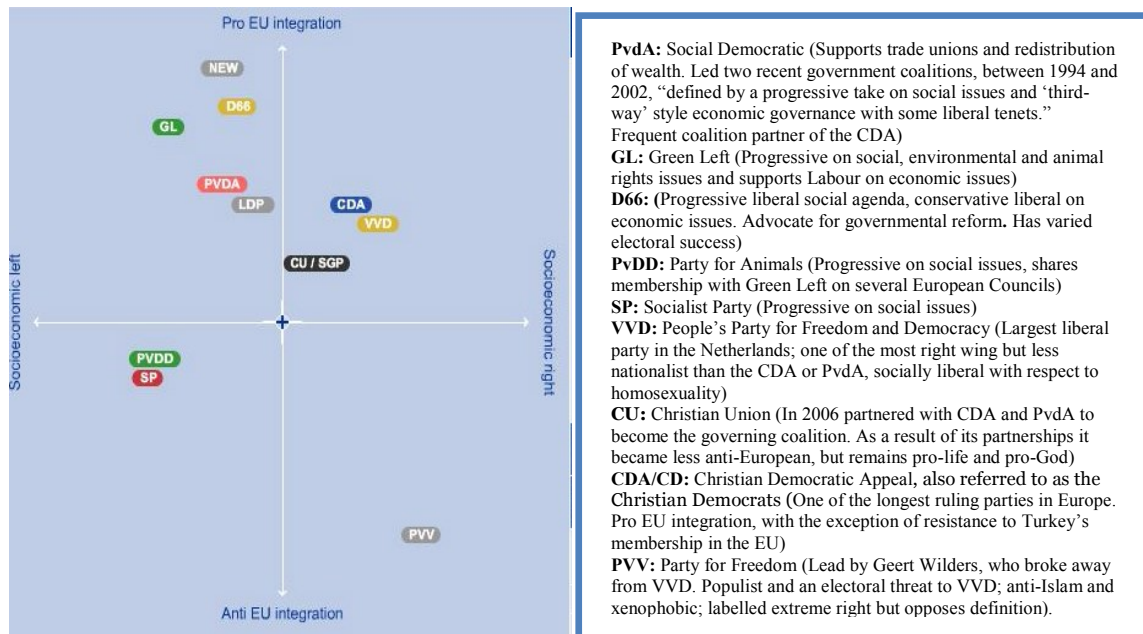
Through the two policy periods described in Chapter 4 and Chapter 5, it becomes clear that the development of these policies, their framing and the municipal tools used to enact them evince a marked shift in both the degree of legitimacy of sex work and the involvement of sex industry personnel in the policy-making process. The contrast

between these two periods also makes clear that the use of deliberative democratic methods was only temporary. This observation supports Fung and Olin Wright's argument that deliberative democracy is usually limited to one-off experiments (1999).

To explain the wider structural and social forces responsible for changing the nature of governance as it relates to sex work, I look to the electoral context, shaped by pivotal political events, and the growing dominance of the international sex trafficking discourse. This discourse put significant pressure on Dutch politicians; however, it also served the purpose of the urban growth coalition and thus was used to justify the coalition's restructuring goals to the public.

The post-legalization period is marked by major shifts in national political discourse, reflected to some degree by electoral change. In 2002, the radical political leader of List Pim Fortuyn (LPF), who openly espoused anti-Islamic and anti-immigration views, was assassinated nine days before the election (Pierek, 2008: 7). Fortuyn's untimely death did not hamper his party's success. In the 2002 election, the LPF gained 17% of the seats in the House of Representatives, which also saw the Christian Democrats (CDs) return to a position of dominance for the first time in 10 years (Uitermark, 2004: 511). These electoral shifts demonstrate at least the partial acceptance of Fortuyn's nationalist and xenophobic political agenda and the CD's socially conservative values. While the LPF dissolved in 2008 (and thus is not featured in the figure below), the growing prominence of populism continued well into 2008, when news networks declared "2008 to be the year of populism" (Zoheiry, 2012: 49). Shortly thereafter, in 2010, Geert Wilder's Party for Freedom (PVV) "won 24 seats and a spot in the new center right coalition cabinet between the CDs and VVD" (Zoheiry, 2012: 49). Below is a graphic representation of the Dutch political spectrum for the years 2002-2009, compiled by the EU Profiler.

Figure 1: The Dutch Political Spectrum 2009



Slightly modified from Breuer’s “The Dutch Political Spectrum” from the EU Profiler (2009). Additions sourced from van den Berg, 2010.

Chapter 7 discusses the electoral context between 2000-2012, the structural changes undergirding it and the critical events that put pressure on politicians. For ease of reference, Appendix A provides a political timeline to give readers a sense of both local and national elections, as well as a number of other pivotal events that have come to shape the Dutch political scene and help to explain the City of Amsterdam’s reluctance to use deliberative democratic mechanisms. As Chapter 7 further elaborates, in and around the time that Project 1012 was introduced (2005), European Union member states were pressing hard for the Netherlands to support their tough-on-crime agenda (Europol, 2001). All member states were called to action regarding Europe’s allegedly fast-growing, transnational organized crime culture. The Netherlands responded to these external pressures through legal and political processes at both the national and local level that were, at least rhetorically, aimed at dismantling transnational, organized crime. It was around this time that the BIBOB law was introduced, which aligned with the European tough-on-crime agenda, and closely associated the sex industry with criminality⁶ within its own borders.

⁶ Criminality refers to those activities that are forbidden and punished by way of “conventional or contractual” rules. In a sense, criminality is contentious because what is deemed acceptable or not is a social construct, reflecting only some

To support its policy directions and practices, Amsterdam's urban growth coalition frequently cites statistics pertaining to money laundering and sex trafficking. The growth coalition pulls these statistics from the work of the Van Traa team but also from what Weitzer refers to as the international anti-trafficking camp (2007). The reliance on these statistics to justify the closure of the RLD is troubling primarily for two reasons. First, these statistics are embedded within a narrative that works not only to redefine sex work as a social problem, but paints a picture of the sex worker as both a slave and a victim. The prevailing picture of the sex worker within the anti-trafficking movement stands in contrast to the picture of an independent agent capable of expressing her own preferences within a democratic forum or otherwise. The sex worker's image was reconstructed as a result of a dominant discourse that emerged in the post legalization period, which understands trafficking to be a direct result of a capitalist patriarchy. An alternative understanding of the causes of trafficking, on the other hand, is that sex trafficking "victims" are actually economic migrants (Wadley, 2009: 15). Secondly, the validity of these numbers is strongly contested. The statistics regarding the pervasiveness of sex trafficking will never be verified and thus the use of these statistics is fundamentally strategic. Wadley points out, for instance, that the "acceptance of statistics on sex trafficking seem to reflect less their accuracy than the political clout of the citer and the frequency with which a set of numbers has been repeated" (2009: 15). Despite their lack of credibility, when these statistics are repeated often enough and coupled with the victim's narrative, they enable a protectionist and nationalist attitude that supports efforts to abolish the industry or at least limit migrants' access to it.

Overlapping with the victim narrative is rampant xenophobia within the Netherlands. I argue that it is possible to understand the rise of extreme right wing populist parties, which frequently express negative attitudes towards foreigners and minorities, as an indication of a more general rise in these types of beliefs. As Mayfield elaborates, "the last three decades have witnessed a remarkable rise in xenophobic, deeply conservative, and even extreme right-wing parties across much of Europe. Whereas thirty years ago most xenophobic parties failed to even pass the 5% minimum

social realities (Gillinsky, 2001). In this usage, it refers simply to a set of activities that is forbidden by law, such as human trafficking and money laundering.

voter threshold that is typically required to enter government, it can be argued that these parties” have now captured at least a quarter of the vote (2013: 3). Anti-Islam attitudes have contributed significantly to the rise in xenophobia over the past decade.⁷ In 2012,

30 to 40 per cent of the “constituents for mainstream national parties agreed Muslim immigration should be fully stopped⁸... Amongst voters of extreme, right wing parties, 96 to 98% of their voters find that the Netherlands must become more selective in admitting immigrants. Over 70% of their constituents believe that Muslims should be entirely forbidden from entering the Netherlands. Furthermore, 25% of Dutch electorate finds that EU integration has already “gone too far,” showing the perceived threat posed by Europeanization (Van Bruggen, 2012: 4)

Further supporting these observations are the findings of a number of surveys that demonstrate the widespread anxieties of Dutch ‘natives’ towards foreigners at the time of Project 1012’s creation and implementation. In 2006, a private research company carried out an internet survey of 1,020 Dutch, and found “that ‘native’ Dutch people have a fundamental dislike of ethnic minorities in their country. For instance, “58 percent of the respondents believe a neighbourhood will go downhill if too many ethnic minorities live there, while 42percent want ‘native’ Dutch teachers for their children” (Strijbosch, 2006). When you couple these findings with evidence collected by the European Union Agency for Fundamental Human rights in 2007, which showed a rise in hate crimes and discriminatory employment practices towards Muslims, it is clear that the Netherlands was not a hospitable country to immigrants or other migrants during the time that Project 1012 was created, nor is it now.

Xenophobia plays upon the reality that the majority of RLD sex workers are *allochtones*⁹, or migrants. Despite the fact that international law allows sex workers from the European Union to work in the Dutch sex industry, the fact that most RLD sex workers originate from countries that are not in a position of economic dominance translates into an assumption about their inherent vulnerability. The less agency a sex

⁷ However, in the past five years, there is increased suspicion and discrimination of those of Eastern European descent after the admission of Romania and Bulgaria into the European Union.

⁸ With the exception of the Groenlinks- the Green Party.

⁹ The term ‘allochtone’ is commonly used in the Netherlands to denote a group of people with “an immigrant background and a disadvantaged socio-economic position. ‘Allochtones’ are often contrasted with ‘autochtones’, i.e. native people” (European Union Agency for Fundamental Human Rights, 2007).

worker has, the more she is perceived to be in need of protection and the more closed the RLD becomes to her. Racial and cultural discourses also function to limit the access of the non-Dutch to becoming brothel owners within Amsterdam's sex industry. Media discourses that emphasize the cultural characteristics of sex traffickers exaggerate the role that religion is thought to play in the treatment of women and paints those of non-Dutch heritage as unable to uphold the cultural values deemed necessary to protect the liberated spirit of the RLD. The assumption that only members of the white, Dutch majority can ensure the independence for sex workers is troubling because the majority of sex traffickers are, in fact, of Western European origins (Dutch National Rapporteur, 2002). Efforts to close the RLD to outsiders are part of a wider attempt to reinforce the political identity of the nation and its people by defining Dutch culture against what it is assumed not to be. Within this frame of reference, the *allochtoons* become both "reinvigorator and corruptor" of what are regarded as Dutch society's first principles (Honig, 2004: 237), such as sexual equality and *gedogen*, a cultural term used to describe the pragmatic tolerance of moral minorities, sex work and drugs. Indeed, the foreigner becomes an instrumental and "necessary political fiction" in the creation of the nation (Honig 2004: 67). If policy-making processes were reformed to be more inclusive of migrants and marginalized people, it is likely that efforts to oust migrant sex workers from the center of the city would be countered.

Intertwined with xenophobia is the moral discourse that perpetuates the whore stigma. Working under the assumption that the sex industry threatens sanctified intimate relationships, especially marriage, this discourse views sex outside of marriage as reprehensible and the sale of sex even more so. To protect against the assumed threat the sex industry poses to the family, the industry's personnel are socially ostracized and discriminated against. For fear of discrimination, many sex industry personnel do not openly disclose their occupation. They describe leading a double life characterized by shame, fear, stigmatization and discrimination (Barber, 2008: 1). The whore stigma functions not only to pathologize the sex worker, but also paternalize her. Indeed, the sex worker is often described as someone who has experienced sexual, physical and/or emotional abuse and therefore is assumed to be in need of protection and/or guidance (Block, 2003: 152). These assumptions about the sex worker render her unable to express

her own preferences and meaningfully contribute to democratic dialogue. Societal discrimination and stigmatization thus stand as serious impediments to the achievement of full, democratic citizenship.

Sex workers are socially isolated alongside all members of the sex industry. Indeed, sex workers share similar experiences of injustice (Fraser, 1996) with brothel owners, strippers, and peep show employees, all of whom are discriminated against because of their occupations. This discrimination is so intense that when outsiders discover a sex worker's profession, that worker risks being alienated in all aspects of life—including family, additional employment, education, finances, etc. As Scott argues, it is through the recognition of our shared experiences that we realize we are social beings (1996). In many cases, those within the sex industry share a common social identity by way of their marginalization. In the post-legalization period, sex industry personnel share a number of grievances that are related to the consequences of Project 1012. These commonalities have further forged the social identity at the center of the sex industry.

Chapter 8: Implications for Deliberative Democratic Theory

Examining the two efforts to regulate sex work sheds new light on the dynamics, possibilities and limits of the democratic inclusion of sexual minorities in policy-making processes. In Chapter 8, I consider the motivations of the capitalist state in terms of what has caused the political system to be closed. I touch on how wider socio-political-economic variables might affect the political or administrative will to integrate democratic principles and procedures into political processes. The majority of the discussion, however, fills what I identify to be a gap in the deliberative democracy literature, specifically that it does not adequately assess the unique challenges associated with including sex workers in the deliberative democratic process. Where deliberative democrats may broaden the scope of policy research (Macrate, 2006) by including a normative evaluation of all aspects of the policy process, they often neglect the unique experiences that marginalized individuals have within the deliberative democratic model (Chambers, 2003: 321). This chapter aims to address this gap by acknowledging the challenges of including sex workers and by advancing procedural enhancements that might improve the accessibility of political processes for sex workers, helping sex

workers to reach closer to full, democratic citizenship in and through the political process.

Chapter 9: Contributions to the Field and Directions for Future Research

The final chapter looks at the central contributions of the dissertation and highlights opportunities for future research. These contributions and opportunities emerge from the integrated analysis of deliberative democratic theory and sex work, as well as the gaps I identify in the deliberative democratic literature. There are two key themes: the development of an evaluative framework for policy analysis, and the recognition of the impact of discourse on the uptake and later dismissal of deliberative democratic mechanisms as a way to address policy issues related to sex work. Discussions surrounding the assumed sustainability of deliberative democratic output and the interpretation of protest as an indicator of democratic health also contribute to the field of political study. With respect to political action, my contributions lie primarily in providing procedural enhancements to the deliberative democratic process. These enhancements would better account for the experiences of marginalized individuals and thus can improve policy-makers' engagement practices.

CHAPTER 2

METHODOLOGICAL APPROACH

Introduction

The following chapter describes the qualitative methodological approach taken to answer the central research questions outlined in Chapter 1. While Chapter 3 describes the deliberative democratic criteria that I use to normatively evaluate the two policy systems, I dedicate this chapter to developing an understanding of the object of study at the center of these two time periods: the policy-making process. In describing the policy-making process, I necessarily expound on the concepts of policy, policy networks and policy influence. In addition, to clarify the systems and processes that I studied, I explain the analytical frames I used to make sense of these policy practices and assess their effects on the policy systems. In order to undertake this analysis, I moved to Amsterdam in 2010 to begin field research. Over a one-year period, I conducted 35 interviews with individuals involved in the sex industry or the creation or implementation of sex-work policy. The primary research was supported by extensive secondary research.

The latter half of the chapter is dedicated to delineating the boundaries of the study, including its political and geographical scope, and to discussing the challenges and limits associated with each of my methodological choices. I close with a discussion of the challenges I faced in making conclusive arguments related to the findings, and how I overcame these.

Policy, Policy-Making, Policy Networks and Policy Culture

Each of the research questions guiding my study focuses on the policy-making process. As such, it is important to first define the terms: policy, policy community, policy networks and policy-making process. Throughout my discussion of these terms, I highlight what counts as evidence of these processes and outputs and touch on the ways in which I gathered evidence. I offer a more thorough discussion of my methods of data collection after I have established and explained the terms.

Policy

What does policy do?

According to Pal, policy is “a course of action ... chosen by public authorities” (2010: 5). Policy indicates government’s intent for its own action and highlights the behavior expected of citizenry. From this perspective, policy has “a normative or coercive dimension...” because it “comes from those who have the legitimate authority to impose normative guidelines for action” (Pal, 2010: 7). Policies are brought to life by governing bodies that implement them and enforce compliance.

Policy can originate from various points within the democratic system and, by virtue of its location, is designed with different intentions (Pal, 2010). For instance, policy born from within the legislature generally outlines a political party’s vision and tends to be highly partisan.¹⁰ Pal also discusses reactionary policy. These policies are triggered by problems or public concern (2010). From this view, policy is essentially the government’s response to problems, and good quality policy is that which offers an “appropriate and effective solution” (Pal, 2010: 9).

Strategic policy is aimed at making policy more proactive rather than reactive. Strategic policy uses foresight to anticipate challenges, and introduces broad frameworks to align policies and future government action. Although Pal notes that good policy is coherent and fits into an organized whole, he fails to acknowledge that strategic policy is that which tries to act as the overarching “whole.” Strategic policy is intended to guide subsequent policy developments to ensure that new policies will not counteract existing ones. Strategic policy is not without its own challenges, of course. Indeed, it often falls short of setting forth real policy change on the ground because it tends to be disregarded by those who were not involved in its design. Rarely do policy-makers revert back to strategic policy. It takes a great deal of influence to ensure that one’s policy documents shepherd the work of other policy units. Nevertheless, in the latter period under study, Amsterdam’s local bureaucracy worked in concert with the private sector to put forward a strategic policy framework for the City’s urban development. The *Future Strategies*

¹⁰ After political parties design a policy, however, the non-elected bureaucracy is responsible for implementation and enforcement.

Paper was acknowledged by City Council and laid the groundwork for subsequent policies. Within the Netherlands, the unelected executive body (made up of aldermen) wields a significant degree of power in setting forth the strategic vision for urban development. The bureaucracy must submit plans for review and approval by municipal council, whose members are elected, but it is the unelected bureaucrats who play a large role in creating and setting the strategic direction for municipal policy development. At the same time that strategic policy is a defining piece of sex-work policy, it is woven into a complex web with other types of policy including legislative, local, administrative, and standards-based. These policies are variously formal, unofficial, old, traditional, and/or new, but they all interact with one another.

Policy Community and Policy Network

The study of policy requires having a sense of the policy community, which includes state¹¹ and non-state actors with an active interest in the policy issue, the key players and influencers (including those with or without decision-making power) and the nature of the relationships and processes connecting these actors and shaping the decisions related to the policy issue. Within policy communities there are coalitions of actors that are sometimes referred to as policy networks, which work collaboratively to advance the joint priorities of their members. In Chapter 5, I expand on Amsterdam's growth coalition, which is a select group of individuals that have a commercial interest in gentrifying Amsterdam's central district-postcode 1012.

An alternative understanding of the term "policy network" describes in more detail the broader nature of the relationships between various political actors (Patten, 2001: 229-230; Pal, 2010: 15). It is argued that the character of the policy network "shapes the opportunities available for policy participation" and the quality of decision-making (Patten, 2001: 229-230). Ideal democratic policy networks are inclusive, empowering and respectful as opposed to exclusive, distrustful and adversarial. The

¹¹ The state is a permanent body of governance that is territorially bound. The state includes both elected and non-elected institutions of governance. The government differs from the state in that it is nestled within the state's infrastructure and is responsible for the design and implementation of policy. As Levi points out, "major shifts in the personnel, policies, or even form of government can change while the state remains stable" (2006: 5). However, shifts in government and the character of the relationship between the government and its people can have significant consequences for the effectiveness of the state.

unfortunate reality, as Patten argues, is that policy networks within democratic societies are frequently characterized by “closed systems of informal and private elite accommodation in which state policy-makers consult with powerful, private-sector interests” (2001: 230). The deliberative democrat aims to break these elite networks apart and broaden them to produce more productive and frequent interactions between actors. The central point here is to acknowledge that certain theories of democracy offer an ideal for what a policy network should look like. These theories can help to guide our discovery and analysis of policy networks.

How is Policy Created?

Policies themselves are products of the policy-making process. As Pal explains, policy-making generally contains three elements: “the definition of the problem... the goals that are to be achieved... and the instruments” to be used in implementing the policy (2010: 7). While describing the policy process linearly may “overstate the simplicity and linear character of policy-making... there is a heuristic utility to depicting the policy process” as such, because it demonstrates “that the project of democratizing policy-making faces unique challenges at each stage of this process” (Patten, 2001: 226). For this reason, I explore the policy-making process by categorizing it into three stages: problem identification/agenda setting, policy design, and policy output.

The Policy-Making Process

1) Problem Identification/Agenda Setting

The first stage of the policy-making process is highly contentious. On the public agenda, “competing understandings of the policy problem struggle for acceptance, and debate ensues regarding the issue’s urgency” (Patten, 2001: 227). Power and politics play heavily at this stage, with some groups utilizing their extensive resources to frame a problem or even create one. One creates a problem to justify policy actions that may not be immediately in the public interest or to gain public support for unrelated policy action. For example, in Chapters 5 and 6, I show how Amsterdam’s urban growth coalition identified the RLD as a criminal hot bed in order to gain support for plans to commercialize the neighborhood. Although the coalition had effectively emphasized the

problem of crime, its subsequent policy actions later proved that it had little regard for the causes and consequences of crime. The central point here is that the early stages of the policy process are still highly susceptible to strategic, discursive framing.

A discursive frame refers to the “packaging of a rhetorical message in a way that particular responses will be encouraged and others discouraged” (Bartel, 2010: 3-4). Strategic frames are deployed in an effort to elicit support for certain actions or favorable responses. Within political settings, players develop narratives and associate their course of action (their policies) with desirable outcomes such as public safety and “justice,” sometimes even further developing their frame with messages that undermine other players’ arguments. The challenge for those concerned with equality is that some organizations and groups have the capacity to define and frame a problem, identify a solution and integrate this solution into policy, whereas others simply do not.

The purposeful deployment of frames is only one way in which frames can be understood, however. Discursive frames can express both ideology and people’s value sets, and “play a key role in mobilizing bias or keeping questions off the agenda” (Levi, 2006: 10). Indeed, “problems and opportunities are defined as such only in relation to goals or things we value” (Pal, 2010: 6). Calvert and Warren describe these types of frames as “cognitive short cuts,” because they organize cognition and automatically identify problems and solutions.

The problem, at least as far as deliberative democrats are concerned, is that these cognitive short cuts cause individuals to cast “unreflective judgments,” which undermine the autonomy of individual judgment and limit the capacity for individuals to be moved by persuasion” (Calvert and Warren, 2012: 1). Clearly, dominant discursive frames can deeply compromise the intended effects of deliberative democracy. The deliberative democrat holds that policy problems should not be understood as givens, but “should be debated and exposed to discussion and criticisms, and [that] this is a means of correcting mistakes as well as generating intersubjective consensus” (Pal, 2010: 20). When discursive frames are at play, the problems and the accompanying solutions are made to seem obvious and governments may fail to adequately consider policy alternatives in favor of expedient political action (Dryzek and Niemeyer, 2006). I elaborate more fully on the normative dimension of my dissertation and the power of deliberative democracy

to counter frames in Chapter 3; at this point I only want to highlight that the problem identification stage is susceptible to discursive framing, either intentionally or unconsciously.

2) Policy Design

At this stage in the policy-making process, the need for action has been recognized and policy-makers begin to design the policy's content, including its desired outcomes and the instruments that will be used for achieving them. There are many models of policy-making that attempt to describe the decision-making processes at this stage in greater detail, but the rational model of decision-making is perhaps the most well-known (Pal, 2010). Within the rational model of decision-making, policy is designed after all alternatives have been critically evaluated and assessed in line with the agreed objective(s). Through a discussion of the parliamentary process in Chapter 4, I demonstrate the ways in which various alternatives were rationally critiqued and weighted with respect to agreed-upon objectives. In the post-legalization period, however, I found little evidence that alternative solutions to the "problem" were considered at all. Instead, the choice of instruments appeared to be predetermined. Part of the reason for this expediency is that the problem was articulated so clearly that it offered only a limited range of solutions. As Pal argues,

all problem definitions have a causal character: they indicate what the problem or issue is, and bundle that with some indication of the factors that led to it in the first place. Without the causal connection, it would be difficult to determine what to do about the problem (2010: 10).

In the latter period, the problem was framed in such a way that the policy solution seemed obvious.

3) Policy Output and Policy Implementation

Policy output refers to the end product of the policy process, which can comprise legislation, regulations, policy, or the actual impact or effect (Pal, 2010: 23). To sift through this complex web of information, I looked primarily to those policies introduced within the two time periods under examination. With respect to the first time period, the central policy was legislative in nature and included the amendment of the Penal Code

and the Municipality Act to allow for the municipal regulation of brothels. In the second period, the focus was narrowed to Amsterdam, and the primary policy output included the *Heart of Amsterdam Strategy Paper* and Project 1012, which encompassed the municipal zoning plan and relied heavily upon the national *The Public Administration Probity Screening Act* (The BIBOB). These latter policies combined to regulate brothels, re-zone Amsterdam for revitalization, and significantly reduce the size of the sex industry.

To reiterate, the policies that were central to my study included:

- The *Brothel Ban*¹²
- Legalization¹³
 - Amendment of the Penal Code
 - Amendment of the *Municipality Act*
- *The Heart of Amsterdam Strategy Paper*¹⁴
- Project 1012¹⁵
- Amsterdam's municipal zoning plan¹⁶
- *The Public Administration Probity Screening Act* (hereinafter referred to as the BIBOB).¹⁷

¹² Referenced as Article 250 bis (brothels) and 250 ter (women) in the penal code, these sections are referred to as the “general ban on brothels” or the “*Brothel Ban*.” These articles criminalized the maintenance of brothels and pimping and leveraged penalties for coercion and sex trafficking. They were introduced in 1911 and later rescinded when the Penal Code was amended in 2000 (Dutch National Rapporteur, 2002: 15).

¹³ “Legalization” refers to changes to the Penal Code to allow brothels, and changes to the Municipality Act (also referred to as the Local Government Authority Act, depending on the translation) to require municipalities to regulate brothels. In October 2000, articles 250bis and 432 were removed from the Penal Code and the ban on brothels and pimping was lifted. Changes to the Municipality Act included adding Section 151A, which enabled municipalities to regulate brothels and devise policy on different kinds of sex businesses (for example, escort agencies) (Daalder, 2004: 7). At this time, Article 273f, which makes it an offence to exploit another person for the purpose of prostitution and outlaws other forms of sexual exploitation, was also amended to include longer jail sentences for perpetrators (Dutch Ministry of Foreign Affairs, 2012). In addition, the Decision Information Judicial Documentation was altered, enabling municipalities to look into the antecedents of sex business owners. Lastly, Foreigners Circular's old B-17 procedure was replaced by the B-9 regulation, giving authorities the “facilities for detecting and prosecuting people suspected of trafficking in human beings, and to provide shelter and protection to the victims of this criminal offence. On the basis of this regulation, permission can be given to victims (and to a limited extent to witnesses/informants) of trafficking in human beings to stay in the Netherlands for the duration of the detection, prosecution, and trial of the person suspected of this offence” (Daalder, 2004: 26)

¹⁴ Heart of Amsterdam Strategy Paper: Future Perspectives 1012: First written in 2005 for City Council by the self-proclaimed “Coalition 1012.” The document does not identify the coalition membership. It outlines the objectives and the strategy for improving Amsterdam's core and hints at a public consultation period. Although the document was revised in 2009, it was not made available on the internet. It is available here: [file:///Users/ameebarber/Downloads/heart_of_amsterdam%20\(1\).pdf](file:///Users/ameebarber/Downloads/heart_of_amsterdam%20(1).pdf)

¹⁵ Project 1012: A policy package that includes all policies and instruments related to the gentrification of Amsterdam's core, including but not limited to the vision laid out by the Strategy, the zoning plan and the various other programs that have operated to support the objectives as outlined in the Strategy Paper. The Project office is located in the center of Amsterdam in the Neighborhood Office. The website for the Project is hosted on the City of Amsterdam's portal and is available here: http://www.amsterdam.nl/gemeente/organisatie-diensten/sites/project_1012/1012/project-1012/. Since the time of writing, Project 1012 has launched additional programs such as the “Public Space Programs,” which are not discussed in the dissertation. However, these programs are public art programs that can be understood within the same frame of analysis expounded on in Chapter 6.

¹⁶ Zoning Plan for Amsterdam's post code 1012 (city center): The zoning plan web site describes the plan as “a translation of the Strategy for Project 1012.” The plan's stated objective is to reduce crime and the criminogenic features of postcode 1012. The plan is available here: http://www.amsterdam.nl/gemeente/organisatie-diensten/sites/project_1012/1012/ontwikkelingen/beleid/bestemmingsplan-1012/

¹⁷ BIBOB: The BIBOB Act was passed in parliament in 2003. The BIBOB Act stipulates that when assessing a licence application, municipalities can carry out an investigation (Daalder, 2004: 7). According to the Act, government bodies can refuse to issue a decision (or can revoke it) when there is serious danger that a licence might also be used to commit criminal offences, or to profit financially from such offences. The “Act also created a BIBOB Agency, which on request offers advice about the extent of an

The *Brothel Ban* and legalization are products of the parliamentary process and include a focus on the national sex work context, whereas the latter policies are products of the local policy making process and capture Amsterdam's efforts to regulate brothels, and gentrify and undermine the presence of sex work in the City. Next, I discuss the political scope and the troubles associated with shifting between the national and local contexts and the parliamentary and bureaucratic processes. Later in the chapter I expand on the methodological approach I used to gather evidence of these policies and their effects, the sex-work policy-making process and the practices associated with it.

Why Amsterdam?

Overall the dissertation looks at two policy-making processes, the first occurring at the national level and the second at the municipal level. There are three reasons for focusing on Amsterdam in the post-legalization period. First, and perhaps most obviously, Amsterdam is an iconic city for sex work, a locale in which the sex industry is a key constituent of the city's cultural, social and political fabric. Internationally Amsterdam is well known for its Red Light District (RLD), a neighbourhood to which tourists and locals alike have flocked for centuries to peruse the women and/or purchase sex. Likewise, Amsterdam stands at the forefront of the commercialization of sex and has, understandably, become the centre point for international feminist theorizing and the object of investigation for many studies of sexuality. Although Amsterdam has a smaller RLD than The Hague or even Utrecht, it is home to some of the most vocal contingents of politically active sex-workers' rights activists (SWRA) in the Netherlands, and houses an engaged community of scholars. SWRA and scholars including Hendrik Wagenaar, Petra De Vries and Joyce Outshoorn, to name a few, call Amsterdam home. These scholars were involved as activists or critical observers during the legalization period and have remained key contributors to sex-work-related debates. Organizations including the Red Thread¹⁸ (*Rode Draad*), the Pink Thread, Mama Cash, and Scarlet Cord (*Scharlaken*

existing danger...Since it came into effect, in June 2003, the BIBOB Act applies, among other things, to the sex services sector" (Daalder, 2004: 7).

¹⁸ The Red Thread Union is one of the primary representative bodies for sex workers in the Netherlands. It was founded in 1985 by (ex) sex workers with the aim of fighting for the rights of all sex workers who work in the Netherlands, whether male, female, Dutch

Koord) also call Amsterdam home. Each of the organizations is a significant player on the international sex-workers' rights scene. Due to the strong presence of these organizations in Amsterdam, the City has acted as a political hub for sex-worker organization and coordination reaching as far back as the 1985 World Whores Congress. For these reasons, Amsterdam stands as an obvious location for many of the formal discussions and debates surrounding sex work.

Second, after brothels were legalized, the responsibility for regulating sex work largely shifted to the local level. This move enhanced the policy power of the City and thus increased its relevance as the focus of study. Third, although Amsterdam's RLD is only a microcosm of Amsterdam and the sex industry at that, its concentration within post code 1012 means that it is one of the most obvious geographical targets for sex-work policy reform. Each postcode roughly aligns with a neighborhood council, called a borough¹⁹. The RLD falls under the jurisdiction of the Central Borough. As a result, the management of the RLD has been more straightforward than in some other jurisdictions where the sex industry is more spread out. These set political and institutional lines allowed for some clarity and established the boundaries for my study. This enabled me to narrow my analysis to those decision-making structures contained within the boundaries while considering the boundaries themselves in the context of wider political processes.

Trouble with Political Scope

The fact that this dissertation moves from an analysis of the national parliamentary process to the local urban policy-making processes – and thus shifts the context from electoral politics to the non-elected bureaucracy– may incite criticism from political scholars. However, these urban political processes can still be analyzed within the same deliberative democratic frame offered in the theory chapter because the local bureaucracy remains a key dimension of the liberal-democratic state and thus should also be held accountable to its citizenry via greater inclusion and participation. Indeed, there is a greater push for the democratization of the bureaucracy, which rests on the belief that it

or foreign. In 2001, after many years of struggle, the Red Thread Union was finally included in the Miscellaneous Workers Union (FNV), the largest trade union in the Netherlands.

¹⁹ In 1982, Dutch municipalities began devolving and decentralizing some of their powers to neighborhood councils. In Amsterdam, 16 neighborhood councils were created. Under the Municipality Act these councils are considered municipalities, but their decisions are still subject to approval by City Council (Schmid, 2001:51).

is a critical feature of policy-making and thus another of the “institutions through which our democracy [should be] expressed” (Holmes, 2001: 23).

Applying deliberative theory to Dutch bureaucratic systems is important because of a trend towards greater bureaucratic authority and less democratic accountability. This trend was buttressed in 2006 when the Dutch parliament rescinded a law that had required all Dutch mayors to report annually on their participatory initiatives (Gemeentewet, 2009). The Amsterdam Municipal Council engages intermittently in participatory governance, but there is no formalized commitment on behalf of the bureaucracy to open its decision-making processes to stakeholders. While the local bureaucracy is, in many cases, held to account by elected officials on issues of national significance, the urban planning system in the Netherlands is largely decentralized and the unelected, appointed executive body (made up of aldermen) exercises a great of discretion with respect to urban development initiatives (Quip Web Archives, How City Council Works). Clearly, the local level poses a significant challenge to democratic theory, which makes it even more important to bring these processes under the lens of deliberative democratic theory.

What is the Red Light District?

The scholarly literature provides a fairly limited range of descriptions of the RLD. These characterizations reflect widely held concepts of the RLD as a place of commercialized sex and tourism. Wonders and Michalowski (2001) offer one of the most cited and accurate descriptions:

The red-light district resembles the modern open-air shopping mall in the United States. Relatively clean streets...a neon atmosphere, and windows and windows of women to choose from—every size, shape, and color (though not in equal amounts). The red-light district seems designed to be a tourists’ Mecca. The range of services for the leisure traveler includes sex clubs, sex shows, lingerie and S&M clothing shops...and a sprinkling of porno shops. But the character of Amsterdam’s red-light district is different from most other sex tourist locations because it is centered in an historic district and surrounded by an old, well-established residential neighborhood (2001: 553).

The above description draws our attention to the fact that the RLD occupies the heart of the city, and illustrates the complexity of the RLD by alluding to its location in an

historic residential neighbourhood. As the proponents of Project 1012²⁰ often lament, the medieval streets that run parallel to the historic canals and the area around the Old Church (the OuderKersplein) are heavily populated by brothels. During the time of writing, Amsterdam's RLD spread over the historic streets of the Ouderkerksplein, the Warmoesstraat and Oude Achtezijds Voorburgwal, an area that the Dutch refer to as "De Wallen."

Figure 2: Map of Official Postcode 1012 (The Red Light District and De Wallen included)

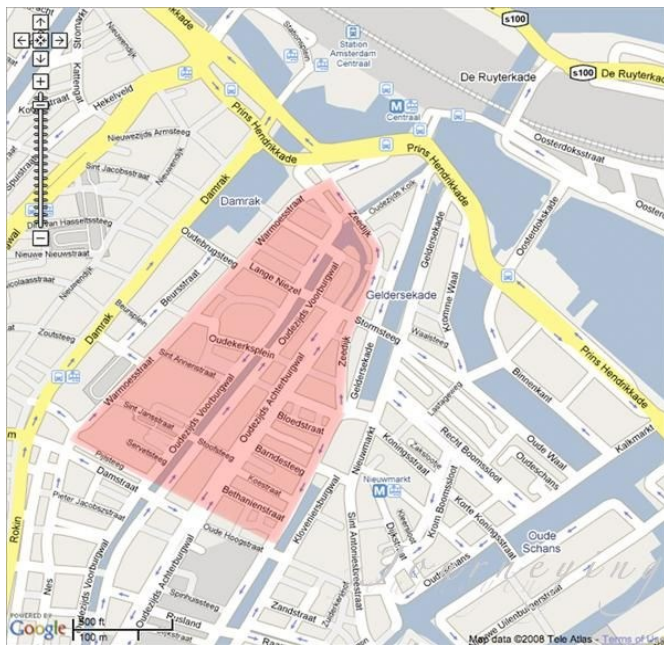


Photo courtesy of Bureau 1012. Photo originally retrieved from Google Maps ©

²⁰ Project 1012 is the name of the post-legalization RLD gentrification initiative that is the focus of Chapter 5.

Figure 3: Detailed Map of Amsterdam's Postcode 1012

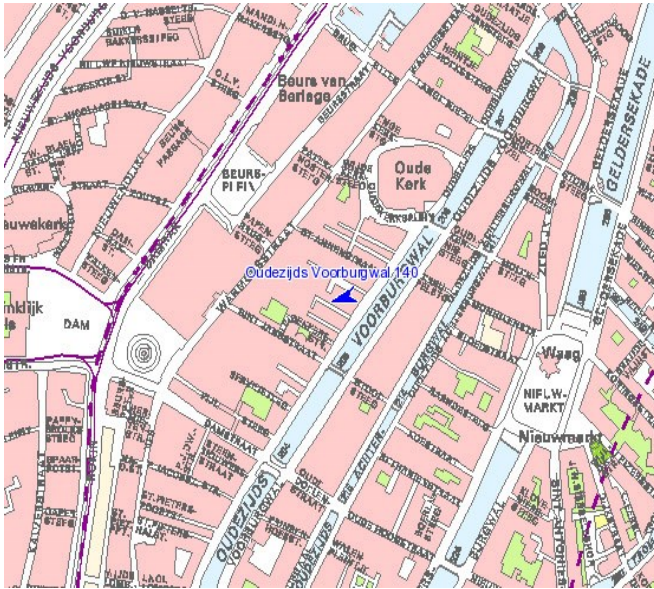


Photo courtesy of Bureau 1012. Photo originally retrieved from Google Maps ©

Of course, the RLD maintains significance beyond the atmosphere it embodies and the businesses it hosts on its historical streets. A diversity of meaning is ascribed to the RLD by the sex workers who work there, the business owners whose livelihood depends on the area, the residents who call it home, Amsterdammers who consider it a part of the local heritage, the feminists and liberals who regard it as a beacon of hope, and the tourists who see it as an escape. A more elaborated discussion of these meanings will occur throughout the body of the dissertation and more specifically in Chapter 4, in the section titled “*Consequences for Sex workers.*” For now, however, suffice it to say that, together, these meanings make the RLD more than a sexualized space that spans historical architecture: they make it a space of both political and moral significance.

Figure 4: Amsterdam's Red Light District in the Evening



Methods of Data Collection

Having arrived in Amsterdam in 2010, long after legalization (2000) and the introduction of Project 1012 (2005), it was difficult for me to immediately determine the relevance of certain policies and ascertain which policies were integral to the current political landscape. Before embarking on field research I could, generally, classify the Netherlands as a particular “prostitution policy regime,” but as Wagenaar and colleagues argue, prostitution policy regimes often say little about the actual implementation of these policies (2013: 15). Indeed “between almost every policy there is a considerable gap between policy intention and implementation” (2013: 15). As a result of this gap, a researcher can fail to properly articulate a policy’s depths and consequences by looking at documents alone. As I would soon discover, the police and the city took a decidedly different approach to sex-work regulation than did the national government, and much of this was not written into policy, or at least policy that could be considered exclusively targeted at sex work. So while I conducted as much secondary research as I possibly could, including scouring policy documents, I also engaged in a great deal of primary research to get a deeper understanding of the effects of these policies and the way in

which they were created. By broadening my methods of data collection to include interviews, discursive analysis and participant observation, I was able to discover how the problem of the RLD was framed and defined and how the policy's goals and the instruments used to address it were chosen. In this way, I was able to look beyond the policy's intentions and consider the policy-making process, its nature, and consequences.

Epistemological Approach: Interviews with Stakeholders

My epistemological approach locates the origins of knowledge primarily within direct experience - "experiential knowledge." I privileged this type of knowledge by both advocating for its inclusion in political decision-making and by seeking its inclusion in my own research. Direct experience is too frequently overlooked as evidence within policy research, which is unfortunate because it offers unique insights that can only come as a result of an individual's unique situatedness.²¹ I argue that because of where sex industry personnel are located socially, economically and even physically, these individuals know more about the sex industry's operations and the effects of sex-work policy "on the ground" than do the policy-maker or academic. For instance, to avoid detection or even to abide by the law, the sex worker must know the law and navigate complex relationships with law enforcement personnel, brothel owners and, to some extent, clients. In operating within a realm that offers her very little in the way of rights and protections, the sex worker must learn to protect herself against those who seek to abuse her, physically, mentally and/or emotionally. Indeed, one of the very conditions for her survival is that she must know more, and know more quickly than those who might seek to abuse or control her. The sex worker, therefore, maintains an epistemic advantage over those who may have a more disconnected or technical knowledge of the industry and its dynamics.

Some scholars warn that that privileging experiential knowledge lends itself to a "relativism of identity politics" (Wylie, 2003: 29). The problem, they claim, is that everyone has an experience that is worth valorizing. As such, it becomes a problem of capacity (a challenge I will address in Chapter 8). It simply is not possible to include everyone's input. The purpose here, however, is to argue that the context determines the

²¹ "Roughly speaking, the characterisation of an agent as 'situated' is usually intended to mean that its behaviour and cognitive processes first and foremost are the outcome of a close coupling between agent and environment" (Lindblom and Ziemke, 2003: 1)

privilege. The epistemic advantage is entirely dependent on the issue that is being discussed. Determining epistemic privilege requires a clearly defined scope of the issues and processes under examination. Given that my topic of focus was sex-worker policy, I sought out sex industry personnel and valued them as sources of information.

Throughout the dissertation I refer to those with experiential knowledge as direct stakeholders. A direct stakeholder refers to those who are most discernibly, immediately and directly impacted by a policy or decision. In other words, direct stakeholders were those who had felt the material, emotional or social consequences of the policy processes or mechanisms under study. In privileging these individuals as epistemic agents I partially accounted for the discrimination of the sex industry and society's refusal to accept sex-workers' positions as valid. In Chapter 3, I discuss how experiential knowledge should be privileged not just within research, but also as a form of evidence within the political process. At the same time that I argue for the need to include the perspectives of those most intimately connected to the issue, I also recognize the critical vantage points offered by scholars and policy makers and acknowledge that their contributions are not only valid but are required to gain a full appreciation for the issue. Thus while I targeted direct stakeholders to ensure that they had a voice, I also interviewed secondary stakeholders, including people or groups who were involved in some way in the two policy processes under study, but who may not have been directly impacted by the outcome. For example, policy-makers are secondary stakeholders. They were directly involved in the process but did not stand to gain or lose as much as did sex industry personnel. When the term stakeholder is used throughout the dissertation, it is used broadly in reference to both direct and secondary stakeholders.

Difficulties with Access, Interviews and Interviewees

Amsterdam's sex industry, including sex workers and brothel owners, is notoriously over-researched. Even those scholars who investigate the sex industry are constantly interviewed as they are assumed to be in touch with the hidden economy.²² On several occasions, academics and activists informed me that those in the field had

²² Despite the full legalization of brothels, many of brothel owners operate their establishments with discretion to avoid exposing their clients.

been saturated with requests for interviews in 2008 and that, by now, Project 1012 was old news. In addition, sex-workers' rights groups have been very vocal about the exploitative research undertakings of academics (Skye, Sex workers United: 2012). From their perspective, academics enter the community, gather the information they need, offer nothing in return, publish, secure new grant funding, and disappear -- though not necessarily in that order. This impression of academics as ultimately self-serving may have contributed to the difficulty I experienced in securing interviews. Having researched the sex industry before, I was not surprised that industry personnel, researchers and activists were inclined to close their doors to me as an outsider.²³ To acquire access, I needed to build credibility and visibility within the community. The opportunity to do so was presented to me by Annemarie De Wilt, a curator at the Amsterdam History Museum who hired me to conduct visitor research for the Hoerengracht.²⁴ The Hoerengracht was presented alongside a modern collection showcasing pieces from the Red Light Art and Red Light Fashion projects. By working at the Hoerengracht I was able to make contact with artists participating in the projects in 2010, and set up my first interviews with those artists. After these initial interviews, I used the purposive sampling technique to conduct a total of 35 interviews between 2010 and 2012 (please see the appendix for an itemized list of the interviewees). What this means is that I saw sampling as a series of strategic choices about whom to interview, which were guided by my research objectives (Palys, 2000). My strategy involved identifying, mapping and interviewing the stakeholders involved in designing sex work policy and those whom were affected by it. During the interviews I questioned whether the interviewees knew of

²³ Those who have no direct connection to the sex industry, by virtue of their work or activism, or are not from the surrounding community.

²⁴ The Hoerengracht is a life-size, multi-media sculpture exhibit based on American artists Ed and Nancy Keinholz's interpretation of Amsterdam's Red Light District in the 1980s. The exhibit is built around a series of interviews and photographs with women in RLD windows over a period of five years. It was built and assembled in Berlin and then shipped to London, where it was stored for nearly 30 years before being shown at the National Gallery (De Wilt, 2013). When it was brought to Amsterdam in 2011, it received a great deal of local media attention. This was due both to a successful marketing campaign and the irony that it was a life-size exhibit that stood only a block away from the authentic RLD district. It was an enticing exhibit because it gave observers the opportunity to indulge in a foreigner's interpretation of the District while also giving them a picture of what it may have looked like a few decades earlier (De Wilt, 2013).

The curator triggered public conversation on the contemporary RLD in three ways. First, she brought Nancy Keinholz to Amsterdam to lead a conversation with policy-makers, historians and residents about how the RLD had changed since the Hoerengracht's creation. These informal conversations and interviews were captured on video and shown at the exhibit. Second, De Wilt showed several pieces from the Red Light Art and Red Light Fashion projects alongside the Hoerengracht, which initiated its own dialogue. Third, De Wilt drew visitors' attention to Project 1012 by sharing its plans for the RLD. But De Wilt also made space for criticism of the Project, including a comical poster by Jan Visser (a brothel owner) and the works of Laurens Buijs (a professor at the University of Amsterdam), Angela Serino (the curator of the Red Light Art Project) and some of the artists under Red Light Art. It was a well-contextualized, relevant and thought-provoking collection of pieces.

certain individuals and could connect me to them or asked for recommendations of whom to speak to on particular issues.

The Interviews

Research participants were limited to those who were directly involved in the political processes leading to legalization, had a part in designing or implementing Project 1012 and/or directly felt its effects.²⁵

The interviewees were diverse and included policy makers, members of sex workers' rights organizations, politicians, a labour lawyer, academics, curators, students, residents of postcode 1012, aid agencies, and urban planners. Those who directly felt the effects of the policies qualified as direct stakeholders and included sex workers, brothel and escort agency owners, and artists involved in the Red Light Art and Red Light Fashion projects.

The interviews were conducted in English. With the exception of one interviewee, all interviewees were fluent in Dutch and English. In those instances where there were difficulties in understanding, we used Google Translate, which I had available with me on my computer. The interviews were semi-structured and open-ended and employed the narrative interview method (Wendy Hallway and Tony Jefferson, 2000), reflected in broad, open-ended questions like "Can you tell me about the processes leading to legalization/Project 1012? Can you tell me about the relationship between your organization and the municipality? What affects this relationship? Were you able to influence these debates? What do you think would improve the situation for sex workers or the entire sex industry in Amsterdam?"

The broad and open-ended nature of the questions allowed interviewees the freedom to construct their own stories as well as elaborate on the stories' meaning and values (Hallway and Jefferson, 2000). The set of questions evolved as knowledge of the

²⁵ Those directly feeling Project 1012's effects include those whose livelihoods were or could have been affected by the changes taking place as well as the proposed changes. In other words, the artists whose source of grant funding was tied up in the Project, the sex workers who were displaced as a result of the brothel purchases, the brothel owners who had to hire lawyers to defend their properties, or the property investors whose funds were put on hold until space was made available by ridding brothel owners. Residents in many cases were also affected, albeit perhaps less directly and some more than others. Owners, for instance, had a higher stake in the area because of their property, and their stake was tied directly to the value of that property. Other residents, such as renters, only cared about the changes insofar as those changes offered them more or less variety and aesthetic appeal. But these individuals cannot be said to be as strongly affected as the aforementioned stakeholders and those on whom the dissertation places the most emphasis. Organizations, such as those seeking to represent sex workers in their political battles, have also directly felt the effects of Project 1012 in that they have had to reach out to offer support to those reeling from the Project's consequences. These organizations were strongly impacted because they have limited financial and resource capacities.

field grew. Consequently, the first few interviews did not yield the richest data, yet they did help to develop an understanding of the context, including possible direction and additional sources. I used specific questions when I was probing for detailed information and/or accounts of particular processes. The interviewees received the questions via e-mail in advance of the meeting and were informed of their rights: not to answer questions, and to withdraw from the study (including removing their transcripts) at any time.²⁶ Seven interviewees declined my request to tape the interview, which required that I take handwritten notes.²⁷ Likewise, three interviewees requested that I use pseudonyms and remove all identifiers.

The Sex Industry and Sex Industry Personnel

As previously mentioned, the dissertation considers the inclusionary nature of the policy-making system and its effects in relation to all those with a stake in the sex industry. Together, sex workers (window and escort), strippers, sex-club operators, brothel owners, escort agency workers and sex-store operators are collectively referred to as the sex industry, and the individuals working within it as sex-industry personnel. Brothel owners and sex workers are rarely positioned on the same side of an issue, and the inclusive focus on the entire sex industry may raise some concern. Indeed, several sex workers' rights advocates have sought the further regulation of their profession as a way to gain autonomy from those who own brothels. Despite the power dynamics that play out through their relationships, both sex workers and brothel owners are experiencing injustice in the post-legalization period. In response to moral discourses and assumptions regarding their criminal nature, both sex workers and brothel owners have become subject to a plan that aims to dramatically reduce the number of sex-related businesses. At the same time, brothel owners face a different type of discrimination than sex workers because they are thought not only to be involved in an immoral industry, but are also seen as profiting from the exploitation that is assumed to define that industry. Stereotypes of the brothel owner presuppose that the greater their wealth, the greater the vulnerability of the sex workers who work for them or in their establishments. Of course, being a brothel

²⁶ See Appendix B for the information letter, interview questions and ethics approval.

²⁷ Unfortunately the tapes for 10 of these interviews were damaged. In these cases, some data was irretrievable and thus the interviews were incomplete. Please see the transcripts for more detail.

owner does not necessitate exploitative and predatory relationships with sex workers. However, the possibility of equitable and mutually beneficial relationships between sex workers and brothel owners is largely ignored by the Dutch government, and more particularly Amsterdam's local government, which are both placing pressure on brothel owners to take responsibility for ensuring the independence of the sex workers in their establishments.

As will be elaborated in Chapter 5, changes to the Penal Code that came as a result of lifting the *Brothel Ban* now require brothel owners to investigate the origins of the women to whom they rent space. When brothel owners reject the responsibility to go beyond what is legally required to investigate the backgrounds of the women, they are presented as contributing to the further exploitation of vulnerable women. Ironically, the onus for determining a sex-worker's agency has fallen upon on the brothel owner who is charged with asking for and reviewing the sex-workers' passports and work permits. Sex-workers rights' advocates argue that requiring a sex worker to hand over her passport to a brothel owner is not the way to improve power relations between sex workers and brothel owners. It is a baffling method of enforcement, given that several policy makers openly express opinions of brothel owners as untrustworthy and irresponsible. The brothel regulations that have been ushered in by the City of Amsterdam following legalization have thus exacerbated inequities where they do exist and have created the conditions that contribute to an imbalance of power. Brothel owners have defended themselves against these accusations by arguing that they provide a legal service that sex-workers demand (the rental of rooms), yet have been denied the opportunity to have respectful, political conversations, despite the now-legal status of their business.

Where sex workers fared far worse than brothel owners was immediately following the initial purchase of brothels under Project 1012 (see Chapter 5). After ownership transferred, the properties stood vacant and a number of sex workers voluntarily left the RLD window brothels or were forced to vacate them. Despite the normative commitment to have sex workers become the primary representatives of their own interests and needs, it was not possible to gain their participation in this study for a number of reasons. First, many sex workers live a double life; the stigma of and discrimination against the profession are so strong that it causes sex workers to refrain

from disclosing their profession for fear of persecution (ACSU.org). Also, knowing that the field has been saturated by research requests, I felt it important not to ask sex workers to out themselves in order to contribute to my research findings. Secondly, due to the monetary constraints of the research, it was not possible to offer compensation equal to what the women would have received had they been working. Perhaps the strongest reason for their exclusion from my sample, however, was that it was not possible to track down the sexworkers who were displaced as a result of Project 1012 because the majority of the displacement took place four years prior to my fieldwork. The difficulties of gaining interviews speaks to the potential challenges a practitioner might face in trying to elicit the participation of sex workers in formal political processes. These challenges, and suggestions for overcoming them, will be discussed in the concluding chapter.

While the lack of first-hand accounts from current sex workers risks generating assumptions that “support and legitimize outside political and social interests” or obscure the “real” concerns of sex workers, (McWilliam, 1998: 72), it is important to note that the agencies and organizations interviewed are dedicated to advancing the rights of sex workers and maintain close contact with current sex workers. The individuals working for these agencies did not claim to speak for sex workers, yet they were able to provide me with anecdotal evidence and share the concerns, needs and interests that sex workers had expressed to them. To this end, they were able to stand as both legitimate witnesses to these events and to the harmful effects of Project 1012 and can be understood as reliable representatives of sex-workers’ interests. These agencies differ in the methods they use to achieve full social integration, political equality and independence for sex workers, but all in some way were lobbyists seeking to influence the state. As such, interviews with this population fit well with the intention of the research, which was less about exploring the individual life experiences of sex workers and more about examining the extent to which the workers’ concerns and interests were included in political processes. That is, the focus was on understanding the positioning of sex workers as a political constituency.

Understanding sex workers as a political constituency does not assume that sex workers share a homogenous social identity. Sex workers are “people who sell sex for money in direct interactions with their clients” (Brewis and Lindstead, 2002: 309). This

broad definition captures a complex assortment of individuals who have diverse professional and personal experiences and needs. This diversity is in large part related to the fact that the sex industry, like any other industry, is highly stratified. Often the location of sexual contact has the largest effect on the sex-worker's experience and needs. Location has been found "to have effects on rates of pay, complexity of organization, relationships with outsiders" (whether positive or negative), and insiders (such as pimps) (Katsulis, 2008: 8).

As in other countries, sex work in the Netherlands takes place in a variety of places such as private houses, hotels, sex clubs, window brothels and on the street (Hubbard, 2012). A 2004 estimate found that of the 8,000 sex workers operating in the Netherlands, "five per cent work on the street, twenty percent in the windows, forty five percent in sex clubs and brothels, fifteen percent in escort services, five percent at home and ten percent in other, private spaces" (Koski, 2007: 14). These spaces differ with respect to their social and cultural environment, but also with respect to their safety records. The more visible the location where the exchange takes place, the less likely the sex worker is to face abuse and the more likely she is to be operating in a regulated environment with a work permit (Van Beke Institute, 2010). Window brothel sex work, therefore, is known not only as the most visible and independent form of sex work, but also the safest. However, "while the earnings of window sex workers are better than those of street walkers, they are still relatively low, and the women must [still] pay to rent the window" (Koski, 2007: 14-15).

Sunder Rajan argues that the differences across the industry demand a contingent description of sex work in order to avoid the misrepresentation and conflation of experiences (1999:12). In the interests of clarity then, the use of the term "sex worker(s)" throughout the dissertation refers only to window brothel workers within or associated with the RLD. Yet at the same time that we can recognize the differences across segments of the industry and unique aspects of the profession related to location, points of commonality among sex workers should also be considered. For example, all sex workers share an occupational category that is still severely stigmatized and subject to discrimination. Regardless of the differences in power and privilege that exist across the ranks of the industry, *all* sex workers could benefit from the reduction of stigmatization

and discrimination, as well as increased normalization. Theoretically, there are a variety of ways to combat the alienation that sex-work industry personnel feel from mainstream society, and to normalize the profession. Most notable of these methods is to deliberately include (as individuals or as representatives/advocates) sex-work industry personnel in policy-making processes. A more thorough discussion on the emancipatory potential of inclusive, deliberative democratic methods is saved for the next chapter.

Despite the contingent description of sex work and the recognition of difference, the findings from this research will speak to all sex workers as these findings recommend that sex workers be drawn into democratic discussion on how policy affects the aspects of the industry in which they are most involved. The final product of this research will be shared with Dutch and international sex-workers' rights organizations, as well as all interviewees. During writing, I continued dialogue with many interviewees and ensured that their own contributions were properly contextualized.

Exiting the Field¹ and Analysis

Altogether, the field research and interview process took nearly 13 months (July 2010 to May 2011). At that point, I ascertained that there was enough diversity in the interviews to provide a fair accounting of the political dynamics and policy of each time period under investigation.

Policy Analysis

The policy analysis I engaged in is rather broad in scope in that it takes “as its focus not only particular policy output but the nature and origins of problems; how public policy aims to solve them and the nature of processes leading to the ‘solution’” (Mead, 2005: 536). To this end, the interviews were integral. Through the interviews, I was able to map relationships, determine levels of influence and capacity, and assess the impacts of these policies. However, a higher level of analytical skill was required to analyze the content of the interviews in light of the role of discourse, ideology and framing in these policy processes. The analytical framework offered by social construction theory (SCT) and, relatedly, interpretive policy analysis and normative policy analysis, was useful for this purpose. Indeed, I borrowed heavily from these bodies of theory to fully address my

research questions. My analytical approach is thus a unique blend of several different types of analysis. Below, I outline the bodies of theory and types of policy analysis that I engaged most heavily with, in an effort to clearly articulate my approach and the ideas and debates with which I aim to contribute.

Social Construction, Interpretive and Normative Policy Analysis

Although it is often overlooked by deliberative democratic theorists, SCT recognizes “that the concerns of policy are not pre-existing phenomena, but are generated in the policy process” (Colebatch, 2006: 320). Understanding policy as socially constructed sheds light on the “context dependent processes through which ‘problems’ are defined in particular places, which in turn necessitates the promotion of particular policy solutions” (Zuckerwise, 2012: 147). A social constructivist considers not only the policy and/or the character of the process leading to it, but the information and discourses that feed into decision-making structures and the outcomes they produce.

A society-centred view of the state, which this dissertation advances, supports the concept of social construction, because it sees the activities of “office holders, the state’s institutions, and policy choices as dependent variables, the product of social structures and forces” (Hooks, 1998: 30). Rather than assume the separation of the state and social forces and the autonomy of the state, as does state-centered theory, society-centered theory investigates how they interact to shape policy. In the case of the RLD, both social construction and society-centered state theory draw our attention to those variables and discourses that stand outside formal processes but which identified sex work as the problem and made an overhaul of the postcode 1012 seem necessary. It is these very same discourses that strongly influence the inception (or rejection) of deliberative democratic mechanisms (Daley, 1998).

Relatedly, interpretive policy analysis (IPA) is “contextually sensitive and critically oriented study of” the creation and enactment of public policy (Petkovici, 2008: 2). Similar to social construction, IPA considers the ways in which people identify problems and frame their world and helps us to understand the discursive roots of particular courses of action (Pal, 2010: 17). IPA also, however, emphasizes the influence of subjective opinions and assumptions of policy makers on the political process. In this way,

interpretive policy analysis helps to pull out and identify the discursive frames of key decision makers (Bartel, 2010: 7). In the cases under study, IPA emphasized policy-makers' attitudes towards the sex worker community and considered how these attitudes might have factored into closing the system to the sex-worker community. Assumptions were made regarding the attitudes and opinions of these decision makers based on the language that was used in formal policy documents and the terms they individually used within policy documents. For instance, Project 1012's documents used the term "prostitute" instead of "sex worker" and routinely associated sex work with crime despite a lack of clear evidence for the relationship. These terms and associations signalled the stigmatization of sex workers and a set of social relations that situated Project 1012 in discourses far broader than those concerning urban revitalization (Dijk, 2003: 249).

Less explicit discourses impacting the opinions of policy-makers included those concerning race and nationality. There are many methodological and theoretical challenges in explaining the political and social phenomena of "racial," "racist," "racialized" or anything "race-related." In order to maintain a productive conversation without giving offence while interviewing Dutch nationals, I had to carefully manage my language in addressing issues of racism. For example, I avoided the term "racism," due to its negative connotations, but asked individuals what they thought of "cultural relations" in Amsterdam and if this was having an effect (whether positive or negative) on the local sex-work scene. The discriminatory biases, racial discourses and dominant modes of understanding that spur racial mistreatment will be examined in the sections on racial relations in Chapter 6 and Chapter 7. Here, I simply want to point out that Project 1012 is enveloped in a growing Dutch xenophobia and Islamophobia and it is no coincidence that the Project aims to expel primarily foreign sex workers and business operators from the RLD. In Chapter 7 I propose how Project 1012 can in fact be interpreted as the policy vehicle for responding to these underlying emotions, opinions, fears and biases. For this reason, repeated reference to "The Turks," "migrant," and/or "foreign" sex workers, either in interviews or in other conversations with Dutch "natives," was weighted heavily. I considered these references to be cues of an underlying racial logic that some Dutch "natives" use to justify a sense of entitlement to space while ascribing a lower status (and therefore less space) to people of minority

cultures. As the research progressed, complex and largely invisible systems of prejudice and discrimination emerged. Essentially, I argue that the attitudes, assumptions and biases of those in the growth coalition who were interviewed, had significant influence over the direction that sex work policy took in the post-legalization period.

IPA is a mode of analysis that attends well to the thoughts and opinions of policy makers and the impact these may have on the policy, but often overlooks structural forces that lie outside of policy-makers' power and which may deeply impact the policy-making system's character. My analysis, therefore, extends beyond the IPA theoretical paradigm in that it also seeks to understand human relations in terms of their connection to an invisible overarching system or structure. Structures are habituated ways of organizing human thinking and interrelations. In Dutch society, the social structure that organized the Dutch belief system up until the early 2000s were called "pillars." As I will elaborate in Chapter 7, in the post 2000 time period, these pillars began to crumble under the advance of secular pluralism and triggered the realignment of Dutch society with political parties. A detailed discussion of the effects these changes had on the democratic character of the policy-making process is saved for Chapter 7. It is at this point where I begin to expand on the wider socio-economic variables that I argue also contributed to a turn away from inclusivity and collaborative policy-making. Underlying the analysis of causal variables is the recognition that the opinions of policy-makers are, to some extent, indicative of their political context. A consideration of these variables recognizes and addresses traditional IPA's limits in explaining intersubjectivity.

Another of IPA's limitations is that it does not explicitly include an emancipatory or prescriptive element, which posed a challenge because the research questions driving this dissertation were inspired by an ethical commitment to improving the lives of sex workers via the political system. The scholar making use of IPA may have an ethical commitment that underscores her interpretation of the behaviors and attitudes of policy makers, but IPA in itself is not necessarily linked to the promotion of alternative political models, like deliberative democracy, and what they might be able to offer sex workers. Conducting deliberative democratic policy analysis meant that I sought to discover not only how sex workers factored into the thought processes and decisions of policy makers, but also whether they were empowered as participants in the policy process (Pal, 2010:

10) and, if not, how their empowerment could be attained through the achievement of a different type of political arrangement.

Normative Policy Analysis

While much of the inspiration for the dissertation comes from my being a sex-worker's rights' advocate, I also qualify myself as deliberative democratic activist (Fung, 2005). According to Fung, a deliberative democratic activist is interested in seeing the integration of deliberative democratic mechanisms into state-sanctioned political activities. Thus, in addition to reflecting a broad commitment to the improvement of sex-workers' lives, the dissertation also reflects a commitment to deliberative democratic principles. In Chapter 3, I describe a set of criteria derived from deliberative democratic theory. These criteria act as reference points in my analysis. The purpose of this analysis is to judge the democratic legitimacy of these separate processes and identify opportunities for improvement. Deliberative democracy offers a clear set of ideals from which analysts can develop evaluative tools to assess policy-making systems, compare processes and identify shifts in deliberative democratic legitimacy. It enriches analyses because it moves us from explaining where we are now, to suggesting where we ought to be.

Deliberative democratic policy analysis does not necessarily preclude the use of interpretive policy analysis, however. Indeed, a "valid understanding of a policy problem and legitimate policy solution can hardly be achieved without egalitarian deliberation with citizens and stakeholders...who interpret and create policy together" (Petkovici, 2008: 2). Democratic policy analysis acknowledges that the creation of policy is an interpretive exercise, but it drives us to assess policy-making practices by how far they extend the role of policy maker to citizens. Deliberative democrats, in fact, are committed to extending the "ability to discuss policy issues in a meaningful and politically efficacious way" (Hajer, 2003: 191). I expand on the additional criteria that guide my deliberative democratic policy analysis in the theory chapter. My choice to use deliberative analysis was made because more than any other method I have seen, it presses for change while providing an analysis of the way things are. Thus, in some way,

it accounts for the historical exclusion of sex-workers and sex industry personnel from the policy-making process by also providing options for their inclusion.

Summary

In this chapter I explained the key terms of policy, policy community, policy network, the policy-making process and policy input. In doing so, I identified the central policies and policy-making processes that stand at the core of my study, as well as outlined the geographical scope and time periods. Two separate moments in Dutch policy-making stand at the core of this research: the policy processes leading to the legalization of brothels in 2000 and an attempt to displace 40 percent of sex-work-related businesses from Amsterdam's famous RLD(s) under Project 1012, and Project 1012's related policies. The first period runs from 1990 to 2000, the decade prior to the full legalization of the sex industry, and includes a focus on the national deliberative forums and the legal-parliamentary process that effectively lifted the *Brothel Ban*. The second case occurs in the post-legalization period, from 2000 onwards, and narrows the focus to Amsterdam's local policy-making system.

To gather a strong sense of the policy community and the networks influencing the design and implementation of these policies, I conducted secondary research and primary research in the form of field research. The field research included interviews with direct stakeholders, identified as those who have experiential knowledge of the issue and feel the effects of the policy; and secondary stakeholders, defined as all others with a stake or interest in the issue. After completing 35 interviews I completed the field research component and began to analyze the interview data, with SCT as my guide. Driven by the overlapping desires to explore existing degrees of political engagement within the Dutch policy-making system and strengthen the democratic character of the policy-making system, I combined the use of interpretive and deliberative policy analysis. The next chapter will elaborate on the criteria that guide this deliberative democratic analysis of the legalization and Project 1012 moments.

CHAPTER 3

DEFINING THE NORMATIVE CRITERIA FOR EVALUATING THE DEMOCRATIC LEGITIMACY OF SEX WORK POLICY-MAKING

Introduction

Full and meaningful democratic citizenship requires that individual and collective agency is respected and that opportunities for political engagement in official political decision-making are provided. Unfortunately, agency and opportunities for engagement are all too often denied to those in the sex industry, particularly sex workers. Yet in the debates leading to the legalization of sex work in the Netherlands, members of this politically marginalized social sector played an important role in policy change. The ensuing period of regulation, however, divested sex workers of that agency, a situation that re-established their marginality and exacerbated a number of social ills.

This chapter provides the foundations for evaluating the democratic character of policy-making and assessing the democratic legitimacy of the period of sex work legalization and the implementation of Project 1012. In the latter half of the chapter, drawing from deliberative democratic theory, I outline nine democratic criteria which form the democratic minimum necessary to engage in, and restore, meaningful participation in policy-making. In the course of my evaluation and assessment, I demonstrate that the same sorts of participatory deliberative processes that democratize policy-making are essential to full and meaningful political and democratic citizenship. Indeed, I argue that deliberative democracy is a means to deepen political citizenship and fulfill the political aspects of sexual citizenship.

Sexual citizenship refers to the determining influence of sexuality and sexual behavior on citizenship and belonging (Greif, 2013). The concept itself moves us beyond rights to consider cultural norms and the effects that transgressing these norms has on citizenship. Sexual citizenship thus encompasses cultural, social and political aspects of belonging, and considers the interdependencies amongst them. The central purpose for using this concept in relation to deliberative democracy is to address one of deliberative democracy's critical oversights. Deliberative democrats often neglect to pay attention to

aspects of group identity that function to limit the equal participation of all within the political process (Chambers, 2013). While a great deal of the democratic citizenship literature speaks to the benefits of political inclusion and explores how various minorities relate differently to their democratic institutions, it does not discuss the impact of sexuality on democratic citizenship. Democratic citizenship theory fails to acknowledge the harmful discourses related to an individual's sexuality that exist independently of political processes to alienate and disenfranchise the sex worker as well as arbitrarily limit her influence in the political realm. I emphasize sexuality as one of these aspects and argue that it is a determining factor for citizenship. After the discovery of their occupation, the sexuality of sex workers becomes critical to how they are perceived and treated and thus deeply affects their claims to belonging and their ability to participate effectively within the political realm. If deliberative democratic models were to better take group differences into account—a point I elaborate on in Chapter 8—then the achievement of the deliberative democratic ideal would constitute a rearrangement of power that could empower marginalized sex workers and thus enrich citizenship.

Citizenship

The following section describes my use of the term sexual citizenship and addresses some of the theoretical challenges posed by using the citizenship concept. Sexual citizenship refers to the determining influence of “sexuality or sexual behavior” on citizenship (Greif, 2013). What this means is that the relationship we have with the state and our ability to participate in all areas of life are determined in part by how the state and society more generally treats sexuality and norms of sexual behavior. Because sexual citizenship positions sexuality as the chief determining factor in social belonging and political membership and thus is a useful concept for understanding sex workers' disenfranchisement and lack of legitimacy. Sex workers, who operate outside of “heterosexual, monogamous procreative sex norms” (Hubbard, 2001), are marked as sexual dissidents and face discrimination and negative stereotyping on that basis. Exploring the concerns of sex workers through the lens of sexual citizenship allows for a wider consideration of the role that this kind of discrimination and prejudice play in prohibiting workers from fully engaging in political, social and cultural areas of life.

Where sexual citizenship can be used to explain the roots and extent of the marginalization of sex workers, it can also help to describe the aspirations of many sex workers.

Drawing from Linda Bosniak, I understand sexual citizenship “as an aspirational ideal” that promises “community well-being, personal engagement, and democratic fulfillment” (1998: 30). In the same vein, Weeks demonstrates how aspirations for full citizenship can be read from the efforts of sexual minorities²⁸ to “define themselves both in terms of personal and collective identities by their sexual attributes, and to claim recognition, rights and respect as a consequence” (1998: 35). Sex workers are increasingly launching visible challenges to popular understandings of sexuality and are attempting to redefine what it takes to belong. Associated with these efforts are claims to “equal protection of the law, to equal rights in employment, parenting, social status, access to welfare and provision, partnership rights, or even marriage” (Weeks, 1998: 35). I extend these claims to include the right for sex workers to be free from discrimination within the political realm and to participate within the creation of policies that affect their lives.

Understanding sexual citizenship as an aspirational ideal allowed me to evaluate these two policy-making processes in terms of how they functioned to bring sex workers closer to, or further away from, full citizenship. Put simply, the more inclusive the policy processes were and the more impactful the political participation of sex work workers in sex-work policy making, the more the policy-making process was supportive of sex worker attaining full citizenship. However, sexual citizenship also conceives of citizenship beyond the formal realm of status and interaction with state agencies. As such, I also paid attention to social, cultural political forces that underlie the discrimination of sex workers and drive not only their political disenfranchisement but also their feelings of alienation in all aspects of their lives. Indeed when citizenship is understood as the capacity and ability for all individuals to participate equally and freely in the political, social and civic realms of life, we move “beyond a conception of the state as the only granter and guarantor of citizenship and see the role that all citizens play in granting and sustaining citizenship” (Bosniak, 2000: 465). What this means, then, is that

²⁸ Any sexuality that stands outside the norm and is marginalized on that basis.

political inclusion is only one dimension of achieving full citizenship. For citizens to engage freely and equally, they must be recognized by other citizens and by the state as equal members of society.²⁹

While I argue that sexual citizenship is an ideal state for the relationship between a sex worker, society and the state, I make note that the dissertation focuses primarily on democratic citizenship as a means of reaching towards full, sexual citizenship. Although cultural and social discourses also dictate the extent to which sex workers can gain full membership in society, I argue that institutionalizing deliberative democratic mechanisms is a way in which sex workers can contest those discourses that undermine their full inclusion. One of the central arguments of the dissertation is that sex workers can combat discriminatory discourses in and through the policy process, but for sex workers to gain full social and political belonging, widespread social change would need to accompany the inclusion of deliberative democratic mechanisms. Claims for inclusion in the policy process may help in the fight for equality, but they are not enough. As Robson and Kessler note, while the denial of rights “marks sexual dissidents as second-class citizens,” a symbolic “victory in a fight for such rights does not necessarily radically change the parameters of sexual citizenship” (2007: 543). Even in the face of legal victory, cultural and social discourses continue to align to determine the lines of social acceptability and to mark sex workers as others.

Chapters 6 and 7 will demonstrate the limited power of legal reform, for legalization did not immediately grant sex workers the rights, formal dignities and acknowledgment afforded to other professions. The persistence of stigmatization and the social and political exclusion of sex industry personnel, especially sex workers and brothel owners, despite the formal and legal recognition of their profession, points to the “unforeseen kinds of citizenship” whereby (Bell and Binnie, 2000: 50 and Robson and Kessler, 2007: 543) social cues and discrimination continue to preclude full membership in society. Sexual citizenship remains that aspirational ideal anchoring this dissertation, therefore, because advocating for the full sexual citizenship of sex workers in addition to

²⁹ This view of citizenship differs somewhat from some deliberative democratic theorists who place a greater emphasis on participation within formal political processes as the primary means for attaining citizenship. In Chapter 9, however, I show how the emancipatory potential of deliberative democratic reform is hampered by a sex worker’s lack of social belonging. Deliberative democracy, as will be discussed, does not adequately consider how discriminatory discourses affect the ability for some to reap the benefits of democratic inclusion.

democratic citizenship best articulates the need for wider social change and the intention to ensure that sex workers finally gain social acceptance. In this respect, sexual citizenship does not stand in for democratic citizenship but includes it as an integral component.

Democratic Citizenship

There are primarily two different understandings of democratic citizenship: citizenship as rights “of access to existing privileges given by legislative institutions” and citizenship as a claim to rights of full participation in the decision-making processes that determine how rights are designed and executed (Beger, 2004: 1). Theorists from the latter camp are described as “civic republicans and participatory democrats” and often speak in descriptive terms to characterize the degree and nature of public involvement by members of a polity” (Bosniak, 2000: 471). This dissertation ascribes to this active understanding of citizenship in that it demands that citizens not just be free, but that they are able to “take part in shaping a collective destiny” (Bosniak, 2000: 472). Greater dialogue with, not simply membership in, the state is what fosters the sharing of power and citizenship. By participating in public affairs, individuals become public citizens. And, it is only when citizens participate that a strong democracy can exist. Conversely, the exclusion of stakeholders from those political discussions that could potentially impact them violates the democratic principle of “rule by the people” and distances people from full democratic citizenship. This does not mean that every citizen is required to participate; it means that citizens are given the opportunity to participate and engage (Michels, 2010: 49) and are encouraged to do so.

At its most basic level, however, democratic participation requires legal status and the ability to participate. In this way, democratic citizenship entails a set of rights.

Limits to Democratic Citizenship

As Chapters 5, 6 and 7 will show, sex industry personnel have come to face unique challenges to their democratic citizenship within the post-legalization period. Amsterdam’s local government is driven by a unique moral, political and economic agenda that has inflected the ways in which capital interests are privileged in accessing its

decision-making processes. As a result, space in the city center has been increasingly reallocated on the basis of morality and cultural relations, in addition to commercial viability. In the post legalization period, sex industry personnel have had no formal, political means to contest the exclusionary practices that are designing the urban regeneration policies, nor the consequences they are producing. While Dutch citizens may officially have the right to participate in these political processes, by virtue of their membership in a polity, my findings in the latter period show the ways in which sex-industry personnel have effectively been prevented from exercising their right to participate, causing their concerns to be largely ignored. Below, I expand on those social and political forces that have aligned to alienate sex-industry personnel from the decision-making processes that determine the contours of their professional lives. A discussion of these limitations demonstrates that there is a need to clarify what we mean by the “right to participate” when speaking of democratic citizenship, which I argue may be possible if we reconceptualize political participation as a human right. In doing so, international bodies could clearly outline what is meant by the right to participate and oblige democratic nation-states to provide more opportunity and mitigate obstacles. Of course, a discussion of the human right to democratic participation is largely out of the scope of this dissertation. The point, however, is to suggest that in acknowledging the limits to democratic citizenship, we need an additional level of protection to promote, preserve and expand it.

Limits to Democratic Citizenship: The State as an Instrument of the Capitalist Class?

As I will demonstrate throughout Chapters 5 and 6, Amsterdam’s local government has exchanged policy that is favorable to business-elite for the funds to further develop their local economy. The prevalence of these types of exchanges and the economic priorities that drive them required that I theorize about the impact of capitalism on deliberative democracy’s normative power, and consider how power operates to prohibit the uptake of deliberative democratic mechanisms within the policy-making system.

To gain an understanding of the relationship between capitalism and deliberative democracy, I focused first on the more general role of the state in capitalist societies and

then tested these theories with the policy-making processes under study. What became clear is that, within the two time periods under study, the policy-making apparatus of the state responsible for sex work policy varied in the extent of its “capitalist nature” (Jessop, 2014). Within the pre-legalization period, for instance, the national government incorporated deliberative democratic mechanisms into the policy-making process, which helped to alleviate the pressure of capital and orient policy towards social outcomes, whereas in the post-legalization period, the local policy-making apparatus was instrumentalized by a select group of elite to advance their own large-scale capitalist project in line with neoliberal ideology. These variances demonstrate the “ability for the state to vary its capitalist function and operate with different logics at different points in time” (Jessop, 2014: 3) and preclude the Dutch state from being understood as permanently in servitude of capitalism.

*Limits to Democratic Citizenship: The State in a Capitalist Society*³⁰

The concept of the capitalist state is drawn from functionalist theory, which maintains that the state takes on a particular form to fulfill the function of accumulation and reproduction of the capitalist system (Johnston, 1984: 214). In the bourgeois political utopia, the state designs “institutions ... in such a way that they automatically and perfectly reproduce the conditions for accumulation” (Olin Wright, 2009).³¹ Relatedly, the idea of state instrumentalism holds that the state is a medium, an instrument of class exploitation (Engels, 1884: 283). From this lens, any other efforts that may appear devoted to social outcomes are merely disguising underlying capital accumulation motivations. If the state is fundamentally an instrument of the capitalist class (Engels, 1884), as Marx’s early articulations of the capitalist state suggest, then struggling to advance claims for full citizenship from within it by deepening its democratic character may be a futile exercise. The problem with the notion of state instrumentalism or the capitalist state is that it denies the possibility of a state oriented towards a set of outcomes that may come into conflict with capital accumulation. It also precludes the possibility of

³⁰ Jessop (2014).

³¹ Alternative political models, like deliberative democracy, are excluded from consideration by governing elites because they are thought to contradict or undermine the capitalist function of the state.

a state that may be willing to engage a wider section of the population through deliberative democratic mechanisms or otherwise.

Jessop argues that we can escape functionalism by conceiving of the state as “polymorphous (Mann 1986) or polycontextual (Willke 1992)” (2014). These terms describe a state that

...changes shape and appearance with the political forces acting toward it and the conditions in which they act. Polymorphy means that the state’s organization and capacities may be primarily capitalist, military, theocratic, or democratic in nature according to the balance of forces, especially as these affect the state ensemble and its exercise of power. Its dominant crystallization is open to challenge and will vary conjuncturally (Jessop, 2014: 3).

Thinking of the state as polymorphous or polycontextual affords the state some autonomy and thus does not deny the possibility of reform. The state’s autonomy is limited, however, because it reflects the prevailing balance of forces. Jessop argues that this theory of the state is best described by referencing the state as “a state in capitalist society,” rather than the more restrictive, functionalist understanding of the state depicted by the term the “capitalist state” (2014).

While the state may frequently – and in the last instance- support the interests of capital, there are periods when the logic of the capitalist state is disrupted, and which require us to employ the less restrictive view of the state exemplified by the “state in capitalist society.” O’Connor in *The Fiscal Crisis of the State* (1973) listed a number of contradictions that make it a challenge for the state to fulfill its capitalist function in a single-minded fashion. One of the most critical contradictions is that of “legitimation vs. accumulation.” The crux of the contradiction is that reproducing capitalism “requires at least two kinds of state interventions... interventions which establish favorable conditions for capital accumulation” and those “which legitimate the system to the masses” (Olin Wright, 2009: 3). To promote capital accumulation, the state creates policies/regulations and invests in infrastructure and education that are conducive to further investment. The legitimation function, on the other hand, refers to the state’s responsibility for containing and mediating the disruptive social conflict that results from the concentration of capital and resultant class struggles (Olin Wright, 2009: 3). Efforts to mitigate the risks of capitalism by way of increasing social expenditures related to unemployment and

growing wage disparities and inequalities are the most common examples of legitimation mechanisms. Although these risks are in large part caused by growing monopolies, the state refrains from taxing these corporations and instead engages in regressive taxation, as higher taxes on capital are thought to be prohibitive of further capital accumulation (Olin Wright, 2009: 3). The central argument, however, is that these social expenditures are politically precarious in that they are both expensive and difficult to reduce in times of fiscal restraint (Olin Wright, 2009: 3). A contradiction thus emerges between legitimation and accumulation as state expenditures (both for the purposes of accumulation and legitimation) increase exponentially, but the state's ability to tax and pay for them is restrained by interest groups that ardently defend themselves against tax hikes. As interest groups argue over taxing and spending, the state's hesitancy to increase taxes causes it becomes less fiscally capable of responding to citizens' demands for social expenditures, and thus it begins to lack legitimacy (O'Connor, 1973: 23).

In more recent years, O'Connor's work has been extensively elaborated in analyses of the decline of the welfare state and the advancement of neoliberalism. According to Bonal, neoliberalism incorporates its own legitimation mechanisms with ideological discourses that convince people of the "trickle-down effect of market distributive mechanisms" (2003: 164). These mechanisms, supposedly inherent to capitalism itself, have lessened the perceived need for the state to account for distributive inequalities and thus reduce its "political burden by removing its centrality from some areas of welfare provision" (Bonal, 2003: 164). According to Bonal, the neoliberal paradigm holds that an "an effective capital accumulation regime" actually "needs the withdrawal of the state from a number of activities and service," and has redefined the "normative rules in which capital can operate [through providing] quasi-market forms of service provision," relying on contractualism, decentralization, and new public management (NPM) (Bonal, 2003: 164).³² The inculcation of neoliberal political rationality and the transformation of the bureaucracy along the lines of NPM mean that the principles of efficiency, accountability and personal responsibility are paramount. In

³² NPM is a system of governance that mimics the ideals of the market; indeed it has been "driven by the demand for enhanced efficiency and accountability, rather than the need to maximize other values such as fairness, equity, due process and public participation" (Vabo, 2009: 2). Vabo argues that NPM is a "loose term-an umbrella concept used to label a shift from traditional public administration to public management characterized by the use of markets-type mechanisms and business style of managements" (2009: 3).

turn, the notion of state responsibility and the criterion for evaluating its activities and services such as equality, fairness, equity and due process, are diminished.

In justifying its withdrawal and de-regulation agenda, the state claims that “greater accumulation” and a “healthy capitalist economy” are themselves sources of legitimation, “even if people also have uncertainty and risk” (Olin Wright, 2009: 3). At the same time that the state has reduced its role in regulating the market and providing social services, it has ironically become more involved in the market. In Chapter 6 and 7 I show how Amsterdam’s local government has become active in the market, by investing in and promoting urban space as ripe for investment and development. Where governments previously sought to legitimize the capitalist system with social expenditures, they have now turned their attention to investing in those projects that are expected to provide a great financial return on investment. The general assumption is that citizens will reap the rewards of greater state investment, because these investments will translate into jobs and a robust capitalist economy. The state thus legitimizes its investment efforts pointing to the alleged promises of economic rejuvenation and prosperity.

Harvey’s entrepreneurial cities thesis (1989), the global cities thesis and neoliberal gentrification, explore the state’s involvement in the market and emphasize the tension between legitimation and accumulation.³³ These theories heavily are heavily critical of the state’s involvement in the market and the neoliberal ideology that drives it. These critics are quick to point out that the state’s efforts at legitimating the capitalist regime by placing an even greater reliance on the importance of the economy are undermined by the persistent inequalities in wealth that exist in any “healthy capitalist economy.” Widening income gaps make it difficult for people to believe in the redistributive effects of greater capital accumulation. Further undermining the notion of the ‘trickle-down effect’ is the observation that the direct beneficiaries of the state’s investment in urban gentrification projects usually include the factions of the dominant class. The more obvious the role of the dominant class is in constructing these projects, the more it becomes difficult to justify urban plans like Project 1012 to the wider public.

³³ A detailed explanation of these concepts is saved for Chapter 5, when the post-legalization period is elaborated on.

The Dominant Class

The dominant class do not share cohesive value sets and thus are not identifiable by a common set of preferences (Zanotti-Karp, 1970: 277; Smith, 1974). Instead, they are discernible by their success in their respective sectors and their desire and ability to maintain their dominant positions by exerting influence on policy. The dominant class are further recognizable by the way they work together to maintain their positions of authority. As Zanotti-Karp elaborates, individuals that comprise the dominant class are introduced through upper class social networks and interlock themselves to sustain their dominance (1970: 275-295). These interlocking networks of power impose themselves upon the state and challenge the egalitarian aspects of the democratic system, particularly the policy process. The dominant class use greater political access to block opposition and thus hamper the ability for other stakeholders, some of which are more directly impacted, to be politically involved or at least heard in the policy process (Smith, 1974: 1006).

Sections of the dominant class that maintain direct influence over any particular set of policy under investigation form what Pratt calls the “governing class” (1983). The governing class is defined by its ease of political access and influence and is linked to corporate capital, but need not always be wealthy. For example, cultural elites wield a great degree of influence but are not normally perceived as part of the dominant economic class. The point is that there are variables, in addition to one’s relationship to the means of production that affect an individual’s capacity for influence. Indeed, my research shows that class is not the only relational category that determines political influence and power. Gender, sexuality, nationality and race have all factored in to facilitate the recent policy shift. The influence of these additional variables is most clearly shown in the post-legalization period, where non-sex related modes of capital accumulation are privileged over those that are sex-related. Prior to Project 1012, the Red Light District was home to a thriving economy comprised primarily of sex-related businesses. As Chapter 7 will show, a number of moral, political and social discourses aligned to privilege and make space for other less controversial and more mutually supportive types of capital accumulation, such as retail and museums. These types of businesses are thought to attract a “higher end” (Heart of Amsterdam Strategy Paper,

2005) customer that could presumably be shared by all businesses. The high-end customer would visit the museums, eat at the restaurants, shop at the high-end retail stores and appreciate the arts. The brothel visitor, on the other hand, is assumed to not partake in these higher order consumptive practices (Leys, 2003) and is thus not perceived as an ideal visitor or customer (see Chapter 6).

Jessop's description of the notion of formal adequacy supports this argument. Formal adequacy "refers to the correspondence among different forms of the capital relation such that different forms are mutually compatible and together provide the best framework for realizing the overall dynamic of capital accumulation" (Jessop, 2014: 5). The City of Amsterdam sought to adjust its existing visitor base by targeting the "high-end" demographic for tourism and shopping and, in the process, established the framework for a particular type of capital accumulation. Acting in partnership with elites who were keen to invest in the area, Amsterdam's local government used a series of political means (zoning and administrative law) to usher in only those types of businesses that would attract this desired customer base. These observations will be elaborated on in Chapters 5 and 6, the point here is that while class theory does an excellent job of describing how the state serves the purposes of capital, it does not adequately capture inter-class competition that arises as a result of social and moral discourses. Moreover, class theory does not really tell us much about the way that state power can reify these social and moral divisions.

At the same time that class theory can be criticized for economic determinism, it is important not to put the governing class at the center of all political change. Panitch, for instance, argues that we cannot ignore the socio-economic system to which the governing class is embedded, and the "material social relationships" that form the basis of politics, constrain the behavior of the governing class and even create struggles amongst them (Panitch, 1984: 230). However, as I argued in Chapter 2, the attitudes and viewpoints of policy-makers have a strong influence on the content and level of public services (Smith, 1974: 1007), but are not wholly determinative of it. Class structure and dominant moral and social discourses were not the only relevant actors or variables within the policy shift under examination in this dissertation. In chapter 7, I discuss contextual political and structural factors that may have facilitated the creation of ideas

behind Project 1012. In doing so, I highlight the notion that the governing class “themselves are constrained by the overarching set of ideas that specify how the problems facing decision-makers are to be perceived, what goals might be pursued by policy and what sorts of techniques can be used to reach these goals” (Zanotti-Karp 1970: 277). Project 1012 is part of an agenda driving by factions of the dominant class, but their policy preferences, reflected in my interviews and in policy documents, are demonstrative of the rise in populist sentiment and the inculcation of neoliberal and xenophobic ideology.

In general, there are three reasons why the governing class in the post-legalization period had an interest in ridding the RLD of sex-related businesses. First, the international business partners that were part of the governing class were eager to establish their businesses within the RLD and needed to clear existing businesses from the spaces in order to do so. Second, the governing class included political decision-makers that were under pressure for re-election and thus were required to respond to the demands of the European Union to bring the sex industry under greater control. International discourses like the anti-trafficking narrative prevent the sex industry from being seen as a viable contribution to the economy and serve to exclude its members from the elite group that is steering sex work policy within the post-legalization period. Third, the majority of sex-related businesses within the RLD are small businesses that do not attract high-end customers and operate largely outside of the official tax scheme. For this reason they do not offer the same kind of return on investment that large franchise owners and operators would and are underprivileged as a mode of capital accumulation.

In sum, moral, political and economic discourses all heavily factored in to creation and implementation of Project 1012. These discourses functioned to support and legitimize the capitalist regime (by marking sexual dissidents for removal and clearing the space for more commercialism activities) but are not explicitly related to capital accumulation. While these discourses may have been capitalized on, there is no guarantee that these negative stereotypes and stigmas would not persist in a non-capitalist state-society arrangement. In the post-legalization period, factions of the dominant class consciously leveraged the anti-trafficking narrative to their advantage, but other aspects of the Project 1012 policy package are less reflective of the governing class’ purposeful

incorporation of these discourses to justify particular policy ends and more so reflective of unconscious internalization of dominant discourses with respect to the sex worker and racial minorities. When the state reflects these dominant discourses, it is not because it lacks autonomy entirely, but because it is vulnerable to the prevailing balance of forces and the interpretations of the governing class who either use them to their advantage or sustain them.

Both class and elite theory afford some autonomy to the state and, to varying degrees, consider forces other than class to be the root of political change (Higley and Pakulski, 2000: 320). The relative autonomy of the state stands at the heart of the contradiction in the state's capitalist logic. While the state may try to secure the conditions for capital growth, sometimes decisions are made that do just the opposite. Deliberative democracy is a method of political decision-making that requires the state to invite a discussion of values/priorities, which may cause it to re-orient itself to a value set that is different than the neoliberal one, even if only momentarily.

Deliberative Democracy as a Redistribution of Power:

Many deliberative democratic methods cause us to question our assumptions about the role of government, but a central premise underlying deliberative democracy is that the state should first and foremost secure the functional demands of democracy, rather than capitalism. While the state system is currently used in the service of the dominant class, the potential for reform remains because the dominant class does not exert direct control over the state. As Jessop elaborates,

the absence of direct control by the capitalist class over the state means that the development of state projects and policies that favour capital is [still] subject to complex mediations. This means that the normal (or bourgeois democratic) form of capitalist state serves both to promote the interests of capital and to disguise this, rendering capitalist political domination relatively intransparent (Jessop, 2014: 5).

Within the quotation, Jessop suggests that the control of the capitalist class over the state is mediated by a variety of factors. Rather than seeing this mediation as a method for disguising capitalist motivations, I interpret it as the potential for the insertion of more formal mechanisms of mediation that would cause the state to take into account a wider

breadth of interests. Reorganizing the state's institutions to reflect a commitment to inclusivity and experiential knowledge would undermine the paradigm of privilege, whereby powerful minorities are the main architects of policy (Higley and Pakulski, 2000: 320). Deliberative democracy assumes that institutional form has an impact on the ability for "various political forces to pursue particular interests and strategies in specific spatio-temporal contexts through their access to and/or control over given state capacities" (Jessop, 2014: 11). At the same time that I emphasize the importance of institutions, I do not think that a new set of institutions would be entirely sufficient in the fight for sex workers' full citizenship. However, the creation of inclusive political institutions would enable sex workers to combat many of the stereotypes and stigmas that grounds much of sex work policy and may encourage their political participation.

Limits to the Democratic Citizenship of Sex Workers: Heteronormativity

At first glance it appears that sex work is as an example of exaggerated heterosexuality-the female sex worker flaunts her femininity to attract clients and submits herself to the male sexual urge in exchange for a cash payment. Yet where the sex worker engages in heterosexual acts, she often describes it as a performance and ascribes little emotional value to it. By selling sex in this way, the sex worker removes heterosexual sex from the moral sanctity and permissibility bounded by monogamous marriage, where sex is embedded within dominant power relations (McKay, 1999: 52). The sex worker thus poses a challenge to "typical" sexual relations not only because she makes men pay for sex, but also because they must request permission and submit to the terms of the sex worker. At the same time that a sex worker challenges heteronormativity, however, she is also constrained by it.

Sex between two consenting adults for profit remains an outlier activity that challenges a number of social norms regarding sexuality, such as "sex within love" or more simply "sex for reproduction." Indeed, the sale of sex is a concept that continues to make many people uncomfortable and, relatedly, may make people feel uneasy around sex workers and more inclined to discriminate against them and demand the closure of red light districts.

Within the Netherlands, the most common frame of reference for understanding sexuality is still rooted within the Christian-based version of the heterosexual, monogamous family. Indeed, the family is viewed as the vehicle through which sexual and social reproduction occurs and the public good maintained (Young, 2001: 684). Although the policy definition of family may have shifted with the legalization of same-sex marriage in 2000, the normative assumption of the married, heterosexual, monogamous family remains strong within the Netherlands (Heckma, 2009). Despite the presence of policy documents claiming that it is safe to step out and disclose one's sexual identity, preferences and proclivities, the Dutch normative sexual model remains rooted in the Christian ideal of the "faithful and egalitarian couple" that is, preferably, heterosexual (Jivraj and Jong, 2010; Heckma, 2009: 2).

In the past decade, Dutch public discourse has increasingly undermined sexual freedoms and emphasized a more constrained version of sexuality. Heckma elaborates on a long list of legal-sexual concerns emanating from the "nuclear family cabinet," consisting of two Christian parties and Labor between 2007 and 2010 (2009). Below are some of Heckma's examples:

Dutch politicians have suggested that sex education should teach pupils that sex and love belong together, suggesting monogamous couples as the norm. This emerging system is applauded both by the Dutch themselves and by foreigners... The present system with a strengthening taboo on sexual inequalities and the eager promotion of monogamous couples is, according to the Dutch, the pinnacle of liberalism.

Sex work contrasts starkly with the Dutch heteronormativity that is rooted in conservative Christian ideals, as it emphasizes sex for pleasure and profit, not for reproduction. Heteronormativity conceives of marriage and monogamy as the proper place for sex, paints a picture of what a socially acceptable woman should be and labels the sex worker as a deviant on that basis. Throughout the abolitionist movement, which I will describe in greater detail in Chapter 4, countless studies and medical texts described the sex worker body as "distinct from other female bodies, because the prostitute body operated outside the 'reproductive body' and was therefore deviant" (McKay, 1999: 49). The patriarchal morality underlying heteronormativity demands that the wife submit to her husband's sexual desires, birth and raise children and remain out of public life. Sex workers, on the other hand, are independent financially and sexually and thus take direct aim at the

socially hegemonic beliefs that are associated with heteronormativity. Because sex workers get paid for what coupled men expect to get for free (McClintock, 1999: 53) they are a threat both to the family and the power structures that underlie it.

Within a heteronormative frame of reference, the sex worker is also perceived as a hypersexual individual who threatens to undermine familial and social stability. This fear is based on the presumption that a sex worker will seductively lure men into adultery and away from their marital relationships. Fear also rests on the belief that clients will be less likely to enter into “stable” family-based relationships because of the ease of sexual access that the sex industry provides (Ince, 2003). The preservation of the family thus requires the elimination of the “risk” that the sex industry poses. Support for eliminating sex work within Amsterdam’s central neighborhood is at least partially demonstrative of efforts to eliminate the risk that the sex worker is assumed to pose to the heterosexual family. On this same basis, the sex industry is blocked from those political processes that influence the distribution of space. The point here is that at the same time that sex work destabilizes heteronormativity, the stigmatization of the sex worker that results from efforts to exclude and control her is harmful to her entitlement to full citizenship.

Limits to the Democratic Citizenship of Sex Workers: The Whore Stigma

The whore stigma is yet another social force that functions to limit sex workers’ ability to act equally and freely as democratic agents within the political domain. The whore stigma is a concept that captures the multitude of assumptions related to sex work, including but not limited to its inherent risks (danger and disease), the alleged lifelong victimization of sex workers, and/or the threat that sex work poses to the family and the moral order. The fact that it is easy to describe the type of person most people think is a sex worker indicates the strength of the whore stigma. Fundamentally, the whore stigma relies on the belief that sex work is not a normal profession and, thus, those who practice it are not normal either. The whore stigma is best represented by a binary, where the “whore” or sex worker is perceived as everything from a victim to an agent. The closer the sex worker inches towards having agency, however, the more a moral discourse rises that labels her as liminal, as a criminal, a threat and thus as unworthy of citizenship.

These moral dimensions support what Lowman calls “discourses of disposal”: in the media as well as public debate, stereotypes are used to support and reinforce efforts to “get rid of” sex work. As a result, when sex workers truly are victimized, their experiences do not receive the attention they deserve (Lowman, 2000: 987). Moreover, on the basis that the “whore” is thought to embody and promote “degenerate sexuality,” governments, acting as sources of moral leadership, police her in an effort to contain vice and protect the “more respectable” masses (Hubbard, 2012). But the way in which governments seek to limit the “threat” of the sex worker, establish control over the sex industry and advance the moral agenda varies and is not always explicit. As Scoular and O’Neill elaborate:

The moral agenda is less obvious than it was in previous forms of governance, operating not through direct state controls, but by way of a plethora of indirect mechanisms that can translate the goals of political, social and economic authorities into choice and commitments of individuals (2007: 764).

In line with Scoular and O’Neill’s argument, Chapters 6 and 7 show how Amsterdam’s local government is increasingly using implicit “techniques of governance” such as zoning, rather than criminal law, to maintain control over the sex industry. Thus we see how the Dutch moral agenda is executed through the distribution and allocation of space and the whore stigma is inscribed onto the map of Amsterdam.

McClintock (1991) offers a compelling account of the whore stigma’s origins arising in defense of capitalist patriarchy. The standardized Latin term for sex worker is *meretrix*, which means “she who earns” (1991: 79). Essentially, McClintock argues that the sex worker is stigmatized primarily because she earns her own way and thus challenges the male-dominated realm of market exchange. Moreover, by giving women access to their own income, sex work steals the bodies of women from men who are traditionally thought to own them. While we may have moved past the view of women as chattel, the persistence of the whore stigma reflects a degree of entitlement over women’s bodies. Indeed, as McClintock argues, the contempt for the sex worker rests on the view that women are earning money for what men think they should get for free.

There is also a strong link between the whore stigma and cultural racism. As McClintock elaborates:

The invention of racial fetishism became central to the regime of sexual surveillance, while the policing of ‘degenerate sexuality’ became central to the

policing of the ‘dangerous classes’: the working class, the colonized, prostitutes, the Irish, Jews, gays and lesbians, criminals, alcoholics, and the insane. Erotic deviants figured as racial deviants, atavistic throwbacks to a racially primitive moment in human history surviving ominously in the heart of the imperial metropolis (1992: 71).

In a slight twist on McClintock’s argument, it is not the colonized that are considered sexual deviants within Amsterdam, but the migrants who dominate the brothels of the Red Light District (RLD). Eastern European women working within Amsterdam’s industry have become the “living embodiments of promiscuity and excess” (McClintock, 1992) and their continued mistreatment shows that despite their formal political freedom, they continue to live within an imperial metropolis. A further elaboration of the racial dimensions of Amsterdam’s state-led gentrification is saved for Chapter 8, where I discuss in greater detail the impact of migration on the RLD. The central point here, in Chapter 3, is to emphasize that policy-making institutions and polices embody social norms and stigmas.

Limits to Democratic Citizenship: Discrimination against the Foreign National

Since a large part of my research addresses the lives of migrant sex workers, I was careful when using the language of citizenship. Democratic citizenship often assumes legal rights of membership in the state and uses these legal rights to launch demands for full political participation. The problem with associating legal rights with democratic citizenship is that migrants lack legal rights and are denied rights to political participation on this basis. Within the Netherlands, “foreign nationals,”³⁴ as they are described, are allowed to participate in elections at the local level but they are prohibited from doing so at the provincial or national levels (Broeksteeg, 2010).³⁵ Moreover, in order to participate at the local level they must have a valid residence permit and/or have

³⁴ Within the Council of Europe’s Convention on the Participation of Foreigners in Public Life at [the] Local Level, the term “foreign national” is used to describe people who are non-citizens of the state but who are legally present within the borders of the state (Convention, art. 2; Karaman, 2012).

³⁵ The reason for this discrepancy, according to Broeksteeg, is that it is assumed that migrants will politically and ideologically align with their countries of origin, which may be perceived to pose a threat to the nation-state in which they reside. In other words, migrants are assumed to feel a stronger bond of allegiance to their country of origin. This argument is hard to believe. Migrants migrate for many reasons and to expect them to align with a government that they were not satisfied living under is questionable. Moreover, national identity is becoming increasingly undermined by “accelerated processes of globalization, which, it is maintained, reifies the values of the market and deracinate us from our communities of origin” (Bosniak, 2000: 498). The point here is that nationality is only one site of political identity amongst many and people cannot be expected to act in accordance with or in support of the government of their country of origin.

lived in the Netherlands for at least five years (Broeksteeg, 2010). The government argues that this is the time in which individuals are thought to “develop a strong [enough] relationship with the Dutch society” to contribute politically (Broeksteeg, 2010: 6). However, the national government admits that there is little evidence to support such a claim, and that the choice of the length of stay is arbitrary. The five-year designation is further problematic: because of it, a large segment of the migrant population that has resided in the Netherlands for less than five years is excluded from rights of access to the state and to formal political participation.

Moreover, despite being granted the right to run for office at the local level, those without full legal citizenship status are still far from being considered equal political agents or constituents. Increasingly, Broeksteeg argues, political parties are linking citizenship with nationality to underscore the dissimilarities in cultures (2010: 10). With increasing prevalence, Dutch discourses of national belonging are drawing a “distinction between Dutch ‘natives’ and those perceived as ‘foreigners’ living in the country” (Long, 2011: 2). These efforts are rooted in xenophobia and racism, which I discuss in Chapters 6 and 8, but also in what can be described as cultural racism. The term “cultural racism” indicates a process that is less obvious and more paternalistic than traditional racism, yet is not called discrimination because it is perceived as a matter of “treating each person in a way that is deemed appropriate to his or her abilities” (Blaut, 1992: 289). In the case of the migrant sex worker, she is viewed as coming from an impoverished country and thus is thought to be less civilized and less independent. As a result, when she isn’t completely disregarded, she becomes the wealthier host country’s subject of pity and protective measures, ironically undermining her democratic agency, self-determination and ability to represent herself within the policy process. Seen as culturally inferior and inherently victimized, migrant sex workers become second-class citizens, whereby decisions are made not with them but for them.

Migrant sex workers share their exclusion with other foreign nationals. As Chapters 6, 7 and 8 will show, foreign nationals are rarely consulted in local policy-making and state processes representing cultural minorities has been largely dismantled. The trend towards less cultural representation at the local policy level has lead Uitermark (2013) to effectively declare Amsterdam a “post-multicultural city.” He asserts that, “in

Amsterdam, ethnic minorities face fewer opportunities to develop an autonomous base of political power, allowing city officials to dominate policies directed at minority communities” (2013: 2). Although a small segment of foreign nationals may have the right to participate politically, policies continue to be designed and executed in a way that excludes all cultural minorities.

Political Participation as a Human Right

I argue that provisions preventing migrants from becoming politically involved should be contested and that rights to political participation should be granted to foreign nationals on the “basis of their personhood rather than their national affiliation” (Bosniak, 2000: 459). This argument gains its strength from the international human rights regime. International rights regimes can help to structure the space in which to advance our calls for democratic reform and can “provide a vocabulary for making moral claims” (Bosniak, 2000: 468). It is valuable to consider rights to political participation as human rights because human rights, by definition, indicate a “realm of equal standing in a globalized political world by setting limits on the decision-making procedures and actions of national governments and binding standards for international relations and global institutions” (Fox, 1992: 540). In other words, if political participation is seen as a human right, then it gives a legal and normative basis from which to demand that all humans, regardless of their nationality, be given access to political decision-making structures within a democracy. Without acknowledging the legal and social discrepancies between native and foreign born individuals and considering how this discrepancy may affect the application of deliberative democratic standards, then deliberative democracy fails to reach its emancipatory potential.

The right to political participation is part of two central, original, human rights agreements. As Peter elaborates, the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966) both recognize a right to political participation³⁶ (Peter, 2013: 17). The two “foundational instruments” differ

³⁶ Peter provides the following summary of the Article’s premises: Article 21 of the Universal Declaration of Human Rights states: (1) Everyone has the right to take part in the government of his country, directly through freely chosen representatives. (2) Everyone has the right of equal access to public service in his country. (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections that shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures” (Peter,

significantly in that the first is a non-binding statement of principles, but guides international relations and many governments' own frameworks, whereas the Covenant is "a binding treaty...[that]... imposes some obligations on signatory states and includes some compliance mechanisms" (Klein, 2005). In both of these documents, the right to political participation has two parts: an "election clause" and a "take part" clause (Peter, 2012: 17; Steiner 1988: 86).

The debate on whether there should be a human right to democratic participation beyond elections is a topic that has caused a great deal of debate and would benefit from more clearly articulating what the "take part" clause entails. The deliberative democratic ideal can help to fill this gap in human rights theorizing; indeed it rests precisely on the belief that citizens should be active in political affairs and offers several models clearly outlining what their participation should involve. I argue that deliberative democracy is a political method, a way of doing politics and policy-making that best allows for citizens to exercise this human right. Ultimately, however, international human rights regimes only offer some encouragement to states to open their political process to the stakeholders; it is up to civil society to press for change.

Democratic Citizenship and Deliberative Democracy

The sections above emphasized the normative role of citizenship, particularly sexual citizenship, to suggest that efforts aimed at greater political inclusion should be coupled with efforts at greater social, cultural and civic inclusion. Following a discussion of these citizenship ideals, I argued that there are several social and political forces that align to prevent sex industry personnel from achieving full sexual citizenship. Indeed, sex industry personnel and, to a greater extent, sex workers, continue to be stigmatized and seriously discriminated against in the communities in which they live. For those involved in the sex industry to feel as if they fully belong, sex work would have to be widely recognized as a legitimate occupation and those involved would need to be accepted as capable, democratic agents.

2013: 2). The International Covenant on Civil and Political Rights has not only accepted this, but is more demanding. Its Article 25 states that: "Every citizen shall have the right and the opportunity, without ... unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors" (Peter, 2013: 2).

At the same time that I recognize that there is no single or better road in the fight for sex workers' rights, this dissertation stands primarily as a call for the reform of our political institutions in order to fulfill the democratic citizenship component of full sexual citizenship. I equate full citizenship with sexual citizenship in efforts to recognize the limits that societal stigma and discrimination place on a sex worker's aspirations to democratic citizenship. In doing so, I do not intend to undermine the importance of democratic citizenship but rather I aim to emphasize the fact that only once a sex worker is no longer discriminated against on the basis of her perceived sexuality can she be fully accepted as an equal democratic agent.

Deliberative democratic theory aims to reform our democratic institutions by making them more inclusive and engaging and thus bringing a wider variety of people closer to democratic citizenship. The efforts of deliberative democratic practitioners to be inclusive rest upon a concept of citizenship that extends itself beyond the conferring of rights. Deliberative democracy assumes that all citizens are democratic agents, both deserving of inclusion in political processes and capable of participating (although to varying extents). Deliberative democracy requires that we maintain a degree of control over our own affairs and that we retain the possibility of influencing public affairs through participating in meaningful discussion and dialogue (Patten, 2001). In this way, deliberative democracy can be viewed as a political means to fulfill a form of democratic citizenship that includes an appreciation for sexual diversity. Below, I expand on the basic fundamentals of deliberative democracy.

Definition of Deliberative Democracy

Deliberative democracy is a political ideal that requires political decisions to be arrived at through deliberation. To an even greater extent, deliberative democracy holds that political agendas are set in conversation with the public and that political issues are addressed by the state in an open dialogue with the public. However, deliberative democracy is only one political method amongst many that introduces and assesses competing political claims within state decision-making processes. Both participatory democratic theorists and deliberative democratic theorists advocate for greater public participation in state decision-making processes. Deliberative democrats differ, however,

in that they describe in greater detail how inclusive decision-making processes should look and function.

The central binding tenet of deliberative democracy is that following inclusion, parties must subject their own interests/claims to a formally constituted reasoning process known as deliberation. Deliberative dialogue is the process by which all actors submit their arguments to criticism and reason in order to establish an argument's logical validity. At the core of the theory is the quest to construct "valid conclusions" across "conflicting views" (House and Howe, 2000). Generally speaking, deliberations should be freed from outside manipulation. A deliberation that is free from manipulation is one that is absent marketing or strategic ploys that detract from the core of the issues or are aimed at swaying opinion or simply shutting down the process. Deliberations also, to the best extent possible, demand that individuals think and act outside of their self-interest. This does not assume, of course, that individuals can simply shed their self-interest but that they open themselves to persuasion, respect other perspectives and seek to find shared understanding and solutions. If these principles are followed, deliberation can promote shared understanding of issues and produce better, more legitimate decisions (European Institute for Public Participation, 2001).

Origins of Deliberative Democracy as an Amendment to Representative Political Institutions

In the face of the growing disaffection towards representative democracy, the loss of legitimacy of and trust in systems of government and the decline of political participation in many Western countries, there has been growing interest in new modes of citizen engagement; interestingly, this has occurred in different polities and cultures on many continents (Lewanski, 2011).

Deliberative democracy largely grew out of dissatisfaction with our representative political institutions. The quote above refers to what is commonly called the "crisis of democratic legitimacy" (Veneklassen, 2002: 346), wherein citizens feel ill-served by the systems that mobilize their votes and, thus, disengage. Deliberative democratic scholars are motivated to better the system of representative democracy as they observe political power shifting further away from the public and more towards the formal, elite sphere where discussion increasingly takes place "between the private bureaucracies, special

interest associations, parties and public administration” (Habermas, 1989: 176). Relationships between these actors allow for private sector interests to be heard at the expense of others and an imbalanced view of the public interest to emerge. The result, as Patten argues, is that the state assumes that it must act in a manner “to maintain business confidence, [which] will continue to ensure the privileged position of business in state/society relations, and this will continue to reinforce certain anti-democratic tendencies in policy making” (2001: 231). The failure of the existing institutional order to “democratically” manage these new practices of power (Hajer, 2003: 176) suggests the need to forcefully compel politicians and bureaucrats to hear a wider array of interests and perspectives in the design of policy. Chapter 9 includes a discussion about constitutional reform and the institutionalization of mechanisms as a way to make these conversations mandatory. The point here is to argue that deliberative democracy is an active movement of reform that seeks to improve existing representative institutions, such as the policy making process, by relocating political conversations within them (Hajer, 2003). Deliberative democrats do not intend to overthrow the system, as such, but to transform “the culture of our central decision making institutions, such as the policy making system,” (Patten, 2001) by amending them to include more deliberation. Including deliberative democratic mechanisms, such as those I will discuss in detail in Chapter 8, has the power to reposition our representative democratic institutions as centres for collaborative problem-solving, putting political conversations and decision-making in plain sight and offering a balance instead of a bias.

Deliberative Democracy and Democratic Legitimacy

According to Peter, “legitimacy stands for what justifies political authority and the right to rule depends on respecting substantive normative criteria” (2013: 6). Within deliberative democratic theory, the source of legitimate political authority lies in the quality of the democratic relationship that the state has with its people. As Peter points out, “without some right to participate in the deliberative process that constitutes public reason, there is no justification and hence no political legitimacy” (Peter, 2013: 13). Put simply, whether political processes actually include citizens dictates whether processes are deemed legitimate in the eyes of deliberative democratic theorists. Where there are

shortfalls, the deliberative democrat promotes the use of a variety of political mechanisms as a way to open the political process and enable democratic engagement.

However, democratic legitimacy also depends on the “nature and quality of public deliberation” in those instances where it can be said to exist (Patten, 2001: 224). Assessing the democratic quality of deliberations in these instances becomes more complicated. Within the deliberative democratic model, the democratic legitimacy of the decision is argued to be a brand of procedural justice (Kies, 2010: 11, 13). What this means is that the outcome is not considered legitimate simply on the basis of the inclusion of directly affected or interested citizens or its alliance with a set of moral principles, but on whether it followed the procedural rules of deliberation.

The fact that deliberative democrats differ on how they think deliberation should be structured complicates our understanding of legitimacy as an outcome of adherence to procedural rules. For example, some scholars argue that the use of reason is exclusively what qualifies deliberative processes as legitimate whereas others go to greater lengths depending on what they hope deliberative democracy will achieve (Peter, 2007: 2). Feminists, for instance, propose democratic procedures that aim to neutralize power asymmetries within the deliberative process (Cojocaru, 2011: 316). This dissertation, for instance, suggests a number of procedural enhancements to deliberative democratic models born from a consideration of the unique social and cultural challenges sex worker communities face. With the ultimate intention of increasing the emancipatory potential of deliberative democracy, I use a model of deliberative democracy that is not limited to the giving and taking of reasons, but one that offers marginalized individuals the ability to gain greater democratic citizenship in and through the policy process. My judgment of democratic legitimacy thus relies on what I expect deliberative democratic mechanisms to achieve. Thus, before I can begin to evaluate political settings in accordance with deliberative democratic theory, I am required to describe the benefits I believe can be achieved through deliberation. These benefits are what I argue comprise the transformative power of deliberative democracy.

Deliberative Democracy: Benefits

Empowerment

Deliberative democracy boasts a number of potential benefits for sex workers, not the least of which is political empowerment (de Graaf and Boluijt, 2010: 15). By inviting stakeholders to form their own political opinions within the deliberative process, their perspectives are recognized and they are treated as “discursive equals” (Niemeyer, 2011: 127). Deliberative democratic spaces accept all voices as legitimate and encourage respectful dialogue across those spaces. This helps to build the confidence of those who may not have otherwise expressed their opinions in public. Deliberative dialogue may also offer an effective way for citizens to overcome a sense of futility and powerlessness in the face of forces much larger than they are (Holmes, 2011).

Other scholars have critiqued deliberative democratic theory for what it claims is the class bias inherent in the fundamentals of deliberative speech, such as reason and rationality (Young, 2001; Mouffe, 2000). These critics argue that deliberative democracy’s dependence on rationality can sway deliberation in favour of professional elites who are trained in the standards of rational speech making and persuasion, making these models simply another form of elite representation. The difference between a radical democrat, like Mouffe and Young, and a deliberative democrat is that the latter maintains faith that there are certain corrective, democratic procedures that can dim class bias within the process. These procedures will be discussed more fully in the last chapter, Chapter X. In Chapter 9, special consideration is given to systemic barriers and those procedural and theoretical enhancements that could help to improve upon the full and equal participation of sex workers in policy processes.

Essentially, deliberative democracy envisions a political setting where everyone is empowered to speak. This setting would offer the disenfranchised an opportunity to speak against the highly resourceful and moral interests that currently alienate them and dominate the distribution and allocation of space in most cities. Within such an ideal political setting, sex workers could contest those assumptions that target sexual and foreign “others” for eviction and cultural, civic and political exclusion.

At the same time, it must be noted that just because sex workers participate in such processes does not mean that they are guaranteed a favourable outcome. Indeed, deliberative democratic reforms are “prescriptive not predictive,” which means that the mechanisms it offers are not tools for arriving at any determinate outcome to substantive

policy disputes (Chambers, 2003: 317). Regardless, deliberative democracy is empowering for those involved, particularly those who have a history of exclusion, because it gives them the chance to reason as equals and become key players in policy formation.

Empathy and Compassion

Integrating deliberative democratic principles into the policy-making system also has the potential to enhance wider human relations by assisting in the production of empathy and compassion, both of which are important in inspiring joint social action and guiding ethical decision making. In her review of the discourse of compassion within deliberative democratic scholarly work, Fleckenstein defines compassion as “painful emotion occasioned by the awareness of another person’s undeserved misfortune” (2007: 701-702). Similarly, she defines empathy as that which “enables a person simultaneously to identify with and evaluate the suffering of another” (2007: 702). Deliberation helps to produce these emotions because it introduces participants to a wide variety of perspectives and brings into view the life stories of those who may not be well known. Sex workers, in particular, often lament that people do not fully appreciate all aspects of their profession and that discussions on sex work are plagued with misinformation (sexworkersproject.org). The ability to publicly share their stories via the reasoning process would allow sex workers to combat misunderstanding and educate others on the harsh realities of certain policy consequences as well as stigmatization. Meeting sex workers face-to-face and learning about their lived realities, as spoken by them, is likely to garner empathy and cause decision-makers to rethink the circumstances that could be foisted upon sex workers as a result of quick and thoughtless decision-making.

Fleckenstein’s central argument is that compassion and empathy should not be understood to contrast with rationality because they are rational in and of themselves (2007). These emotions help us to connect with people, build alliances and survive in a social world. For this reason they should be understood as fundamental to the deliberative process as they help to unite diverse groups of people in joint action. Since deliberation is intended to produce a shared understanding of the problem and, in some circumstances, drive consensus, the mix of rationality and emotions is fundamental for its success.

Deliberation Challenges Group Ideology

Through the deliberation, those with particular moral convictions will be met with equal, yet contradictory moral perspectives. As a result, religious individuals will be pressed to provide additional rationales in order to build support of their positions. In the process, they may uncover conflicting logics, assumptions and biases. Moreover, the deliberative process reveals a greater breadth of evidence than individuals might otherwise have been exposed to as a result of their own group membership. This new evidence may counter sets of logic that result from group-specific perspectives or ideologies (May, 1993). Also at the individual level, it becomes clearer through the deliberative process that these new, alternative bodies of evidence are connected to real communities of people. This recognition may cause individuals to reconsider their own relationships and join new social circles, thus parting from existing groups. Indeed, the deliberative process is a social exercise that forges new networks and discovers new possibilities for compromise. These offerings may entice people to act outside of predetermined group interests, as individuals or within new partnerships. The point is that deliberative discussion can weaken arguments that are rooted in the values and ends of particular groups (May, 1993: 5), while simultaneously introducing individuals to reasonable positions. Undoubtedly the groups that an individual belongs to can affect their experiences and therefore their contributions to the deliberative process, but these individuals cannot always be expected to think and reason in conformity with group ideology. The possibility of individual agency suggests that even in those instances where there may be strong group solidarity prior to deliberation, the reasoning process can potentially undermine it.

The social element of deliberation also makes it possible to discover shared circumstances across groups. Where political leaders may sometimes emphasize group difference for political gain, the deliberative process tends to unearth commonalities and shared experiences of injustice. Discovering shared experiences lends itself to developing shared reasons, and ultimately, a better argument. Those arguments that highlight the transformative power of deliberative democracy stand apart from the “conventional pluralist picture of democracy as a clash of pre politically formed individual and group

interests” (Kahane, 2011: 3). Instead, these scholars view reasons in relation to the groups to which they belong, but do not think it is impossible for these loyalties or influences to shift as a result of the deliberative process.

Countering Elite Coalitions

The reasoning process can subdue asymmetrical power relations. Essentially the use of reason gives “proper force to arguments that are advanced by all groups, no matter how marginalized” (Knops, 2006: 595). Despite her many criticisms of deliberative democratic theory, Iris Marion Young found that the importance placed on argument is advantageous because it deliberately “privileges reason over power in politics” (2001). In accordance with the better argument, deliberative democracy has the potential to redistribute power. In the same vein, the equal right to request justification for political actions enables people working within the democratic process to peel away layers of manipulation to expose the ulterior motives of elites (Dryzek, 2005). In this way, the greater and more meaningful political inclusion of stakeholders in the policy-making process has the power to counteract measures taken by governments who, responding to powerful elite coalitions, mobilize exclusionary political means to limit the voice of negatively affected stakeholders, maintain positions of power and/or increase state control. If the state were made to justify its decisions more frequently through deliberation, the influence of powerful lobbies on the state may become clearer and, subsequently, can be challenged. Indeed, one of the central goals of deliberative democracy is to replace these private networks of elite accommodation “with more open and fair processes of democratic public consultation” (Patten, 2001: 228).

Policy Efficacy

For those who are less intrigued by the emancipatory or humanitarian potential of deliberative democracy, its models are still desirable because of the effects it is argued to have on policy efficacy (Bohman, 1996; Fishkn, 2000; Mansbridge, 1992; Luskin, 2001; Larsen, 1990: 1; Schindlmayr, Huber and Zelenev, 2007: 10; Young, Gutmann and Thompson 2004; Dryzek 2000; Chambers 2003). These scholars are quick to point out that not only does the inclusion of citizens give them the chance to speak on their own

behalf, but it helps to unearth hidden realities, trends and commonalities, better informing policy decisions in the process. Below, I will expand on the concept of experiential knowledge, which I believe lends support to this claim. I elaborate on this concept further when I discuss the criteria for evaluation and argue that deliberations should, in fact, privilege experiential knowledge.

The concept of experiential knowledge grew out of the epistemological challenge to objectivity and locates the origins of knowledge within direct experience. Such an understanding of knowledge production views every individual as equally capable of contributing to the deliberative process. It also holds, however, that those most connected to an issue have greater knowledge of it. Experience does not automatically validate a position, however. Scott elaborates on the theoretical challenges of experiential knowledge. She argues that scholars too readily use “experience” as a way of expressing truth and that they fail to provide evidence for why “it is known” (1991: 792). In her view, the authority we assign experience ignores the dynamic forces that in and of themselves shape experiences. Her point is that power and politics organize our experience and our interpretations of it and if we assume its authority without recognizing this, we risk reproducing the same power dynamics. Scott’s arguments complicate the push of deliberative democrats to include directly affected stakeholders in political processes on the basis of their experience with an issue.

To acknowledge the subjectivity of experience, we must refrain from granting experience full authority within the deliberative process. Although experience can be taken as evidence, an individual is still required to explain how such evidence supports his or her position. Moreover, providing one set of evidence does not conclude the deliberation. Rather, a multitude of individual experiences are shared and these gain greater weight and validity as commonalities are uncovered. A discussion of one’s experience in relation to others not only helps to uncover commonalities but also shines light on the shared impact of invisible discourses like stigmatization and racialization. Even Scott admits that “discourse by definition is shared” (1991: 793). In this way, Scott’s concern, that the consideration of experience precludes an analysis of the dynamics that shape it, is addressed through the deliberative process. While the deliberative process encourages sharing experiences, it does so for the purpose of

uncovering commonalities, developing a shared understanding of the problem and better informing policy-making. Indeed, to the extent that deliberative democracy encourages sharing experiences to substantiate our reasons, the deliberative process helps to unearth commonalities of experience and can lead to the development of shared reasons. It is when they recognize commonalities that people become “social beings,” which is what Scott refers to as the “unifying aspect of experience” (1991: 785). For instance, if a majority of deliberators discover through deliberation that they are all being wronged by a particular policy, then they might propose its retraction on that premise. Likewise, legislators may be unaware of the perceived negative consequences of a proposal and may be inclined to amend it upon discovering common grievances.

In this way, we see how deliberative democratic mechanisms that incorporate experiential knowledge also benefit policy-makers (Bohman, 1996; Fishkin, 2000; Mansbridge, 1992; Luskin, 2001). Policy scholars have offered two primary reasons for why experiential knowledge enhances policy effectiveness in the long run. First, since it is direct stakeholders who most directly feel the policy shifts in their lives and who are most intimately connected with the costs and benefits of existing policy, including stakeholders in the process better informs policy decisions and makes those decisions more relevant. Arguably, sex workers and sex business entrepreneurs can more clearly articulate to policy-makers the failures or shortcomings of current policy. They can also more accurately anticipate the costs and benefits and/or potential failures of any future policy under discussion. This is because they know the industry, including the general spread of its customers and its changing dynamics. Consequently, the policy recommendations that come as a result of including these stakeholders tend to raise points otherwise not considered in non-sex industry circles and increases the potential for the policy discussion to capture all nuances of the industry.

Greater inclusion in the process also helps to build ownership of the policy outcomes, while simultaneously increasing the policy’s potential for success. Indeed, stakeholder involvement has been shown to give those to whom it applies a sense of ownership over the policies they had a hand in creating (Larsen, 1990: 1). Schindlmayr, Huber and Zelenev’s research shows that participation in policy discussions “enhances people’s stake in societal outcomes” and undoubtedly their interest in the policy process

(2007: 10). A sense of ownership over a policy implies that the stakeholders are not only invested in the policy's development, but also in its successful implementation. Stakeholders invited to deliberate are more likely than those who are not, to feel obliged to adhere to the policy, since it came as a result of a negotiation process of which they were part. To this end, they may feel committed to uphold their end of the bargain. For example, in Chapter 5 I discuss how the Dutch Association of Brothel Owners (SOR) conceded to checking the identification of sex workers within their establishments and supported additional health safety requirements in exchange for the lifting of the *Brothel Ban*. In other words, the interest of stakeholders in seeing through a policy to which they are key contributors is greater than if the policy is imposed from the top down. These elements combine to increase the policy's potential to be more effective. In sum, sharing different perspectives within the deliberative process can help to develop a shared understanding of the problem. That, in turn, can facilitate the series of negotiations and compromises, resulting in a set of mutually acceptable policies that all parties are interested in seeing succeed.

The above-cited benefits have greatly increased the popularity of deliberative democratic theory. So much so, in fact, that some scholars have argued that it has become the dominant paradigm in democratic political theory (Chambers, 2003: 307-308; Chappell, 2007). Despite its dominance, however, there has yet to be a critical discussion of the relationship between sex workers and democracy. In fact, to my knowledge, the very idea of deliberative democracy is absent in the study of sex work.

The Under Utilization of Deliberative Democratic Theory in Sex Work Research

With the exception of Wagenaar and Altink (2006, 2012), whose research will be described below, there is a dearth of research that addresses political processes within the sex work literature. Where arguments for the greater inclusion of sex workers are made, they are rarely situated in a broader analysis of governance structures and political processes. Instead, axiomatic statements about the virtues of inclusion are presented as addendums - rushed conclusions to larger exploratory research questions that are the focus of the work. O'Neil, a prominent sex-work scholar, notes, for example that: "We

need to engage in a process of recognition through inclusion of sex workers and projects in research, debates and dialogue” (2007: 5), but does not advance her observation by addressing how these needs could practically or reasonably be met. Often sex work research simplifies political relations to the debate over whether sex work requires more or less regulation and does not consider how that regulation would take place or how policy should be designed. Sex-worker scholars have long argued that sex workers are excluded from the decision-making processes that determine their lives and that political inclusion is key to their empowerment (Larsen, 1990), but beyond the identification of need, readers are left to ponder who is responsible for answering the need, what exactly inclusion would do, what institutional and procedural requirements are necessary to enable meaningful inclusion and why the political system has, in many cases, yet to be responsive to these needs. Moreover, where sex-work scholars are aware of those discourses that operate in and through political processes that work to stigmatize, discriminate and exclude the sex worker, rarely are these discussions centered around the fact that these processes are part of democratic institutions and therefore should already include and be accountable to stakeholders.

Hendrik Wagenaar (2006, Wagenaar and Altink 2012) helps to fill this gap, as he was one of the first scholars to look at the relationship between democracy and sex work. In 2006, he drew attention to the democratic features of the Dutch legalization processes and his observations inspired some of my research questions. Wagenaar also acted as an academic mentor during my stay in the Netherlands and undoubtedly our conversations influenced the shape of the research questions. My work differs from Wagenaar’s, however, in that I go to greater depths to detail these processes and substantiate the claim that they were initially democratic and later less so. In his 2006 piece Wagenaar hints that there was a reversal in the commitment to policy reform through democratic engagement, but he does not offer much explanation about what, precisely he means by this, or how he assessed this shift. Thus, in many ways, my dissertation picks up from where Wagenaar’s research left off. I draw attention to the way in which the state redirected its efforts from collaborating with all stakeholders, to partnering with capitalist agencies instead. While touching on the morality politics he and Altink speak of (2012), I also show the ways in which discrimination against sex workers has, in fact, worked in favour of the capitalist

interests that are vying for space in the center of the city. My argument augments Wagenaar's insights by examining the social and cultural conditions that combined to create an atmosphere for deliberation in the earlier period and the variables that motivated the rejection of deliberative democratic principles in the latter period. There is a dearth of sex-work research that considers both the effects of policies and the processes that produced them. A deeper consideration of political process requires more closely examining the policy dynamics surrounding sex work, and the placement of sex work within wider bodies of democratic theory, such as deliberative democratic theory.

Conversely, it is surprising that deliberative democrats do not consider the contentious topic of sex work to a greater degree, because one of the fundamental principles that ties most deliberative democrats together is the toleration of opposing views in an "economy of moral disagreement" (Guttman and Thompson, 2003: 7). It is difficult to imagine a topic more morally divisive than sex work; it is a topic that strikes at the core of an individual's value system and, judging by the reactions it receives, it appears on par with topics such as religion and abortion. Deliberative democracy is a theory that offers a number of normative guidelines and practical tools for dealing with divisive and explosive moral topics such as sex work. Indeed, deliberative democrats contend that it is exactly these kinds of explosive moral issues that need to be brought under "democratic control" because, should discussion about them occur outside of controlled parameters, dangerous confrontations could erupt (Dryzek, 2000: 29).

Clearly, there are practical and theoretical benefits to merging deliberative democratic theory with the topic of sex work. Deliberative democracy helps to politically orient our demands for recognition and, as Kahane and Weinstock articulate (2010), boasts a number of decision-making methods and mechanisms that sex-workers' rights activists can advocate for in their demands for political inclusion. As a concept, deliberative democracy has spurred a number of institutions and networks that are dedicated to its implementation and can assist in the initiation of structured deliberative dialogue on sex-work policy issues. But the normative guidelines within deliberative democratic theory can also be used to evaluate political processes in terms of the relationship between sex workers and democracy. Indeed, that is one of the primary objectives of this dissertation. Applying a deliberative democratic lens to the evaluation

of existing or past policy processes allows us to determine whether sex-work-related issues have been democratically managed and whether decisions related to sex work are legitimate. However, there remain a number of challenges to operationalizing deliberative democracy, many of which will be explained below.

Challenges to Operationalizing Deliberative Democracy for Evaluative Purposes

Theory's Wide Scope and the "Proper" Space for Deliberation

With respect to evaluating policy-making processes, the theory's wide scope is its foremost challenge. Deliberative behavior, roughly defined as participation in non-hierarchical and reasoned dialogue (Abel and Fitzgerald, 2010: 259), can, of course, exist across a multitude of organizations both within and outside of government institutions. In fact, some definitions of deliberation are so wide that the scholar could find deliberation everywhere in some form or another (Abel and Fitzgerald, 2010: 259). Taking the challenge of scope into consideration, it may be too brash to label Amsterdam's entire political system as wholly undemocratic or lacking democratic legitimacy based on the exclusion of only one segment of its population from formal decision-making structures. Moreover, many deliberative democrats advocate for critical opinion formation outside of the state and these political actions would not be captured by an analysis that restricted its focus to only one social identity and the formal sphere. Where we look for evidence of deliberation is indicative of where we think it should exist and between whom. Of course, I understand the policy-making process to be one of the most socially and politically consequential institutions and thus look for evidence of deliberation within it. While I acknowledge that democratic deliberation can occur in a number of different realms and democratic citizenship is formed via a multitude of locations, I place normative primacy on the policy-making process. Other deliberative democratic scholars differ in the institutions they prioritize for deliberative democratic reform and in what they believe constitutes a healthy relationship between the state and civil society.

Hendriks argues that deliberative democrats think of the relationship between civil society and the state in two ways: micro and macro. The former "focus[es] on the procedural conditions for structured engagement, whereby civil society collaborates with

the state,” whereas the latter “are interested in the messy and informal deliberation in the public sphere, and advocate that civil society should work discursively outside and against the state” (Hendriks, 2006: 1). Gardiner, for instance, classifies as a micro theorist because he views a separation between civil society and the state within deliberative democratic theory, but argues that both are “sites of impassioned and embodied contestation,” and are constitutive of one another (2004: 44). In the same vein, Outshoorn can be understood as a micro theorist because she argues that the Dutch state’s links with civil society groups supportive of the advancement of women’s rights were the most important assurance of the “accountability of the national machinery itself” (2004b: 7). Habermas, on the other hand, classifies as a macro theorist in that he advocates for inclusive dialogue and opinion formation outside of the state, within what he calls a counter public. He argues that this sphere is distinct from the realm of the formal state, which he asserts is “properly governed” by elected representatives (1998, 246; Gardiner, 2004: 44) but that it holds the state accountable. From this perspective, the absence of inclusion and public participation within the formal political realm is not indicative of an unhealthy democracy, but a healthy counter public.

At the same time, Habermas acknowledges that the counter public has rapidly become depoliticized over the past decades as a result of the growth of public relations firms that both manipulate and shape political opinion. He asserts that there has been a decline in the critical opinion formation within the counter public that has, in turn, enabled the growth of a technocratic, state-centered method of decision-making (Habermas, 1998: 247). In response, Habermas argues for the revitalization of the counter-public. Yet if his accounts of the decline in critical public opinion formation are correct, especially those that presuppose a manipulation of public opinion, then more will be required than a revitalization of the counter public if elected representatives are to be adequately constrained (Gardiner, 2004: 44). Indeed, elected decision makers may not be as receptive to public pressure from counter-publics as Habermas assumes them to be, particularly since they are keen to hold on to their power and have become used to making decisions in the absence of an active, critical public sphere. Because public opinion does not immediately translate into votes and because it often shifts in time for the next election, some politicians may not be persuaded to respond as it evolves. The

intermittent character of democratic accountability within elite, electoral representative systems suggests a need for greater public participation within our formal democratic institutions. The integration of the deliberative democratic principles into formal political systems would demand that both elected and unelected officials subject their reasoning to collective scrutiny. This would hold them accountable on a more continual basis. Rather than positioning the public in opposition to our elected representatives, the goal would be for elected officials to work collaboratively alongside affected stakeholders to design policy. While I recognize that a strong and active civil society and a “responsive government are mutually reinforcing and supportive” (Gaventa, 2002: 30), I argue that the public should not work in opposition to, but with, government. Given this normative position, I assess political activity primarily within formal political institutions. The decision to do so distances my work from that of macro theorists who look to strengthen counter publics as the way to hold governments more accountable. At the same time, I acknowledge that two spheres can positively reinforce one another. Ideally, an active informal sphere holds the state accountable by pressing for state institutions to become closer to the deliberative democratic ideal. As institutions become more responsive to the needs and demands of the people, by more routinely including stakeholders and engaging them in dialogue, the discussions on the inside and the outside become reflections of one another. In the interim, however, nothing is stopping the formal and public realms from peacefully co-existing (Smith, 2009). Indeed, under these circumstances, strong deliberative democratic mechanisms can act as the interface between the publics and the government, creating what Gaventa calls a new “architecture of governance” (2002: 32). The following section, however, discusses reasons as to why people might choose to work outside of, rather than with, the state.

The Choice to Not Participate

The concept of choice can further complicate the efforts to operationalize deliberative democracy in assessing democratic legitimacy. In determining whether there is evidence of inclusive, deliberative democratic dialogue, it is important to consider that a lack of deliberative dialogue may reflect citizens’ choices rather than the deliberate exclusion of the powerless by the state.

While there is evidence that local Dutch governments distrust inclusionary political methods (Michels, 2006: 331), we cannot assume that this distrust is wholly responsible for a lack of political participation. If the wider citizenry is active in political activities outside of the formal political realm, then their absence within these institutions does not necessarily indicate a closed system; it might simply denote a preference for a different mode of politics. Undeniably, choice complicates the ability to judge political systems using deliberative democratic criteria because even if deliberative democrats succeed in opening the system, people may still choose not to engage with the state.

The Choice to Work Outside of the State: Resistance to the Disciplining Power of the State

The disciplining features of the state express themselves through inclusion/exclusion and the assignment of rights. In the post-legalization period, revoking space from the sex industry and denying full labour rights to sex workers quickly illuminated the good/bad business and the good/bad sexual citizen (Cossman, 2003). It is clear that the Dutch state maintains a sexual hierarchy and articulates preferred forms of capitalist activities and sexual relationships. At the center of critical scholarship, there is a great deal of contestation over what methods best disrupt these hierarchies.

In his critical examinations of the law and sexuality, Stychin argues the disenfranchised should not necessarily fight for sexual rights through formal democratic means, as this may normalize the radical nature of their causes (1995; 1996; 2003; 2007). Monro argues that civil groups are co-opted by the state almost unconsciously when they engage in formal political conversations; the civil groups adopt dominant language to frame their understanding and the state manipulates the groups to believe that their desires are being responded to and reflected in policy (2005). For example, by participating within the frame offered by the formal, legal realm, sex workers have had to construct their arguments using a particular terminology and thus have had to filter and moderate their demands. It is difficult, for instance, to articulate within the formal political lexicon the demands for full recognition of sex work as a legitimate profession and the erasure of discrimination and stigmatization. Likewise, sex business

entrepreneurs are unlikely to be able to tackle fully the stigmatization of their businesses within the formal, legal realm. By advancing their claims within these contexts, their arguments are framed in language that is more conducive to and thus more easily absorbed by the state (Lewanski, 2011: 8). Those who fear the risk of co-optation prefer to operate against the state by utilizing adversarial methods of interaction (Young, 2001).

Sex workers' rights advocates are unlikely to shun the opportunity to work with the state, however. For decades, sex workers have been fighting a policy battle to have their profession treated like others. It would be hard to lose sight of this goal or be manipulated into thinking it has been achieved. The only reason that sex-workers' rights activists would likely resist the opportunity to participate in policy-making or other state affairs is because generally, as topics are brought into the formal political sphere, their subjects will be exposed to more and not less state control (Young, 2001). The relative silence of escort workers on Project 1012, for instance, could be explained at least partially by the escort workers' desire to avoid drawing attention to the profession and opening the potential for more regulation of their industry (Interview, VNG: 2011). To escape the regulatory gaze of the state, many sex workers work invisibly and seek to establish safe working conditions independently, without relying on state apparatuses.

Others who may opt out of formal political participation and thus criticize the efforts of deliberative democrats include those who are "rationally ignorant" (Fishkin, 1996). These individuals choose not to participate because they believe that the effort it would take to educate themselves on a policy issue would be greater than the benefit (measured in influence or knowledge) they would gain from participating. As such they remain outside of politics altogether. By extension there are those individuals that may prefer to be involved in small-scale grass-roots initiatives because this is where they feel they can make the strongest impact. Moreover, there are those who refuse to work with the state because they remain skeptical about the state's intentions, or the feasibility and effectiveness of deliberative democratic reform in the formal political sphere (Van Hees, 2008; Dahl, 1989; Fung and Wright, 1995). Based on their own assessments of what is needed to achieve deliberative democratic ideals, they argue that reform would be exhausting and expensive. As will be explained in Chapters 7 and 8, business players may prefer to lobby the government to achieve their policy goals as opposed to engaging

in public deliberation with their opponents, as the former of these two methods avoids the “process mentality” that they claim is wasteful and inefficient (Hunold, 2001).

Others may choose not to participate because they feel as though they don’t belong. The character of policy processes, including the under-representation of certain groups within it, has a strong effect on our thinking about who deserves power. The under-representation of sex workers within formal policy processes, for instance, can be misinterpreted as a reflection of lack of competency and then internalized by people who view these processes as the territory of the “apt.” The result of this internalization is that sex workers may stifle their own ambitions to participate in such processes because they have no positive examples from which to draw inspiration. The point is that while sex workers may desire to participate, there are a number of invisible constraints that may hold them back. As Young (2001) and May (1993) have observed, official opportunities for participation may mask more subtle barriers to engagement. It is necessary, therefore, that when official opportunities for deliberation are presented, those with diverse views are encouraged to join the political conversation.

Is Lack of Participation a Matter of Choice or Barriers?

In light of the reasons described above, one might assume that the sex industry’s limited presence in policy-making processes reflects an active choice on the part of those in the industry. A strong community of activists exists within Amsterdam’s sex scene, but their lack of formal participation within the state should not be interpreted as their preferred option. Many of the sex industry personnel I interviewed expressed the desire to forge a closer relationship with the state or, at the very least wanted to be heard within official policy processes. As will become clear throughout the following chapters, there were a number of barriers erected by elites that prevented sex-industry workers’ full participation in these policy processes. The result was that their claims were not addressed democratically. Abstract, philosophical questions regarding the legitimacy of the state and/or the notion of co-optation remained far removed from the conversations these individuals desired to have with the state in relation to their demands for social and economic equality. Even those segments of society that appeared highly critical of the

state desired the opportunity to change laws and/or regulations or exert some kind of influence over those laws and regulations.

Now that I have addressed some of the central challenges to operationalizing deliberative democratic theory for evaluative purposes, I will turn to a discussion of its features that I consider to be fundamental and which form the basis of my criteria.

Deliberative Democratic Criteria

Deliberative democracy is a mature field of study, but despite its maturity, there is little agreement over what the theory's central normative principles are and which of these principles constitute the democratic minimum³⁷ (Kahane, 2011: 16; Dodd, 2009). Further dispute occurs over those institutional designs and deliberative democratic mechanisms that are said to best encompass democratic minimums. Ultimately the choice of principles and mechanisms has a lot to do with what a scholar identifies as the intention or primary benefits of deliberative democracy. My analysis, for instance, relies upon a basic set of criteria that is predominantly concerned with the emancipatory potential of deliberative democracy. The content of these criteria, therefore, is rooted in the benefits I describe. The presentation and structure of these criteria, on the other hand, are deeply influenced by Stie's (2003) analytic framework that synthesizes the necessary preconditions/criteria for democratic legitimacy.

Similar to Stie, I crafted a checklist for the purposes of evaluation. Together these criteria form a democratic minimum for comparing and evaluating the processes, procedures and products of the two time periods under consideration in my study. The less a process is able to fulfill these criteria, the less its officials can claim its democratic legitimacy. Put crudely, democratic legitimacy depends on the relationship that deliberative democratic principles have with state decision-making. The criteria are as follows and will be elaborated on further below:

1. The presence of an inclusive, deliberative reasoning process: *Proper force is given to all arguments and normative constraints are validated/invalidated by the deliberative process.*

³⁷ The point at which a process can be considered democratic.

- 2. Inclusion of all interested and/or affected stakeholders:** *All those parties and stakeholders who are or could be impacted by a policy decision are included in a deliberative process.*
- 3. The deliberations privilege experiential knowledge:** *Those with direct experience of the issue are considered experts on the matter, are invited to share their experiences and have their stories considered as evidence.*
- 4. Meaningful inclusion:** *The deliberative process is linked to formal decision-making power.*
- 5. Openness and transparency:** *Relevant information and documents used in deliberations are accessible, and opportunities are available for public debate and scrutiny. Communicative action is as honest as possible and free from manipulation and purposeful distortion (Stie, 2003: 10; Gardiner, 2004: 35).*
- 6. The state makes an effort to assemble evidence/information in a neutral and inclusive way.**
- 7. The deliberative process provides structures and procedures for mitigating and balancing asymmetrical power relations and establishing political equality.**
- 8. Deliberative procedures are open to challenge and change:** *Citizens are able to contest the character of existing political processes through formal means.*
- 9. The Political Output is Communicatively Secured:** *A communicatively secured consensus is an outcome that, even if not fully agreed to, is legitimate because all aspects of the proposal have been deliberated in an open and transparent reasoning process that makes tradeoffs apparent and limits the symbolic distortion of preferences. As a result, the output reflects, to the best extent possible, individual preferences post deliberation.*

Not all criteria have to be satisfied at the same time for the policy-making system to exemplify deliberative democratic characteristics, but there is a certain basic level that must be achieved (Stie, 2003). The basic levels are expressed in bold and, as Stie describes them, are necessary conditions. Together, they form the **democratic minimum**. In addition to satisfying these necessary conditions, there are a host of others that determine the *extent* to which deliberative democracy exists (Stie, 2003). These are called sufficient conditions and are in italics beside the necessary conditions. In instances where a process maintains a shallow democratic character, these criteria can act as guideposts for reform. Indeed, the very mechanisms of deliberative democracy have the power to deepen the democratic aspects of policy-making.

The Democratic Minimum

The democratic minimum consists of those functional, societal and procedural requirements that a deliberative democrat deems necessary for fair, democratic and deliberative dialogue to proceed (Dodd, 2009). All deliberative democrats are committed to establishing those procedures that set the stage for the deliberative process. The democratic minimum advanced by theorists differs, however, depending on what the author's ideal engagement looks like and, it has been argued, whether a procedural or a substantive theorist has advanced it. The criteria, as they appear above, most strongly rely on substantive, overarching principles as there is a deep concern not only for the equality of opportunity to participate but those aspects that would best enable the equal and meaningful participation of sex workers and other socially marginalized individuals. Generally, substantive theorists understand the importance of procedure but they also understand deliberation to be more "than merely a set of rules" that helps to establish logical validity (Knops, 2006: 600). I am an almost extreme version of a substantive theorist in that I maintain that additional effort on behalf of those instigating the deliberation may be required if the deliberation is about an equal distribution of power among all participants. Moreover, I argue that for all stakeholders to have an equal place at the table, political equality and "pervasive social change" must accompany procedural amendments. Pervasive social change, of course, requires a consideration of more than

just democratic principles in our institutional design; it requires activism on the basis of equality, justice and citizenship (Estlund, 1999; Stie, 2003: 11).

The strict proceduralists' tendency to avoid questions of equality in their democratic design is what renders these theories too minimalistic according to critics (Gutmann and Thompson 2004: 24). For example, where proceduralists may consider a standard threshold for inclusion, they differ from substantive theorists because they often fail to consider the unique costs and barriers that make democratic participation a challenge for some. By ignoring the context within which democratic procedures operate, strict proceduralists have been accused of operating in a vacuum (Mouffe, 2000). Even the most careful design of a deliberation will not reach its intended outcome if it does not take into consideration those inequalities that prohibit the full and equal participation of those involved. The substantive theorists' agenda, on the other hand, is driven by an appreciation for those constraints that may negatively impact the ideals that deliberative democracy espouses.

At the same time, all procedural requirements are guided in some way by substantive principles, with some theorists exaggerating this overlap in their own theory. Fishkin, for instance, proposed that political processes should privilege both deliberation (procedure) and equality (substance) (Fishkin and Luskin, 2005: 285). Like Fishkin, the democratic minimum that grounds this analysis of Dutch political systems is "fundamentally committed to securing both substantive and procedural principles" (Gutmann and Thompson, 2004: 26). The combination of these two elements is most clear in the fifth criterion: whether there were mechanisms that sought to mitigate the effects of power imbalances across groups. This checklist enables me to meet the dissertation's first objective of evaluating and then contrasting the legalization and post-legalization periods. Now let us turn our attention to the deliberative democratic criteria that will provide a frequent set of references for my analysis.

1. The presence of an inclusive, deliberative reasoning process: *Proper force is given to all arguments, and normative constraints are validated/invalidated by the process.*

Although there is great variety across deliberative democratic theory due to its

growth as a field, the bottom line is that that all arguments leading to a conclusion are defended, tested and criticized during the course of a collective and inclusive process (Chambers, 2004b; Stie, 2003: 5). Reason is defined as the process by which an individual/party systematically submits its validity claims “to the other party’s critical doubts” and rigorously and persuasively defends them (Knops, 2006: 600). All models of deliberative democracy require stakeholders to construct an argument, develop its persuasive potential and then subject it to the criticisms of others to establish its validity. Likewise, political decisions should be validated through a collective reasoning process to be considered democratically legitimate and must be justified to the public using reason. A conversation with respect to the outcomes of the political process is saved for the section “Evaluating the Output of the Deliberative Process.”

With respect to the evaluation, I sought to discover whether all stakeholders were able to submit their rationale and articulate their premises within a formally constituted policy process. I measured the inclusivity of the reasoning or decision-making process by assessing the diversity of opinion³⁸ on the topic and determining whether this variety was reflected or represented in the decision-making process. This wide interpretation of inclusivity differs from the opinions of scholars who are more hesitant to accept and incorporate any and all reasons as valid submissions to the reasoning process. Guttman and Thompson (2004), for instance, justify the exclusion of particular viewpoints from the deliberative process on the basis that these viewpoints violate what they claim should be the “norms of deliberation.” Norms of deliberation are essentially principles that are meant to constrain the reasoning process. To Gutmann and Thompson, the most relevant of these is reciprocity, which requires that discussions be guided by mutual respect and appreciation for diversity, and that arguments are couched in terms that are acceptable to all. They argue that religious perspectives violate the principle of reciprocity because such perspectives maintain a sense of moral superiority and thus tend to automatically invalidate other positions or beliefs. On this basis, Gutmann and Thompson argue that these arguments are non-reciprocal and should be prevented from entering the reasoning process.

Other scholars refrain from placing substantive constraints like “terms acceptable

³⁸ Expressed either in published pieces, internet documents and/or interviews.

to all” on the reasoning process. One reason they do so is that the norms and practices of deliberative democracy should themselves be deliberated (Kahane, 2011: 17) and developed more organically. While deliberative democratic policy-makers can offer ethical guidance and set rules for discussion, it may only confuse participants if they impose demands on participants to couch their arguments in mutually acceptable terms. Never mind that it may take an entire public deliberation to find out what terms everyone finds acceptable. Which terms are non-acceptable are quickly made clear throughout deliberation. Of course mutual respect is important to dialogue, but rarely is mutual respect achieved by imposition; instead, it comes about through a well-facilitated discussion.

Another reason that scholars don’t impose substantive constraints is that it is not necessary to align one’s argument with abstract terms to develop its persuasive potential or make an agreement. Rather than orienting arguments to vague principles such as “social justice,” which all parties are likely to accept, deliberators might benefit more from expanding on the ways in which their proposal could provide an immediate, tangible shared benefit. This more practical and pragmatic approach to deliberation understands that “there often is agreement on result without agreement on the most general theory to account for these; people can even settle on an outcome without agreeing on any supporting rationale” (Kahane, 2011: 11). For example, where religious-based organizations support the abolition of sex work on the basis that their religion has ruled that the only acceptable context for sexual activity is within marriage, other human rights organizations support abolition on the basis that they feel it better protects the human rights of sex workers. The rationale of the two parties does not align, yet they both support the same ultimate outcome: abolition. As Chapters 6 and 7 will show, within the post-legalization period, these two groups have formed an anti-trafficking brigade to advance their abolitionist position. Their alliance demonstrates that, in the drive for solutions, an argument doesn’t necessarily have to be oriented to abstract principles in order for fundamentally diverse moral perspectives to be in agreement or form an alliance.

Taking this argument into account, *all* normative claims and group positions should be admissible as long as they are subject to the critical evaluation of others within

a democratic process. What this means is that no one perspective can try to thwart a public discussion on sex work due to moral underpinnings. Having all positions submit to the reasoning process ensures that even morally contentious and controversial topics can enter the discursive formal, political realm. The diversity of viewpoints included is key to achieving deliberative democracy's transformative potential.

However, an inclusive conception of public reason and a normative commitment to emancipation by government officials does not mean that inequalities are absent from the reasoning process and/or that the reasoning process itself is not distorted (Chambers, 2003). An individual's membership in a group shapes more than his or her preferences, it shapes his or her "treatment within asymmetrical relations of power" (Kahane, 2011). The deliberative process, in practice, can thus never truly be free of relations of power and indeed "reason" is, in itself, a highly contentious concept, as will be explained in Chapter 9. There are, of course, many social and cultural factors that inhibit an honest exchange of reasons which undermine the deliberative process's ability to produce the better argument, secure a consensus (a concept that is explained more fully in the section *Evaluating the Output of the Policy Process*) and/or realize its full emancipatory potential. How deliberative democrats negotiate inequality and difference within political settings is discussed more thoroughly in Chapter 9, and is accompanied with suggestions improvement.³⁹

2. Inclusion of all interested and/or affected stakeholders: *All those parties and stakeholders who are or could be impacted by a policy decision are included in a deliberative process.*

The majority of contributors to the deliberative democratic literature are bound by the central argument that "the legitimacy of democracy [depends] on the extent to which it enables citizens to take part in deliberation concerning collective decision-making"⁴⁰ (Van Hees, 2008: 2). Undeniably a deep tension exists within democratic theory, which depends on the limits that deliberative democrats put on inclusion. On the one hand there

³⁹ For a more thorough discussion on competence, including the ability for citizens to build and present their arguments, see the discussion under the seventh criterion.

⁴⁰ Van Hees, (2008, 1) offers the following list: Benhabib (1996), Cohen (1989), Dahl (1989), Dryzek (2000), Esalter (1986), Fishkin (1991, 1995), Gutmann and Thompson (2004), Habermas (1992), and Rawls (1993).

are those who are satisfied with elite representative democracy and, on the other, there are those who argue that it is the direct stakeholders who should always be making the political decisions. Deliberative democratic theory acknowledges this tension and while it understands that these individuals have been elected via “democratic means,” it also recognizes that the simple presence of a representative does not necessarily guarantee that this person will represent the interests/needs of those who elected him or her. This acknowledgement goes hand in hand with the demand for greater inclusion of direct stakeholders,⁴¹ who ultimately know, better than anyone else, their needs and interests. A more thorough discussion of thresholds as they relate to the sex industry is saved for Chapter 8.

A crucial part of this criterion, however, is that it is not simply enough to extend an invitation to stakeholders, although that would certainly be a start. Rather, in the event that stakeholders do not engage, those in charge of the deliberation should actively seek out a wide array of input in order to ensure that various perspectives are included. For example, a deliberative democratic policy maker should research the variety of available perspectives on sex work and ensure that the broadest range of interests is represented within the deliberative process. In short, an analysis of the extent of how inclusive a process was must necessarily “interrogate whether procedures facilitate the [challenges from various viewpoints]; whether a relevant range of contributors has been canvassed, and whether all relevant challenges and views have been advanced” (Knops, 2006: 611).

In an extension of this argument, Chambers contends that not only should all direct stakeholders be included, but that all minority positions should be listened to and taken into account (Chambers, 2004). What this means is that practitioners should seek to include not only all those who are interested in participating within the deliberative democratic process, but also all of the diverging or minority perspectives that no one may be willing to affirm in the deliberation. This active sourcing of perspectives is especially important given the taboo nature of the topic of sex work. Indeed, not all people may be compelled to represent these arguments in public for fear of running up against dominant moral viewpoints. But by ensuring that various angles are presented, deliberators can be confident that as many perspectives as possible are considered. At the same time, we may

⁴¹ Meaning those who are most likely to be the most affected by the policy.

never know for certain if *all* perspectives have been advanced, particularly since some perspectives may still be developing. For evaluative purposes, then, we must look only to whether officials sought to recruit and/or hear contrasting viewpoints and whether the political decision-making process included a diverse range of perspectives.

3. The deliberations privilege experiential knowledge: *Those with direct experience of the issue are considered experts on the matter, are invited to share their experiences and have their stories considered as evidence.*

Co-existing with the criteria of inclusivity is the assertion that the reasoning process should privilege experiential knowledge. Deliberative democrats, particularly feminist deliberative democrats (Cojocaru, 2011: 316), believe that the relevance of one's contributions to the deliberative process is determined by how close one is to the issue.⁴² As mentioned in Chapter 2, since it is direct stakeholders who are a policy's primary subjects, they feel or risk feeling its effects most strongly in their daily lives. In this sense, they are able to provide a realistic outlook about an existing or proposed policy's risks, consequences and benefits. They are also able to provide information that those who are less connected to the issue may have overlooked. For instance, a sex worker and a brothel owner know more about how the sex industry operates, including its challenges, than do those whose professions exist outside of that realm. Their contributions to the decision-making process are essential if decisions are to adequately respond to existing circumstances and challenges.

The privileging of experiential knowledge stands in contrast to the over-reliance on scholarly work, journalism and commissioned research, all of which are only loosely connected to the broader social context. The more input that is gained from direct stakeholders, the more likely that a full picture of the issue and the networks surrounding

⁴² An individual's closeness to the issue is not determined by their interest in the issue, but by the extent to which their every day life is connected to, and affected by, policy changes related to the issue at hand. For instance, a sex worker's life is necessarily shaped by the policies related to sex work. A brothel worker is too. An individual that lives in close proximity to a RLD, on the other hand, is less close to the issue because they have less of a depth of understanding of sex work. This individual works outside of the industry and returns home to, only on occasion, be disturbed by the 'nuisance' they feel is associated with sex work. Although they may be more emotionally or financially invested in policy change and may be more vocal than sex workers, they are not able to provide the same level of insight as would a sex worker into how the industry operates and what the effects of policy change might be on the everyday lives and health and welfare of those whose profession is the subject of policy.

the issue will emerge. To privilege experiential knowledge, however, policy-makers must do more than actively seek out stakeholder input and merely listen to these views. Although listening is a form of validation in and of itself, deliberative scholars feel that validating experiential knowledge is a psycho-social process requiring that equal credit, if not more credit, be given to the stories, issues and perspectives shared by direct stakeholders. Credit is attributed to these positions only after there is a general acceptance that these individuals have a firmer grounding in the details and thus are the subject matter experts. Appreciating direct experience as “evidence” challenges the culture of the bureaucracy, which rests upon having the facts and analysis provided by those who study the issue, rather than live it. On this note, more radical deliberative democrats argue that the strength of experiential knowledge lies in its ability to “challenge the hegemonic logic of expert knowledge, refuse disciplinary knowledge claims of universal validity, and resist knowledge authority based solely on scientific evidence” (Fenwick, 2003: 1). Engaging direct stakeholders through a deliberative process legitimizes them as a source of knowledge and thus redistributes expert authority. Including direct stakeholders in the policy process pushes aside “experts” such as technocrats and policy experts, who were formerly considered the “more competent parties,” and places them into more facilitative and advisory roles (Stie, 2003: 9). These advisory roles are focused “on providing and mediating knowledge, viewpoints and information,” rather than on developing the options and providing recommendations (Stie, 2003: 9).

4. Meaningful inclusion: *The deliberative process is linked to formal decision-making power.*

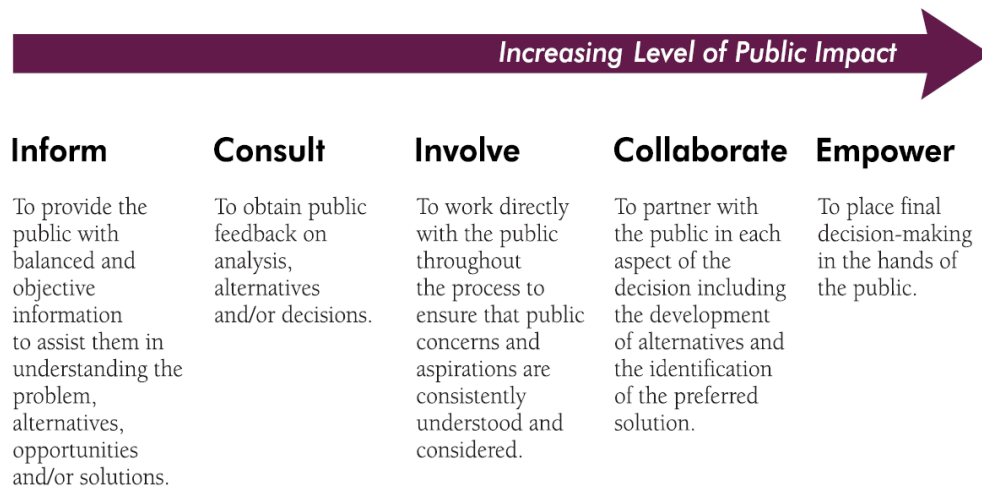
For a process to be considered democratically legitimate, the policy processes in question must not be open only to direct stakeholders; they must have relevance, meaning that they must have “discretionary powers in policy areas that are central and commonly considered important, not just peripheral or second order to a polity’s overall legislative activity” (Chambers, 2003: 16). Connecting deliberations to real decision-making procedures makes participation meaningful and real, “rather than symbolic” (Dryzek, 2000: 29). But those invited to deliberate must also be shown that their aspirations,

demands and interests were taken into account and acted upon by decision-makers.

To make processes meaningful, decision-makers and practitioners must communicate with stakeholders with respect to the objective of deliberation and its outcomes, including in what ways input was/was not incorporated into the final decision and why. The International Association for Public Participation recommends that practitioners identify their purpose for public engagement using the continuum pictured below and then share the expected outcome with stakeholders.

With the exception of “inform,” deliberative democratic dialogue can exist across these levels. A government that is informing, on the other hand, is refusing to engage in a two-way dialogue with citizens. The point here, of course, is to note that the expectations of deliberation can vary. I assert that deliberative democracy should reach for a level of public participation further to the right of the scale. The potential for empowerment via deliberative democratic means is the cornerstone of much of my theorizing.

Figure 5: International Association for Public Participation's Spectrum of Public Participation



If a policy practitioner engages with stakeholders primarily for information, but the stakeholders assume differently, then the stakeholders may feel as if their concerns are going unanswered, causing them to lose faith in the government and disengage. For a deliberation to be meaningful, those who initiate the exchange on behalf of policy-makers or decision-makers must be up front about their reasons for doing so and ensure that they report back to individuals on the influence that their input had on the official decision-making process.

In terms of assessing the two time periods under study, the spectrum is a useful tool that helps to decipher the depth of political inclusion and the level of communication associated with it. That is, of course, in those settings where a degree of inclusion did exist. However, the normative underpinnings of this research cause me to evaluate policy practices on the extent to which they empower. The more sex workers' political input is linked to a final decision, the greater the potential for attaining full political citizenship.

5. Openness and transparency: *relevant information and documents used in deliberations are accessible with opportunities for public debate and scrutiny. Communicative action is as honest as possible and free from manipulation and purposeful distortion (Stie, 2003: 10; Gardiner, 2004: 35).*

Practitioners and policy-makers can help to build faith in our democratic institutions by describing the official decision-making process and by being open with its dealings. Below is a quote from the International Association for Public Participation that describes the importance of clearly defining the decision-making process to stakeholders:

Public participation must follow a logical and transparent process that allows the public to understand how and why the decision was made. It is imperative that everyone – internal, as well as public stakeholders – understand the decision process; so there is a shared understanding of the process and expectations are aligned. Sometimes regulation will prescribe a process; at other times you may have a great deal of flexibility. Whatever your decision process, it must be clear and well understood. The public, like the decision-maker, must gain an increasing understanding of the decision as information, assumptions and choices are made.

Open and transparent decision-making processes are crucial to the integrity and progress of democratic dialogue. The requirement of transparency means that the state should make its own transactions open and its data accessible, via minutes and other methods, so that sources of information, investment and networks of influence are easily determined and open to criticism. This openness and transparency, in turn, make those actors and decision-makers who are involved in the process more accountable to the public.

Transparency is also important insofar as evidence is concerned. All information relied upon during the policy-making process should be made available to the wider public, including research and all other documentation that is not a matter of security or personal privacy. If information is the “currency of democracy,” as Stie argues (2003: 10), then information must also be subject to scrutiny within the reasoning process. What this means is that the logic of various proposals is subjected to the critical reasoning and scrutiny of stakeholders, as well as the research and evidence that are guiding these arguments. When information is subjected to the deliberative process it establishes its relevancy, or lack thereof, and bias and assumptions are exposed. When this happens, the deliberative process elicits the provision of counter evidence from the public, and more balanced, robust information becomes available to the policy process.

In addition to gathering information from many perspectives, the deliberative process requires that arguments be made in terms that each side can access so that a shared standard of inference emerges (Knops, 2006: 606). Information should be easy to

understand and should have its source clearly depicted. A shared standard of inference is integral to developing a shared understanding of the problem, which in turn is a critical first step for effective policy formation (Gutmann and Thompson, 2004). The lack of a shared standard of inference, on the other hand, means that people are failing to understand the premises of one another's arguments or could mean that some actors are deliberately obfuscating in an effort to win over the process. When there is disagreement as to the nature of the problem, then there will necessarily be disagreement about the proposed solutions. To this end, participants who are confused about any aspect of the information or arguments should be welcome to request clarification or raise objections.

6. The state makes an effort to assemble evidence/information in a neutral and inclusive way.

The evidence used in decision-making should be broad in source, clear and reliable. However, there is a great deal of debate regarding who should be responsible for ensuring this kind of informational quality. Some deliberative democrats argue that evidence should be reviewed and/or tested for its clarity through its own preliminary deliberative process, but do not directly charge any one person or organization with setting up this process. Others argue that it is the state that is responsible for slogging through this information and organizing it in a coherent and objective manner for stakeholders. Stie, for instance, argues that it is the state's "duty to present the main points, dilemmas and interrelated issues as clearly as possible" (2003: 11).

The role of the state in deliberation is hotly debated, however. Where Stie assumes there to be potential for the state to be an autonomous, neutral provider of information, others have long argued that the state is an instrument of elites or powerful class interests, and thus cannot be expected or relied upon to scrutinize information for bias and elicit counter evidence from the public (Sweezy, 1942: 243; Domhoff, 1967; 1970; 1980; Barrow, 1993: 13-24). These critics believe that "the functioning of the state is understood in terms of the instrumental exercise of power by people in strategic positions, either directly through the manipulation of state policies or indirectly through the exercise of pressure on the state" (Gold, Lo and Writer, 1975: 34). In this view, the state cannot act as a neutral assistant to deliberation. Add to this that western democracies

are increasingly being regarded as lacking the social license to produce even their own services and information, and the state's role in deliberation becomes even more challenging to define. The state's role is often far from neutral, but this does not detract from the argument that the state should strive to be neutral as a leader of deliberative processes. As I argue throughout the chapters, deliberative democracy opens the space not only for individuals to challenge one another but also for the government itself to be challenged on its own biases.

Governments can build trust through the deliberative process by requiring participants to clearly state their motivations, by disclosing conflicts of interest, by committing their processes they lead to openness and transparency and searching for and presenting a diversity of information. The credibility and reliability of this information could be determined through a state-sponsored preliminary deliberation. This process would require governments to welcome the submission of evidence and invite criticism of it *before* it is used as official supporting evidence. Either the state, or an arms-length agency or advisory board, could be tasked with establishing a rigorous review process to determine the credibility of the information used. Questions that should be asked include: Is the information refereed? Is it from a reputable source? Are stories included that come from those directly involved with the issue? Are there witness accounts? Are there victim impact statements? Have those affected been given a chance to contest the selection of information and provide alternative evidence?

The central goal in answering such questions is to ensure that the decision-making process does not rely on evidence from only one source and that the risks of selectivity and confirmation bias are mitigated. After the agency or the advisory board has organized the information, the information should be presented alongside the topics to be deliberated. Both of these steps allow the body responsible to disconnect the information from its source to address the risk of people relying on information that is propagated by more influential, dominant bodies. By providing a wider breadth of information for consideration, a pre-deliberative assessment of information could help to counter dominant discursive frames. Although frames do not necessarily undermine the credibility of the information, the strong messages they project tend to detract from other sources of information and can undermine the deliberative process. As Chapters 6 and 7

will show, popular media within the Netherlands has played a huge role in disseminating hegemonic ideas about human trafficking and sex-work-related crime. While this framing may appear “objective,” it relies heavily on emotional appeal to get its messages across, has questionable data reliability and provides only a limited range of policy options. These emotionally charged messages tend to cloud judgment, causing individuals to select from the limited range of policy options made available by the frame (Dryzek and Niemeyer, 2011). The aim is not to suggest that there is such a thing as accurate information that reflects a “reality” and that we must seek to uncover it, but to point out that when government itself fails to address how information used within the policy process can be framed and manipulated, it undermines its own credibility as a trusted source. Insofar as the evaluation is concerned, the analysis looked to the breadth of information used in decision-making and the ways in which information was or was not vetted before being used to justify particular policy actions.

7. The deliberative process provides structures and procedures for mitigating and balancing asymmetrical power relations and establishing political equality.

Fung asserts that the deliberative democrats often “play the part of wishful thinking political fools who act in the world as they would like it to be, rather than the world that they actually inhabit” (2005: 399). He is referring here to the underlying inequalities related to wealth, education and expertise (Fung, 2005: 407) that can manifest within the political process and pose a serious challenge to its equality and fairness. Throughout the chapters that follow, I discuss the many barriers that sex workers face, which preclude their being considered as equal democratic agents and which can affect their ability to *equally* harness the potential of deliberative democracy. Indeed, emergent power asymmetries hamper the “ideal of procedure of argumentation whereby all actors adhere to only the force of the better argument” (Stie, 2003: 10).

According to Kahane, power differentials manifest most clearly “in the ability to get issues onto the table or to keep them from being raised” (2011: 15). Inequalities also emerge throughout the process with respect to the underrepresentation of viewpoints and the favoring of “particular styles of communication” (Fung, 2005: 406). Many elites are

skilled in the use of rhetoric, for instance, which helps them to establish superiority within traditional deliberation.⁴³ Other ways in which elites dominate the conversation include appeals to expert authority via the use of highly technical terminology and references to inaccessible bodies of literature. The tendency for policy-makers to rely on technical expertise alienates and humiliates those who are not familiar with it and has been criticized by deliberative democrats as a method used to manipulate the system in favor of the dominant group (Fishkin, 2013). Other more explicit expressions of power include “mounting threats, purchasing compliance, drowning out other perspectives, mobilizing many forms of support and simply privatizing some area of concern out of the domain of public deliberation” (Fung, 2005: 213). For example, purchasing large and expensive advertising and public relations campaigns that operate alongside political deliberation can limit the voice of the less powerful, in the process distorting political communication and deeply undermining the deliberative democratic ideal of open and honest communication.

Inequality also emerges with respect to the capacity to deliberate (Fung, 2005). Young’s term “communicative power” refers to an individual’s relative ability or capacity to construct arguments within dominant modes of discussion (2001). It differs from the more commonly used term “communicative competence,” in that competence “tend[s] to focus on those individuals—or more often groups—seen to lack it,” and neglects to justify criteria for competence (2011: 11). Because “competence” is determined by elites who often certify themselves as such, the use of the term risks naturalizing it and can lead to further exclusion of those who are deemed “incompetent” (Smiley, 1999: 375). The term communicative power, on the other hand, acknowledges that the norms of dialogue are structured by power dynamics and that power is “derived from lacking resources and mobilization to compete effectively in the system as it stands” (Kahane, 2011: 15).

⁴³ These criticisms arise from what scholars like Young (2001) and Mouffe (2000) claim to be the class bias inherent in the fundamentals of deliberative speech, such as reason and rationality. Young argues that deliberative democracy’s dependence on reasoned arguments can sway deliberation in favour of professional elites who are trained in the standards of persuasion and negotiation, making these models simply another form of elite representation. The difference between a radical democrat, like Mouffe and Young, and a deliberative democrat, however, is that the latter maintains faith that there are certain corrective, democratic procedures that can dim class bias within the process. These will be discussed more fully in Chapter 8.

While the principles of deliberation are a critical tool for challenging power distributions, they are not entirely sufficient. But how, practically speaking, should deliberative democratic processes be designed to account for pervasive inequality? The first task for deliberative democrats, Fung claims, is to admit inequality exists and to

accept, perhaps endorse measures to mitigate these advantages in public deliberations. Such a program of deliberate affirmative action might include structured facilitation to ensure open and fair communication and provisions that allow weaker parties to move first in setting agendas or offering proposals (2005: 407).

To this end, there are a number of interventions and mechanisms in addition to the ones already mentioned which may help to mitigate power differentials within the deliberative process. Hiring a state sponsored moderator/facilitator/mediator is one of the most common ways to ensure that practices of domination are lessened within the deliberative process. Neutral facilitators help to “improve the quality of intergroup discussion,” by establishing clarity of process and ensuring that all individuals have a chance to speak (Fung, 2005: 414). Procedural sets-ups alone cannot mitigate the emergence of inequalities through the deliberative process, however. To politically empower those who are marginalized, many activists focus on developing political capacities and challenging dominant modes of argumentation. As Kahane elaborates:

The process of empowerment becomes that of organizing the disenfranchised to bring their grievances into the political process, and this entails training citizens at the grassroots in arts of participation. Along a third dimension, power is exercised by shaping consciousness and awareness “through such mechanisms as socialization, education, media, secrecy, information control, and the shaping of political beliefs and ideologies.” Empowerment thus involves “strategies of awareness building, liberating education, promotion of a critical consciousness, overcoming internalized oppressions, developing indigenous or popular knowledge” (Kahane, 2011: 15 citing Gaventa, 1999: 57)

The facilitator, as previously mentioned, can also help to empower by “providing background materials so that participants will possess a minimum common level of knowledge” (Fung, 2005: 414). Processes that strive for equality also ensure that stakeholders, particularly those from vulnerable populations, are given the practical means by which to participate (via honorariums, for example).

The range of ways in which power can assert itself in deliberative settings is vast and the range of remedies needed is much broader than discussed here. However, the

purpose here was to outline some of the key mechanisms that might indicate an effort on behalf of the government to incite fair and equal participation in decision-making structures. The following questions helped me to determine whether there were efforts to help mitigate or balance these inequities: Were there an equal number of stakeholders present? Are there a greater number of policy experts than stakeholders? Is the engagement informative rather than inclusive? Are the documents that justify the process written in terms that everyone can reasonably understand?

If the general answer was yes, then the process itself demonstrated a fundamental commitment to the substantive principles of political and social equality. In Chapter 9, I explore additional procedural amendments that can assist in equating communicative power within the deliberative process.

8. Deliberative procedures are open to challenge and change: *Citizens are able to contest the character of existing political processes through formal means.*

The reflexive character of deliberative democracy requires the constant justification of political procedures and processes and the ability for citizens to appeal to the broader democratic context should they feel excluded or wronged by the process (Knops, 2006: 606). Participants should be welcome to both challenge and change the procedures of deliberation and decision-making (Knops, 2006: 611) in ways to improve the inclusivity and representativeness of the setting (Young, 2001: 681). It is especially important to open the deliberative procedures to revision, argues Knops, because until marginalized parties experience such processes, they may not contest the processes (2006: 606). A failure to be reflexive indicates a non-deliberative democratic process.

9. The political output is communicatively secured and reflects, to the best extent possible, individual preferences post-deliberation: *A communicatively secured consensus is an outcome that, even if not fully agreed to, is legitimate because all aspects of the proposal have been deliberated in an open and transparent reasoning process that makes*

tradeoffs apparent and limits the symbolic distortion of preferences.

Deliberative democratic theory can be used to assess whether a political decision is democratically legitimate, but deliberative democrats differ in the emphasis they place on policy output in their evaluations. In one camp are those deliberative democrats who hold a more instrumental view of deliberative democracy and argue that one of its central goals is to produce a collectively agreed-upon output. In the other camp are those deliberative democrats whom orient themselves towards producing a consensus, but do not assume it to be the natural, final product of deliberation. Deliberative democrats in this camp tend to employ a more flexible understanding of the term consensus and emphasize the various compromises and positive outputs of the process that may be unrelated to any final decision.

First Camp: A Focus on Consensus and Collective Agreement

The more instrumental view of deliberative democracy holds that a deliberative process should “contribute to fulfilling the central political function of democracy, which is to make good political decisions,” law and policy (Gutmann and Thompson, 2004). Scholars of this persuasion argue that, in coming to decisions, deliberative democracy is superior to the aggregative model of decision because of its epistemic power and because of its effectiveness in addressing contentious moral and cultural issues. These points will be addressed below before turning to a critical discussion of the term consensus.

The “epistemic superiority of deliberative outcomes” rests in the ability of deliberation to overcome framing and symbolic manipulation (Niemeyer, 2011). In the absence of critical reflection, dominant discourses and marketing strategies can manipulate individual preferences by connecting emotional outcomes to certain political pathways. As mentioned earlier, dominant discursive frames offer cognitive shortcuts and artificially limit the range of choices available. The problem with aggregative models of consensus, then, is that they simply add together expressed preferences without consideration as to whether they in fact “properly reflect the ends” that citizens would have liked to achieve (Dryzek and Niemeyer, 2011: 105).

By contrast, deliberative democracy takes direct aim at those forces that try to undermine the transparent and honest nature of “communicative action” by prohibiting the brokerage of financial deals to sway opinion and by limiting the public relations firms (Gardiner, 2004: 35). Deliberative democracy does more than simply aggregate individual preferences, then, it protects the ability for the citizen to critically reflect on her values and the outcomes these various political pathways promise in the absence of manipulation. It does not take preferences as givens, but amends them through collective rationalizing and encourages rational behavior to develop a collective choice (Peter, 2007:9). Through the deliberative process citizens can come to see that a particular set of policy options might represent their underlying desires better than they had thought before deliberation (Dryzek and Niemeyer, 2011). The deliberative process thus helps individuals to “develop positions on issues that extend beyond the readily available set of discourse” (Niemeyer, 2011: 116, Peter, 2007: 20, Fung, 2003). If this is the case, then the outcome arrived at through deliberation is more likely to reflect a real, individual policy preference than one arrived at in its absence.

Second Camp: A Focus on the Process as its own Form of Output

Deliberation is more effective than other political methods in solving moral disagreements because it does not require participants to come prepared to reject an opponent’s views, as do some other political or legal forums. Instead, the deliberative democratic model provides the grounds to listen to a diversity of perspectives and discuss them (Gutmann and Thompson, 1998). Most deliberative democratic models encourage respect for one another and this respect is intended to extend beyond the person to their argument. What this means is that participants can disagree, but that they must still respect the other’s position as valid and worthy of their attention. By placing contentious topics at the heart of the deliberative democratic process, issues are addressed in a cordial and civil way, which is more conducive to agreement than a more adversarial approach.

Scholars within the second camp tend to avoid terms such as consensus and agreement and employ terms such as “collective output,” “rational consensus,” and “collective agreement” when describing political output. These terms focus more on the processes leading to an output than do the singular term “consensus.” By focusing one’s

assessment on the process leading to an output, an evaluator acknowledges that many of the benefits of deliberation can be achieved, even the absence of a traditional consensus. As explained earlier in this chapter, these benefits include but are not limited to empowerment, the countering of elite coalitions, empathy, and policy efficacy. Insofar as the decision reflects, to the best extent possible, individual preferences post-deliberation and demonstrates widely shared reasons to support it (Peter, 2007: 12), then it can be considered legitimate by this camp.

The Problems with Agreement: Masks Dissension and Manipulation

A collective agreement does not, however, always represent a harmonious and collective truth or a definitive right answer (Mouffe, 2000; Young, 2001). To this end, Mouffe and Young argue that any insinuation of a consensus ignores how power plays into the deliberative policy-making process to manipulate preferences and dominate the conversation. If democrats look only to agreements as an indication of a legitimate, deliberative process, then they may overlook the power plays or the dissension that continue long after an agreement has been made. Similarly, marketing and media campaigns may manipulate individual preferences to such a degree that agreements cannot be said to reflect these individuals' real values and aspirations. A good deliberative process would catch these, but it is necessary for this reason to look at both the process and the outcome when assessing legitimacy. It is for these reasons that deliberative democrats are increasingly hesitant to link the deliberative process exclusively to its ability to produce a consensus (Laclau, 1990: 172). Instead, the legitimacy of institutional arrangements is evaluated in terms of its discursive⁴⁴ rather than its epistemic⁴⁵ elements (Peter, 2007: 30). While deliberative democratic policy-makers/practitioners have not stopped short in their pursuit of an agreement (Hansen, 2008: 7; Dryzek and Neimeyer, 2006), evaluators have placed greater value on the learning and series of compromises that result from deliberation. Indeed, the deployment of a wider understanding of consensus, such as that represented by the typology described

⁴⁴ Those aspects that examine the knowledge upon which policy options are based, particularly those that undermine the equal standing of all participants (Niemeyer, 2011).

⁴⁵ Those aspects that see deliberative democracy as a knowledge-producing practice or as having truth-tracking potential (Niemeyer, 2011).

below, offers more room to assess and evaluate the nature of agreements and disagreements that emerged throughout each of these two policy systems.

A Typology of Consensus:

A useful mark for evaluating the outcome of political processes along these lines is Dryzek and Niemeyer's typology of consensus (Dryzek and Niemeyer, 2006: 638). The typology breaks down the traditional term of consensus "into its constituents based on the processes at work when individuals arrive at policy preferences" (2006: 637). The process of consensus formation is represented by moving from the left to the right side of the table. The typology demonstrates that even if full agreement is not reached with respect to individual preferences on a particular policy item, other types of agreements could have emerged throughout the reasoning process. The typology, then, assists in recognizing whether elements of consensus were present, even if the final policy output does not represent a consensus in traditional terms. Conversely, by using this typology, we can also better determine the degree to which a lack of consensus was reflected in political processes under examination (Peter, 2007).

Table 1: Consensus Type

	Value	Belief	Expressed Preference
Type of consensus	Normative Consensus: Agreement on the values that should guide decisions and the behaviors that should predominate (Elwell, 2010).	Epistemic Consensus: Agreement on the potential impact of the policy. A shared standard of inference.	Preference Consensus: Agreement on expressed preference for a policy.
Meta-Counterpart	Recognition of legitimacy of disputed values.	Acceptance of the credibility of various knowledge claims used to support a particular policy or defend a position.	Agreement on the nature and range of disputed choices.

Modified from Dryzek and Niemeyer, 2006: 638

Starting on the bottom left side of the table, a normative meta-consensus is the state where there are competing political positions, but actors nevertheless acknowledge that

they have little influence over one another's position and recognize (and respect) opposing viewpoints as legitimate.⁴⁶ Normative consensus can also refer to the general acceptance of and agreement on high-order principles, such as human rights or liberal democratic principles, but does not indicate agreement with respect to how these principles should be protected or brought into action. Epistemic meta-consensus, on the other hand, refers to agreement about the knowledge claims used to support a particular policy or defend a position (Dryzek and Niemeyer, 2006: 640). Lastly, preference meta-consensus concerns an agreement on the "the range of alternatives considered acceptable" (Dryzek and Niemeyer, 2006: 641), and preference consensus represents a choice amongst these alternatives.

As argued throughout this chapter, the evidence submitted and the range of alternatives offered can be limited deliberatively or by constitutional or legal means. There are many different political routes to achieving a preference consensus and deliberative democracy is but one of the many options available. Essentially, the table shows that while there may be no universal consensus or "meta-consensus" across all groups, there can be agreement on particular aspects of people's positions (Dryzek and Niemeyer, 2006: 639). For example, there may be "dissensus on policy preferences, but there could be agreement on the values" that drove the issue to the policy-making process in this first place (Dryzek and Niemeyer, 2006: 639). Essentially, the typology draws our attention less to an output to which all deliberating citizens agree and more to the disagreements, pragmatic concessions, negotiations and compromises that occur within the political process.

The Communicatively Secured Consensus

A "communicatively secured consensus" is another of Dryzek and Neimeyer's alternative understandings of consensus that can help to assess the legitimacy of a political process and decision in relation to deliberative democracy. A communicatively secured consensus is an outcome that, even if not universally agreed-upon, is legitimate because all aspects of the proposal have been deliberated in an open and transparent

⁴⁶ Dryzek and Neimeyer argue that "values are only legitimate entrants into a normative meta-consensus to the degree that they are not dogmatic; are not fuelled by resentment; do not deny the identity of others, are not private self-regarding desires; do not entail the subordination of others; are not relativists in a refusal to recognize the other and do not appeal to their own superior rationality" (2006: 644).

reasoning process that limits the symbolic distortion of preferences. In such an open and honest⁴⁷ political environment, careful trade-offs are made based on the necessity of exclusion. Dryzek and Niemeyer note that the general acceptance of the outcome, post-deliberation, results from its being recognized as the most favourable (or least disliked) of all alternatives. What this means is that while “the agreement represents a course of action participants can live with; it is not necessarily their first preference, but they realize it is better than the best they are likely to get in the absence of any agreement” (Dryzek and Niemeyer, 2006: 643). A degree of preference exclusion thus remains, but in ideal circumstances the process of exclusion is brought under the direct influence of citizens/stakeholders who participate in decision-making, as opposed to elected politicians or unelected bureaucrats. In her discussions on agnostic deliberative democracy (2000; 2005), Mouffe argues that rather than ignoring exclusions, the deliberative process brings them to the fore and makes the “contingency of their-always temporary-solutions visible” (Hansen, 2008: 8). What this means is that the trade-offs that underpin an agreement are never absolute and thus should always be open to negotiation. Where elected politicians maintain their power is in the decision to open formal deliberative processes when these outcomes, or unintended consequences, are contested.

Summary

Citizenship is an ideal that refers to “community well-being, personal engagement, and democratic fulfillment” (1998: 30). The citizenship of sex workers is best understood using the concept of sexual citizenship. Sexual citizenship takes sexualized identities as its starting point and considers the range of social and economic forces that interact to extend or limit personal and democratic engagement, and a sense of belonging in a community. The political process is but one aspect of sex workers’ lives

⁴⁷ I do not go as far as some deliberative democratic scholars, to claim that a completely honest deliberative environment is possible, where the motivations of all participants are disclosed and hidden agendas are exposed. People may guard personal motivations that are less socially desirable, especially if those desires require a tip in the balance of power in their favour. For example, Gardiner argues that the poor and/or the powerless stand to gain more from deliberations, which causes them to be at a “considerable disadvantage if they accept without reservation the kind of transparency” that some scholars deem necessary for legitimate dialogical outcomes (2004: 37). At the same time, the provision to provide justification for one’s position necessarily requires a degree of self-revelation, even on behalf of the powerless. It is up to the deliberators and the facilitators to create a political setting that accepts a wide array of political motivations. Unfortunately, a more thorough discussion on this subject is not possible within the confines of this dissertation.

that can affect their sense of belonging and democratic fulfillment. The political process can exacerbate feelings of marginalization by excluding sex workers or it can bring them closer to full citizenship by appreciating the knowledge they bring to the table and by enabling them to publicly challenge the sexual norms that constrain and alienate them. As we well know by now, the political realm constitutes only one element of full citizenship. The relationship between an individual and his or her democratic institutions is understood as democratic citizenship, and the character of this relationship is what determines whether the entire political system is democratically legitimate.

In narrowing my attention to the political processes, my intention is not to lose sight of the ideal of sexual citizenship, but to suggest that democratically reforming our political institutions might bring sex industry personnel closer to full democratic citizenship and thus at least somewhat closer to full sexual citizenship. A sex worker's capacity to be engaged in and influence the political decision-making processes affecting her own life is an empowering experience that can imbue her with the confidence to actively take on other processes and discourses that negatively affect her citizenship.

Several social and economic factors function to limit the democratic character of our political processes and the democratic citizenship of sex industry personnel in the process. These include the concentration of power within certain, predominantly, economically dominant groups, a capitalist state and discriminatory discourses that undermine sex industry personnel as independent, capable and worthy democratic agents. A discussion of the state in a capitalist society, on the other hand, demonstrates that influence on the state is intricately connected to capital power. To the extent that the state does not open its processes in order to protect its model of economic growth, the normative drive of deliberative democracy is stunted. Indeed, these factors constrain the policy-making process, causing it to demonstrate non-democratic behavior. Deliberative democratic mechanisms, if integrated into the policy-making process, could help to protect the political process against the powerful effects of these discourses.

To determine the democratic character (or lack thereof) of the policy-making processes under examination and, therefore, the extent of the need for deliberative democratic reform, this chapter operationalized the theory to evaluate existing policy practices. I discussed some of the challenges that might prohibit the operationalization of

deliberative democracy for evaluative purposes, including the theory's wide scope and the existence of an informal sphere that operates outside of the state and thus complicates the assessment of democratic legitimacy. For instance, some scholars point to the active informal sphere to suggest that a lack of participation in the formal political sphere reflects the choice not to participate in the formal political realm (Derrida, 1992; Young, 2000, 1984: 64; Laclau, 2005; Mouffe, 2007). While some of the factors that contribute to such a choice are addressed, I argued that choice alone cannot account for the consistent under-representation of sex workers and sex business entrepreneurs within formal democratic institutions. Moreover, where the choice does exist, the state still holds responsibility for re-engaging citizens, which can be done by adjusting the processes to become more democratic. Deliberative democracy, as it is explained, may understand the state as closed and the citizenry as withdrawn, but it does not deny the possibility of reform.

To conclude, for a policy-making process to attain democratic legitimacy according to deliberative democratic theory, the process must include evidence of a reasoning process across a diversity of stakeholders. It must also be connected to real decision-making power in order to be meaningful. Power asymmetries must be accounted for and mitigated, the information on which decisions are based must be sourced from a wide array of people, the process must be accessible and transparent, the stakes must be clearly stated and, finally, the procedures should be open for continued revision in the face of critique. With these criteria in mind, the next chapter will evaluate the political processes leading to legalization.

CHAPTER 4

HISTORY OF REGULATING SEX WORK IN THE NETHERLANDS AND THE POLITICAL PROCESSES LEADING TO LEGALIZATION

Introduction

This chapter is broken into four sections, each with its own purpose and contribution. The first section begins with a brief historical overview of sex work regulation in the Netherlands to develop the context, identify the trends in the regulation of sex work and illuminate those variables which are, at least in part, responsible for both advancing and later retrenching the state's political tolerance of sex work. Trends include the moral assumptions regarding the sex worker and the notion of the sex worker as a threat. These assumptions are rooted in religious frames that continue to linger in Dutch society. Other trends include the proliferation of divergent policies amongst municipalities after national government reins in its authority to control sex work;⁴⁸ and that repressing sex work results in a waterbed effect, a process whereby commercialized sexual activities emerge in those areas where enforcement is more lax.

The second section explores the rather lax approach to prostitution that dominated the Dutch landscape in the late 20th century. Contrary to popular argument, I argue that this approach (termed *gedogen*) cannot be claimed to be a defining feature of Dutch political culture for several reasons. First, it was not a deliberate and coordinated approach. Second, it has not been a stable feature nor has the reasoning behind it been clearly articulated, which would be necessary for it to be considered a cultural attribute. The point is that brothels were not “allowed” to exist per se, nor were they socially accepted, but that the political system itself was not equipped to adequately deal with the issue and agree upon how to approach it. As a result, sex work was effectively ignored. The cultural purchase of a catchall term like *gedogen* is therefore undermined, and it becomes more appropriate to understand the term as one which explains the shifting Dutch approaches to sex work at any given point.

⁴⁸ The political and social effects of policy fragmentation will be discussed in light of the more contemporary context.

Eventually, the Dutch political system was forced to develop a position on sex work. The failure to enforce the law and the weakness of the law itself were major sources of anxiety for the Dutch Nation state, which was under pressure from international human rights bodies and the international women's organizations. The ruling coalition at the time no longer maintained a religious standpoint and thus was able to approach social issues in a more open manner than its Christian Democratic predecessor.

The third section turns our attention to the policy-making processes leading to the lifting of the *Brothel Ban* (also referred to as legalization). In an effort to determine the persuasive potential for legalization and, in the event that it was plausible, help shape the content of the bill, the national policy-making system momentarily opened its doors to a wider breadth of perspectives, breaking from its ties to the elite. The deliberative processes were state sanctioned and included six regional deliberation sessions and more than a dozen workshops throughout the country between 1998 and 1999. Relying primarily on individual accounts of these processes, I analyze them with respect to deliberative democratic criteria outlined in Chapter 3 and focus primarily on the integration of deliberative democratic principles rather than deduce the character of the process through the use of any particular type of format or mechanism.

For ease of reference, I have repeated, below, the criteria elaborated on in Chapter 3:

- The presence of an inclusive, deliberative reasoning process: Proper force is given to all arguments and normative constraints are validated/invalidated by the deliberative process.
- Inclusion of all interested and/or affected stakeholders: All those parties and stakeholders who are or could be impacted by a policy decision are included in a deliberative process.
- The deliberations privilege experiential knowledge: Those with direct experience of the issue are considered experts on the matter, and are invited to share their experiences and have their stories considered as evidence.
- Meaningful inclusion: The deliberative process is linked to formal decision-making power.
- Openness and transparency: relevant information and documents used in deliberations are accessible with opportunities for public debate and scrutiny. Communicative action is as honest as possible and free from manipulation and purposeful distortion (Stie, 2003: 10; Gardiner, 2004: 35).
- The state makes an effort to assemble evidence/information in a neutral and inclusive way.

- The deliberative process provides structures and procedures for mitigating and balancing asymmetrical power relations and establishing political equality.
- Deliberative procedures are open to challenge and change: citizens are able to contest the character of existing political processes through formal means.
- The political output is communicatively secured: A communicatively secured consensus is an outcome that, even if not everyone fully agrees to it, is legitimate because all aspects of the proposal have been deliberated in an open and transparent reasoning process that makes tradeoffs apparent and limits the symbolic distortion of preferences. As a result, to the best extent possible, the output reflects individual preferences post-deliberation.

In line with these criteria, the chapter qualifies the first of these deliberative processes as democratically legitimate because reason, inclusivity, meaningfulness, openness and transparency featured prominently. The processes' leaders actively sought out direct stakeholders and those involved in the industry. Additionally, a great deal of effort was made to include experiential knowledge. In fact, the moderator pronounced his appreciation for marginalized knowledge and thus contributed to balancing asymmetrical power relations. The deliberative democratic character was also obvious from the series of compromises and agreements that were made, which demonstrated at least a momentary willingness on behalf of regular opponents to suspend their self-interest in efforts to reach a shared outcome. Through these deliberative processes emerged a shared understanding of the problem: the status quo. Two years after the deliberations began, all of the parties involved determined that it was necessary to draft and pass a bill to remove the *Brothel Ban*.

The input from the national deliberations was submitted to a Parliamentary Standing Committee on Justice and was used to create the bill that the ruling coalition later submitted. Shortly thereafter, political parties began to debate and propose amendments to the bill. The latter of these political processes — the parliamentary process — was not so clearly deliberatively democratic, yet still satisfied a number of the criteria outlined. I recognize that there are significant implications to defining the parliamentary process as deliberative democratic because it is occupied primarily by elites and thus suggests an elite representative democracy more so than an inclusive, deliberative democratic policy-making system. The relationship between parliamentary process and deliberative democracy is out of the scope of this dissertation, yet is under-theorized in the literature and represents a significant opportunity for future research. It is

important to point out, however, that in this particular case, the parliamentary process was linked directly to a set of deliberations and thus relied more heavily on engagement and public input than do typical parliamentary processes. Moreover, the political parties canvassed opposing sides and commissioned research from a diversity of perspectives. The parliamentary process also involved a series of agreements and negotiations that demonstrate an epistemic level of agreement as reflected in Dryzek and Niemeyer's typology of consensus (see Chapter 3). In addition, parliamentary processes exemplified reasoning and were transparent, to the extent that all minutes were made available for viewing. Throughout both of these processes, several of the benefits of deliberative democracy were realized, such as the building of trust, empathy, and policy ownership. When taken together, these two processes that served to lift the *Brothel Ban* resulted in a communicatively secured consensus. Although not everyone fully agreed to legalization, it was nonetheless perceived of as legitimate because all aspects of the proposal were deliberated in an open and transparent reasoning process that made tradeoffs apparent and limited — to the best extent possible — the manipulative distortion of preferences.

In addition to describing the democratic qualities of this policy period, the chapter elaborates on what caused these policy-making processes to take on their uniquely democratic character. The chapter explores those factors that combined in unique ways to legitimize sex industry personnel, particularly sex workers, as agents worthy of democratic inclusion. Factors leading to their participation in the process included, but were not limited to the creation of a strong human rights frame, the solidification of an active women's policy coalition, a history of corporatism, and an effective moderator.

The last section addresses some of the immediate political outcomes and consequences of the lifting of the *Brothel Ban*. The most significant outcome of legalization was that it officially decentralized sex-work policy-making by declaring that all subsequent regulations governing brothels were to be designed and administered at the local level. As the municipalities defined their positions on sex work, they faced considerable popular backlash and yet were not well supported by higher orders of government. The result has been an inconsistent regulatory approach across the country, with several municipalities trying to minimize rather than normalize the sex industry through regulation. In this way, the intent of legalization has been undermined.

Ultimately, I argue that satisfying a number of the deliberative democratic criteria outlined in the theory chapter at least partially qualifies the Netherlands as democratically legitimate, but that the failure to sustain these deliberations will result in the policy's eventual undoing.

Section 1: Brief History of Sex Work in Amsterdam

With the criteria from Chapter 3 in mind, I now turn to outlining a brief history of the regulation of sex work in Amsterdam. The purpose of providing this history is to illuminate the continuing policy trends in the regulation of sex work/the sex worker, highlight those inclusive decision-making processes and policies that momentarily deviated from the norm, and analyze this change. At first glance we see that even as far back as the 1800s, the state made the Red Light District (RLD) the target of sex work policy reform. The RLD's location, size and visibility have been deeply affected by the history and politics of sex work and "by centuries of intervention and non-intervention" (Aalbers and Deinema, 2012: 130). As Hubbard eloquently puts it, the history of the RLD is "interwoven with wider histories of propriety and property, with the creation of visible yet contained areas of vice- a key strategy of urban ordering" (2012: 197). The surveillance of sex workers, the political containment of brothels and the manipulation of the RLD's boundaries have been central to the way in which the City of Amsterdam has organized and controlled the RLD and, relatedly, sex workers. Although the objectives and measures of state intervention have changed over time, it is sex workers who have consistently suffered the most at the hands of the state. Indeed the history of the RLD is, in part, defined by a tenuous, untrusting and controlling relationship between the state and the sex worker.

In Chapter 5, it becomes clear how this historical relationship is reproduced through modern state intervention. To account for the history of state-instigated injustice in my evaluation, I place a high degree of importance on the consequences that contemporary policies have on sex workers. One of the central purposes of this chapter, however, is to identify those historical practices of urban control that have isolated, controlled and punished the sex worker. By highlighting these patterns of domination and control I demonstrate that legalization stands as a unique moment of empowerment

amidst a standard of oppression. However, the history that is shared in the following paragraphs differs from widespread assumptions about the liberal nature of the RLD and the more common understanding of the Dutch government's approach to the RLD.

To many westerners, Amsterdam stands as an ideological and political symbol of sex work, and is commonly viewed as a bastion of liberalism as far as alternative, quasi-legal, morally contentious activities are concerned. Over the past few centuries, however, intense political battles about morality and the place of sex work in Dutch society have caused public policy regarding sex work to shift. Sex work scholars have conceptualized the politics of sex work, situating it on a continuum ranging from support for abolishing it, to tolerating and regulating it (Carrigg, 2008: 7). In the early 15th century, for instance, "the sale of sex was recognized as a necessary, and therefore tolerated, evil by the City of Amsterdam" (Brants, 1998: 621). Spring forward to the 19th century, however, and brothels were viewed as houses of ill repute and the "women within them considered slaves" (De Vries, 1999: 145). Indeed, the necessity of sex work, as described by the City of Amsterdam, was a notion that was vehemently disputed by 20th century second-wave feminist philosophers and activists who criticized the alleged "insatiable" male sexual urge as a concept that was damaging to women's right to self-determination (Brants, 1998).

The history of sex work has been framed in a number of ways. For example, De Vries structures her historical explanation of sex work politics around the first, second, and third waves of feminism (1999: 152). However, the Dutch history of sex work is complex and interwoven with a number of other political battles in addition to those articulated through the women's movement. Bossenbroek and Kompagnie's study, on the other hand, looks more broadly at the brothel's role over the 19th century and the changing public, political and legal attitudes towards brothels in general (1998). Taken together, these analyses show how sex work, the sex worker and brothels are subjects that have shifted in the public consciousness from being tolerated to regulated to governed and/or normalized, to being condemned. Obviously it is not possible within this chapter to capture all the historic ebbs and flows of Dutch sex-work politics. The intention, rather, is to show the motivations behind these earlier public interventions and discuss

their effects on the sex industry, so that similarities can later be drawn to the RLD's more contemporary context.

1811-1878: The Appearance of Brothels

The first period distinguished by Bossenbroek and Kompagnie includes the introduction of the Penal Code during the French occupation of the Netherlands between 1810-1813. Under the Penal Code, the procurement of minors was made illegal, yet the sale of sex itself was not (Koski, 2007: 10). The French instituted a “national system of regimentation” whereby they routinely inspected sex workers’ bodies out of concern only for the health of the French soldiers occupying the country (Koski, 2007: 10; Bossenbroek and Kompagnie, 1998). During this time, most sex work was concentrated in and along Amsterdam’s main canal and this location was the focal point for regulatory efforts. When sexually transmitted infections such as syphilis surfaced, and began to spread rapidly, it was deemed a priority to gain control of the sex industry and the RLD more particularly (De Vries, 1999: 1). To do so, the French military deployed physically intrusive and humiliating methods. Authorities approached sex workers at random and required that all sex workers carry cards issued from central/national headquarters to show that they were both healthy and compliant (Koski, 2007). At the same time, the French authorities failed to inspect men for the very same infections, effectively shifting the blame for any outbreak entirely to the women (De Vries, 1999: 1). Thus, while sex work was not necessarily made illegal by the Penal Code, it remained heavily regulated by a French state that upheld a view of sex workers as “the vectors of disease” who posed a risk to the more respected general population (Saraswathi Seshu, 2008: 1).

In the years following the French withdrawal, remnants of the national regulatory system would be transferred to the municipalities (Koski, 2007: 10). Municipalities took over the administration of health cards and conducted routine medical check-ups (De Vries, 1999; Bossenbroek Kompagnie, 1998). Without France’s introduction of the Penal Code, however, the illegal aspects of sex work would have remained undefined and Dutch local authorities would not have been given the opportunity to develop new forms of discipline and control over the “public woman” (De Vries, 1999). It was around this time that religious organizations began trying to use the law to reinforce conservative

sexual standards by punishing deviant behavior. These efforts triggered the onset of what Aalbers and Deinema describe as the morality offensive, through which the regulation of sex work also served to police extramarital affairs (Aalbers and Deinema, 2012: 132). No longer was the intention only to protect soldiers from sexually transmitted infections but also to protect the more virtuous (and married) woman.

Bossenbroek and Kompagnie (1998) argued that both routine and random checkups on sex workers continued on a monthly basis, whereas De Vries (1999) identified a bi-weekly schedule. The divergence in the authors' findings suggest that there was variation across Dutch municipalities with regard to the extent of regulatory enforcement, although the regulatory practice shared the motivation of protecting the more "moral" being from the "public woman" (De Vries, 1999: 150, 2011: 1). There is also historical evidence of some municipalities requiring brothel employees and/or owners to empty ashtrays (De Vries, 1999: 145). These rules are interesting because they broke from the focus on protecting the health of the customer and suggest recognition of the need to provide for a safe and clean living environment for sex workers. On the other hand, and more simply, the motivation behind such regulations could have been to protect the buildings from the threat of fire. De Vries, for instance, argues that no matter how ambiguous the regulations were during this time, they enabled the surveillance of these establishments. In other words, the laws were not about recognizing the right of the sex worker to work with dignity, but rather providing authority to officers to enter buildings at will, inspect the women and the premises at their leisure and investigate any potentially harmful or "suspicious activity" (De Vries, 1999: 145). Municipalities also differed with respect to how explicit brothel operators were allowed to be regarding the sale of sex within their establishments. For instance, some cities required brothels to maintain a front as a playhouse (where people come to play cards and dance), whereas others were more lax concerning the public reputation of the venues, with governments even inviting visiting dignitaries to tour them (Lotte van der Pol, 1996: 223-224). The operating hours and the number of brothels that were permitted within each city also differed (Lotte van der Pol, 1996: 223-224).

These municipal peculiarities demonstrate a lack of national standardization (De Vries, 2011: 1) that mimics the complex system of sex work regulation in existence more

than two centuries later. As will be shown near the end of this chapter, the decentralization of sex-work policy following legalization also resulted in the lack of a cohesive, national policy framework. Evidently, when the national government reins in its authority to control sex work, the most immediate effect is the proliferation of divergent policies amongst municipalities.⁴⁹

The regulation of sex work by a number of informal, local mechanisms during the 19th century complemented the rather loose acceptance of sex work in the Penal Code, in that it attributed at least some legitimacy to the profession (Petra De Vries, 2011: 2; Brants, 1998; Bossenbroek and Kompagnie, 1998). Sex work existed quite openly and its illegal status did not attract much enforcement during this time. The leniency of enforcement however, was not indicative of any kind of social or political acceptance of sex work. Rather, most historical accounts show that sex work remained on the fringes of Dutch society and that women/men who worked in the sex industry were treated harshly by society (Koski, 2007). Petra Timmermans, a Netherlands-based campaigner for the human rights of sex workers and the coordinator of the International Committee on the Rights of Sex Workers in Europe (ICRSE), argues that there is a long and “horrific history of violence towards sex workers in the Netherlands...that is inextricably bound up in social attitudes” (Jackson, 2006).

Similarly, in a historical analysis of the 1860 parliamentary debates, De Vries found that the boundary between the “public woman” and other more respectable women was emphasized (good/bad; Madonna/whore) (1999: 150, 2011: 1). According to De Vries, a number of political, social and scientific discourses articulated the sex worker in opposition to the “normal woman” (2011: 2). As she succinctly put it: “The ideal of the real woman was as it were, together with its mirror image: the shameless, frivolous, noisy, rude and sinful variant - the whore” (1999: 148). The “whore” was allowed insofar as she did not challenge her stigmatized status. Ironically, the whore stigma functioned to socially ostracize the sex worker even as commercial sexual transactions enjoyed political acceptance.

The sex industry moved from being the target of public persecution to the centre of public policy concern, however, when sex work became more visible in cities

⁴⁹ The political and social effects of policy fragmentation will be discussed in light of the more contemporary context.

including Amsterdam and the Hague,⁵⁰ and when migrant sex workers began to occupy their ranks. The influx of migrant sex workers, particularly “Blonde haired German loreleys,” provoked a stern public reaction (Bossenbroek and Kompagnie, 1998: 5). According to Bossenbroek and Kompagnie’s research, higher levels of migration coincided with higher claims of public nuisance and a push to abolish sex work, at least in its most visible form. These findings share an uncanny resemblance with my own research regarding the reactions of Dutch citizens to migrant workers more than 150 years later. In the 21st century, the policy of tolerating sex work faced increased criticism around the same time that the RLD became visibly dominated by migrant sex workers.⁵¹ This similarity demonstrates that negative perceptions of the sex industry depend, at least to some degree, on the nationality of those who practice within it. The message that only a Dutch sex worker can be empowered pervades contemporary considerations of sex work. More detailed observations regarding this point are saved for the section on racial discourse in Chapter 7.

Returning our attention to the earlier period, we see that while the Dutch public took issue with the nationality of sex workers, the most vocal opposition to brothels and sex work in general came from those who organized on behalf of religious and moral principle. Establishing itself within the early 1600s, the Christian morality offensive was a national campaign for the reformation of society that

...encompassed an extraordinary range of activities—from private prayers to parliamentary legislation... Its main aims were the punishment of dissolute behavior; the provision, where necessary, of new laws against vice, and the general improvement of religious and moral standards in public and private life...
... Illicit sex between men and women was a primary focus of the metropolitan campaign (Dabhhoiwala, 2007: 290).

Generally, its advocates sought to prosecute “immorality,” such as sex work, using secular law, public persecution and shaming. Although the Christian morality offensive was strongest in the 1600s and declined steadily thereafter, several of its committed members would routinely try to resurrect it within sex-work debates. In 1878, country parson Heldring and his successor H. Pierson mounted a public battle against sex work,

⁵⁰ Not the capital of the Netherlands but where the Dutch Parliament is held.

⁵¹ I use the term “visibly” here, to portray what must have been a noticeable arrival of racialized persons to work within the RLD that had, up until that point, been predominantly white. It was during this time that there was an influx of sex workers from Latin America, South East Asia and Africa (Aalbers and Sabat, 2012: 11 and Marchand, Reid and Berents, 2010: 4).

claiming it to be not only the epitome of indecent behavior but also contributing to the proliferation of oppression. De Vries contends that as Christians broadened their criticism of sex work, it transformed the “problem” of sex work from one of “hygiene and the regulation of sex work to a mission to ‘rescue prostitutes’” (De Vries 1999; 2011: 1). The urge to rescue the sex worker brought Christians and abolitionist feminists together. International, abolitionist feminist networks began to work alongside moral crusaders to articulate a strong position against brothels under what was known as the abolitionist front.⁵² Josephine Butler, perhaps the most famous, abolitionist feminist⁵³ at the time, considered sex work a form of slavery and the regulations and tolerance of brothels “the ‘legitimate’ form thereof” (De Vries, 1999). On this basis, the two groups lobbied the municipalities to re-impose decency standards and shut down the brothels (De Vries, 1999: 152).

1878-1911: The Disappearance of Brothels (Bossenbroek and Kompagnie, 1998)

The abolitionist front informed the beginnings of the European anti-trafficking movement. Although the anti-trafficking movement focused on only one aspect of the industry — the coercive white slave trade — it highlighted the general risks of sex work and supported the case for abolition. Thus, anti-trafficking initiatives were only one part of the overall move to eliminate sex work. Indeed, as the movement against trafficking grew, it played a critical role in solidifying the alliances between church and state and strengthening the abolitionist front (De Vries, 1999: 150). The establishment of the 1902 Paris Protocol was emblematic of the state’s commitment to anti-trafficking and suggests the influence of the abolitionist front on its dealings with sex work. The Paris Protocol was an international, cooperative agreement that sought to eradicate sex trafficking and would come to form the basis for criminal law against trafficking in women in the nine signatory countries, including but not limited to the Netherlands, France, Germany, Great Britain and Russia (Deflam, 2004: 69).

However, the anti-trafficking movement “forwarded seemingly contradictory viewpoints” (De Vries, 1999: 150) as far as the sex worker was concerned. On the one

⁵² A word that recalls the struggle for the abolition of slavery.

⁵³ Butler led the long “campaign for the repeal of the Contagious Diseases Acts both in Britain and internationally from 1869 to 1886” (Boyd, 1992).

hand, brothel owners were likened to white slave owners, a framing that cast them as criminals and the sex worker as a victim and, on the other, sex workers were viewed as disruptive and as an aggressive challenge to the sanctity of the family (Aalbers and Deinema, 2011: 6). The assumption of the sex worker as both agent and victim caused her to feel all the negative effects of the whore stigma. She was treated with both contempt and pity during this time. In 1911, the moral condemnation of sex work combined with the perceived need to rescue the sex worker led to Minister of Justice Regout proposing two articles, 250bis and 250ter, as part of the Christian Morality Offensive. As Jansen argues, the offensive used a widely accepted preamble to justify interference “where possible, in the public life” (Jansen, 2013: 17). The legal ban on brothels, referenced as Article 250 bis (brothels) and 250 ter (women) in the Dutch Penal Code (Dutch National Rapporteur, 2002: 15), criminalized the maintenance of brothels and pimping and leveraged six-to-eight-year prison sentences as penalties (Jansen, 2013: 17).⁵⁴ In addition to the ban on pimping and running a brothel, a provision was “included in the Criminal Code (Article 250ter) which prohibited trafficking in women and girls for prostitution” (Dutch National Rapporteur on Trafficking in Human Beings, 2005). The bills passed on March 2, 1911. Since they were proposed under a confessional cabinet⁵⁵ and framed as a part of the Christian morality offensive,⁵⁶ there was no need for a head count (Jansen, 2013).

Translating the moral and anti-trafficking discourses into national law did not, of course, eliminate sex work. As with increased surveillance, the law only served to reduce the visibility of sex work. As Aalbers and Deinema elaborate:

Some former brothels were recast as hotels, but continued offering the same services for several decades.... It often took place in places like tobacco shops or massage salons that advertised their illicit services in code in ordinary magazines (De Wildt and Arnoldussen, 2001). As such, sex work went underground, was no longer marked off and segregated at all, and once again became blended into ordinary society (2012: 133).

⁵⁴ Today, several of the original articles of prostitution law remain, with the exception of the ban on brothels and pimping. The remaining pieces of legislation are described in the Appendix.

⁵⁵ According to the House for the Democracy of Rule and Law, “The so-called confessional parties base their programmes and political positions on a specific faith or use the Bible (or the Quran) as their touchstone. They include the CDA, the SGP and Christian Union. Non-confessional parties like the VVD, the PvdA, the SP and D66 base their programme on secular principles” (2013: 24).

⁵⁶ Consisting of the Protestant and Catholic political parties.

It is widely known that during this time, brothel owners rebranded their establishments to avoid detection. In the sex-work industry, this sequence of events is commonly known as the waterbed effect, a metaphor meant to explain the phenomenon whereby increased control and suppression of an activity in one area causes an inversely proportionate increase of the same activity in areas where enforcement is more lax. The waterbed effect would not be a problem, save for the fact that city centers are more often home to police sweeps and investigations, which cause sex work to emerge on the less-safe outskirts of town or to go underground to escape detection. This concept relies on the notion of a steady demand and supply of women, and while it might be critiqued on that basis, in the absence of dramatic social and political change, the waterbed effect is likely to persist. The central point, however, is that in these periods where moral, abolitionist legislation was gaining ground, efforts to prohibit sex work were most effective at reducing its visibility as opposed to its quantity (Aalbers and Deinema, 2012: 130). Indeed, from the 1920s to 2000, Amsterdam had what were referred to as “Tolerance Zones,” which were sites that “did not legalize sex work but allowed it to exist in particular places by effectively prohibiting it elsewhere” (amounting to a selective decriminalization) (Hubbard, Matthews and Scoular, 2010: 12). As the sex industry became more mobile in an effort to either abide by or escape strict regulation, it also became less visible, and by virtue of its reduced visibility, less threatening. The result, at the time, was that the hostility toward sex work appeared to subside, at least temporarily. Because brothels effectively operated invisibly, public nuisance was limited and the *Brothel Ban* was rarely used (Brants, 1998: 621; Hindle et al., 2003: 2). When it was enforced, most prosecutions were for coercion and trafficking rather than the keeping of brothels, escort agencies and pimping (Brants, 1998: 621; Hindle et al., 2003: 2).

Summary

To summarize, the *Brothel Ban* was introduced in order to quiet concerns regarding sex trafficking, human rights, public nuisance and migrant sex workers. Its strongest effect, however, was to push brothels underground. But brothels would not stay suppressed and invisible for long. In the 1960s and 70s, brothels began to creep back into mainstream society, showing that the waterbed effect could, in fact, reverse itself.

Taking advantage of the “free love” era and the trend of inner city depopulation (Aalbers and Deinema, 2012: 134), brothel owners slowly began to move their businesses to the core, or speak openly of their operations, likely in order to attract business. It was during this socially liberal period, for instance, that many sex shops and the Casa Rosso Live Sex Theater opened with big, neon lights, right in the centre of Amsterdam. The owner of Casa Rosso was described as the first “king” of the RLD and his bold initiatives showed that visible sex work would at least be tolerated even if it did not receive moral approval. As suburbanization hollowed out the areas of the [RLD], [including the streets of] the Spuistraat the Zeedijk, commercial sexual transactions were given the physical space to “regroup within them” (Aalbers and Deinema, 2012: 134).

Section 2: Gedogen

From the 1960s onwards, the culture of permissiveness was fortified. It was during this period that Amsterdam was understood to “flourish under a regime of ‘regulated tolerance’” (Brants, 1998: 621). In many cases, municipal authorities established informal working relationships with the owners of sex establishments rather than prosecuting them (Krabbendam and Ten Napel, 2000: 12). The result was a kind of ersatz licensing system that had no actual policy foundation and which was maintained through mutual agreement and cooperation rather than enforcement (Brants, 1998). As Brants argues, however, the practice of not prosecuting these offences

...is not officially legalizing them, nor is it merely a matter of the police turning a blind eye. Rather, it is a well-trying policy strategy that sometimes develops gradually at a local level, but may well be deliberately designed by the central government. It is often elaborately described in documents from the Ministry of Justice and, as such, subject to a certain degree of political control (1998: 238).

Zuckerwise, for instance, found that the Dutch government apparatus maintained its implicit control of sex work through “interacting juridical, spatial, ideological, economic and political forms of control” (Hubbard, 2012: 198). The culturally specific umbrella term *gedogen* is said to capture this rather complex mode of governance. The Dutch have coined the term *gedogen* to explain what many claim to be their relatively liberal, yet pragmatic, political “tolerance” of sex work. As will be discussed in later chapters, the term has become a defining feature of Dutch culture, with several scholars noting it as a

sign of a progressive society (Outshoorn, 2004). In Chapters 6 and 7, I discuss how migrants or immigrants allegedly fail to appreciate its nuances, thus situating *gedogen* as a pivot point for cultural exclusion. However, the variety of different understandings of the term within the scholarly literature undermines its use as a central defining feature of Dutch culture. Sex work is undoubtedly a historical piece of Dutch culture, but the Dutch state's treatment of sex work and its relationship with sex workers has shifted over time. As a result, the term itself has come to take on different meanings, ranging from a lax approach to an uncontrollable phenomenon (Brants, 1998: 238) to the pragmatic tolerance of sex work (Uitermark, 2004) to a way to exercise political control over an immoral minority (Brants, 1998: 238). The cultural relevance of a catchall term like *gedogen* is weakened, therefore, and it becomes more accurate to understand the term as that which explains the shifting Dutch approaches to sex work.

To Uitermark, *gedogen* is understood as “pragmatic tolerance” and “refers to the practice of discriminatory enforcement,” “defined as a regulatory system of organized toleration and targeted repression” (2004: 1). The concept of *gedogen*, as Uitermark explains, is rooted in the pragmatic notion that only when an issue poses a serious threat to public well-being should it be “targeted for repression” (2004: 1). Brants, on the other hand, argues that *gedogen* is rooted in the acknowledgment that a “suppression of a moral minority⁵⁷ would be too costly” (1998: 623). From this perspective, the Dutch government's refusal to challenge “alternative sexual politics” (Cooper, 2006: 2) may rest in the fear that such actions could be perceived as persecution and thus could incite a defensive reaction from sex workers' rights advocates. This is a rather tepid explanation however, as supporters of sex work rarely harness much political clout due to the stigmatization of the profession and the still illegal status of sex work. Nor was there much widespread support for sex workers' rights or even respect for the profession. A number of studies occurring at this time found that “sex work [was] viewed as an undesirable profession by the Dutch public, with their attitudes [towards sex work] mirroring those found throughout the Urban West” (Outshoorn, 2012: 198). For this reason it is not likely that the government avoided politically suppressing sex work

⁵⁷ The “moral minority” does not refer to small religious groups who uphold “morals,” but to those groups whose morals are thought to stand outside the dominant morality.

because it was evading backlash. It is more reasonable to assume that the state purposefully neglected to prosecute these cases because the costs of actually enforcing the illegal status of sex work were too high. Regardless of the interpretation though,⁵⁸ it is clear that sex work was not permitted based on the anchoring of the political process in liberal principles, despite the use of the term *gedogen* with its frequent translation as “pragmatic tolerance.”

Wendy Brown argues that the notion of tolerance is mistakenly understood as a benign or neutral term when, in fact, it implies management of “some object of aversion that is different than mainstream society” (2008). In the case examined here, the host society is assumed to be normal and regular, whereas sex workers, particularly those who are not of Dutch nationality, are considered as objects for tolerance (and in many cases pity). “The problem of tolerance,” as Brown describes it, is that when it becomes the “prime virtue of a liberal society,” it becomes a substitute for “discourses of justice, equality or freedom” (Brown, 2008). When tolerance is raised to the level of cultural attitudes, she argues, “it cloaks inequalities, powers at issue and substitutes for egalitarian projects” (2008: 197). In line with what Brown argues, we can see that the sex industry may always have been “tolerated,” but rarely was its personnel regarded in terms of equality. In later chapters, I discuss how the alleged tolerance of the sex industry has become further complicated by a discourse that links its problems, such as that of trafficking, to particular cultures.

In the 20th century, *gedogen* functioned much like an unwritten constitution and enabled the local regulation of sex work, demonstrating at least the partial acceptance of sex work by national authorities despite the overarching *Brothel Ban*. In much the same way that municipalities devised their rules following the departure of the French, local authorities designed their own bylaws to shape the way sex work was carried out within their boundaries under the Law of Municipalities (*Act 151a*) (Hubbard, Matthews and Scoular, 2010: 12). In its most basic sense, then, *gedogen* was an informal system that

⁵⁸ Although the Dutch state’s sex work policies, actions and inactions have veered from the original meaning of *gedogen* as the pragmatic tolerance of sex work, the term is still used to explain the state’s approach to sex work, in all of its various expressions. As a relic of Dutch culture, the term has a strong positive connotation, but its varied use signals the need not only for a new term but a more critical analysis of the state’s relationship with the sex industry over the years. This analysis should include the factors that have remained consistent and those that have changed.

operated to permit sex work and encourage municipal adaptation of the law, despite the overarching *Brothel Ban*.

Opposition to Gedogen 1960s-2000

At the same time that brothels were becoming more visible, second wave feminism was gaining strength. Many feminists decried the Dutch national state's permissiveness and demanded that full sexual autonomy be translated into political and legal regulation. Concerned primarily with pimping and a lack of independence in many working relationships (including those in brothels), these advocates argued that "tolerance" was a soft word for what was truly an abrogation of the state's responsibility to protect vulnerable women (Interview, De Wilt: 2010). Under the direct influence of the market, brothels were understood as one of the primary vehicles through which the commodification of the female body (primarily by and for men) won out over female sexual self-determination and autonomy (De Vries, 1999: 156-160). Debates about sexual violence overshadowed much of the advocacy for sex workers' rights during the 1970s and 1980s (O'Connell Davidson, 2002: 5-10). When human rights were demanded, they were couched in the definition of sex work as an artifact of violence.

Of course, for every call there is an echo. Those who urged greater state involvement to protect women against commodification and sexual abuse confronted those who felt that sexual autonomy was better achieved by making strides to equalize the sex industry with other more "normal" professions (De Wildt, 2002; De Vries, 1998: 162). In the late 20th century, "the sex work question,"⁵⁹ was expressed in different iterations and elicited many responses. It was not until 1985, however, that the "sex work question" found a formal venue within which all positions could be explored. This venue was the first International Whores Congress, held in Amsterdam (De Wildt, 2002; De Vries, 1998: 162). Although the "sex work question" had been a "cornerstone of much feminist theorizing over the centuries," it was not until the Congress was organized that sex workers' rights activists found a forum within which to debate and record their discussions (De Vries, 1999; Pheterson and Saint James, 1989: 8).

⁵⁹ The question of how the state should legislate and regulate sex work.

In addition to putting Amsterdam on the map with respect to sex workers' politics, the Congress produced a number of theoretical innovations. For instance, it was through the Congress that the distinction between forced and voluntary sex work was first made, which would become a critical distinction in many ensuing, international legislative reforms. Even more important was the show of solidarity demonstrated by feminists as they came together to support the sex workers' "right to sexual self-determination" and the freedom to choose (Goldschmidt and Holtmaat, 1993; Outshoorn, 1998). These appeals were based in the fundamental understanding that "prostitution" was work and therefore, not surprisingly, sex workers' demands for equality were like those of many other working women. Sex workers wanted to secure a guarantee of "human rights and civil liberties, including the freedom of speech, travel, immigration, work, marriage and motherhood and the right to unemployment insurance, health insurance and housing" (Pheterson, 1996: 132; De Vries, 2011). The *Sex Workers in Europe Manifesto* moved advocacy "beyond tolerance and passion for the recognition of rights," and listed a set of demands that included:

- The right to associate and gather
- The right to be free from discrimination
- The right to mobility
- The right to be heard
- The right to our bodies

As the movement sought to integrate and normalize sex work through regulation and the granting of rights, the demand for sex worker equality divorced itself from abolitionist rhetoric. Aalbers and Deinema observed that it was around this time that "abolitionist attitudes made way for regulationist perspectives" (2012: 133). Similarly, Outshoorn argues that by "the mid 1980s, there was no powerful women's lobby in The Netherlands in favor of abolition" (2004: 168).⁶⁰

The consistency of demands for sex-workers' rights over the years and a growing international sex-workers' rights network to channel them had the effect of "influencing

⁶⁰ It is important to note that during the time that support was increasing to move towards legalization, coinciding efforts were made to increase the penalties associated with human trafficking, sex trafficking and human smuggling. The Dutch National Rapporteur on Trafficking in Human Beings recounts that "prompted by successive international initiatives that were consolidated in the League of Nations and later in the United Nations, criminal legislation was amended several times during the course of the 20th century, further refining Dutch prostitution and trafficking policy. In 1923 the crime of trafficking in women was extended to include trafficking in minors of the male sex. In 1994 the gender-neutral qualification of 'trafficking in human beings' was introduced into the wording of the Act" (2005).

the judicial landscape and the relationship between sex work and the state” (De Vries, 2011: 1). But it is important to note that it was also during this time that there were significant changes to the relationship between all of Dutch civil society and the state, which may have made the state more receptive of sex-workers’ demands for a regulated and licensed sex-work sector. During the 1980s and 1990s,

citizens, social organizations and companies were becoming increasingly involved in defining policy programs, in seeking policy solutions and in policy implementation. A wide variety of national and subnational practices with interactive policy-making, public-private partners and policy networks emerged. Second, towns, hospital, schools and housing organizations were granted more authority to determine their own policies (Michels, 2006: 329).

The social and political function of participation in the state’s institutions was then further accentuated by “industrialization, modernization [and] increasing levels of education amongst citizens,” each of which placed a primacy on democratic inclusion (Lijphart, 1994).

These societal changes motivated the Dutch government to begin “experimenting with democratic innovations,” which eventually led to the development of a set of legal tools to encourage citizen participation at all levels (Smith, 2009: 200). In 1994, amendments to the Municipality Law stated that all citizens affected by a City Council decision had the formal legal right to participate in its deliberation (Regering van Nederland, 2013). In 2001, another law was developed that would allow residents of a municipality to establish a local referendum on the recent decisions (Pays-Bas, 2013). More powerfully, *Articles 150 and 170* of the Municipality Law, “obliged municipal council to devise specific laws about how the citizens could or would be involved, and gave the mayor responsibility for the quality of all procedures” (Regering van Nederland, 2013).

These laws were evidence of the primacy placed on democratic rights and, together, they instilled greater confidence in the advocates for sex-workers’ rights to demand a closer working relationship with authorities. While municipalities were still able to determine their own participation procedures and drew up their own ordinances (Pays-Bas, 2013), this national legal foundation signaled a national government that was

more open to including perspectives from the sex industry in policy-making (Koski, 2007: 12).

Pressure to Lift the Brothel Ban

By the late 1990s, a diverse coalition (policy network) of advocates for sex-workers' rights emerged to support the lifting of the *Brothel Ban*. This coalition consisted primarily of the politically connected and publicly funded sex workers' rights groups, Mr. A. d Graaf Stichting and the Red Thread Union. Despite their fundamental and historical differences, these two groups were able to forge a partnership with other groups, such as the Miscellaneous Workers' Union (FNV, now the United Voice), on the basis of the shared grievances of sex workers (De Vries, 2011; Outshoorn, 2004: 53). Together all the partners argued that the criminal status of brothels prevented sex workers from gaining access to the rights and protections enjoyed by other, more "legitimate workers." As such, the lifting of the *Brothel Ban* (legalization) was positioned as their primary concern. What was remarkable was that the network's central demand of lifting the *Brothel Ban* gained appreciation across a wide spectrum of people.

As Visser, the-then director of the Mr. A. d Graaf Stichting explains, many of the diverse social groups within the Netherlands (residents, sex workers, church groups, etc.) felt that the sex work situation had become too complex by way of its increasingly international character and thus too challenging to control from within the system of *gedogen*. The broader support for legal reform, then, rose partially out of the recognition that the "the management and control of dense city life [had] become too complex to allow a subculture to stay outside of the system" (cited in Bernstein, 2007: 43). Bringing sex work within the realm of legal provisions would allow the state to establish more oversight and control over the field. Additional support for the legalization of brothels grew out of the acceptance that sex work had become a "fact of life," and that it would continue to operate with or without public consent (Visser, 2008). Thus, legalization was not only positioned as a way to enhance rights' protections for sex workers but also as the political acceptance of a social reality. In other words, the presumption that the demand for "sex for money" could be eradicated, reformed, or at worst, ignored, was no longer part of the political discussion. Accordingly Aalbers and Deinema claim that by the end

of the 20th century only small orthodox Christian parties were opposed to legalizing sex work (approximately five percent of the population) (2010: 7). While views varied on how lifting the *Brothel Ban* should be written into law, there was undoubtedly a growing pressure to lift it.

In order to acquire a full national, political endorsement for any political change, the state would need to engage with the citizenry on the potential to lift the *Brothel Ban*. To some extent, there had always been deliberation on the subject of sex work within society, but these deliberations had yet to be formalized and all legislative proposals to decriminalize sex work fully were blocked by the Christian Democrats. In other words, the national government had never itself instigated a public, deliberative process on the topic of sex work that was in any way linked to the capacity to revise the Penal Code (Aalbers and Deinema, 2010: 7). Through a long and ongoing process of deliberations in the counter public, the legal reform contingent was able to construct and perfect its arguments for lifting the *Brothel Ban* (Habermas, 1987). However, not until 1994, when the Christian Democrats were excluded from the ruling coalition (Buijs, 2009: 9) were stakeholders invited to participate in a series of official, state-sanctioned deliberations that were promised to feed directly into the legislative process.

Summary

This section described a distinct time in the Dutch political history of sex-work regulation where brothels were illegal, but continued to exist in plain sight under a system of permissiveness known as *gedogen*. This system of non-enforcement or non-intervention was frowned upon, however, by a growing international sex-workers' rights movement and an anti-trafficking movement that saw this lax approach as responsible for the inequalities and human rights violations faced by sex workers. Although anti-traffickers and sex-workers' rights advocates were advancing the need for legal change for different reasons, they were able to forge a strong relationship with the government because of their found footing in the international arena. Eventually, these two camps succeeded in impressing upon the ruling coalition the need to reconsider the political approach to sex work. Although the political re-consideration of sex work resembled earlier efforts to re-establish control over the industry, the difference this time lay in the

shift away from a focus on vice and towards better protection of sex workers through some semblance of rights.

Section 3: Public Deliberations

In 1995, the ruling “Purple Coalition”⁶¹ tasked the Ministry of the Justice to work with the Association of Dutch Municipalities (VNG) on establishing a “National Platform for Dialogue on Prostitution” (The NPDP) (Red Thread, 2009). Together the partners developed and led six regional deliberations and more than 12 municipal workshops. The deliberations were structured regionally to emphasize and build cooperative municipal relationships that would address the transient character of sex trafficking (Preliminary Report to the Standing Committee on Justice, 1999. Translated from Dutch to English). This design would also uncover whether there was an appetite for further regional, provincial administrative regulation. The purpose of the deliberations was fourfold:

1. Give municipalities and stakeholders a say in the development of the national legislation.
2. Consider whether the intentions of proposals to lift the *Brothel Ban* had any practical applicability.
3. Examine any unintended consequences of the policies.
4. Determine whether further administrative legislation was desirable.

(Compiled by the Association of Dutch Municipalities, Preliminary Report to the Standing Committee on Justice, 1999. Translated from Dutch to English).

As Wagenaar recounts, in a number of municipalities, the local governments set up “a platform ...of city officials, owners and citizens to discuss impending regulations and other measures” (2007: 17). In reviewing accounts of these processes from the perspective of deliberative democracy, one notes the integration of several of the criteria outlined in Chapter 3. The processes, although deliberative, did not make use of more unique deliberative democratic formats, such as those open space forums, citizens juries, or otherwise.

⁶¹ William Kok’s first coalition cabinet, which was in power from 1994-1998. It was called the “purple” coalition because it consisted of social-democrat (red) and liberal (blue) components, including the political parties PVDA, VVD and D66. The coalition excluded the Christian Democratic Appeal, which had long been in power in Dutch politics, enabling the purple coalition to advance a more socially liberal attitude.

The deliberations occurred over one year, from 1998-1999 (Preliminary Report to the Standing Committee on Justice, 1999). Impressed with the diversity of stakeholders at the deliberations, Outshoorn made the following observations:

At the top end are seated officials from the Internal Revenue Service, the Inspection of Work Conditions, Social Security, the Municipal Health Authority and the Fire and Security Department. In the audience there are representatives from...The Red Thread, the Confederation of Dutch Trade Unions (FNV) and the Foundation against the Trafficking of Women (STV). Also present are employers in the sex branch industry, such as the... VER (Association of Relaxation Business Entrepreneurs) and the ... SOR (Association of Window Brothel Entrepreneurs).

There is even a man from a clients' organization, the Foundation Man, Woman and sex work. They are all united in the National Platform for Sex Work Dialogue (LPP) ...The topic of discussion is the implementation of the highly publicized legalization of brothels in The Netherlands in 2000 (Outshoorn, 2004: 165).

To the extent that a wide breadth of stakeholder positions were included, listened to and taken into account during the course of a collective and inclusive process (Chambers, 2004; Stie, 2003: 5), the deliberations fulfill the criteria of inclusivity. The sessions were, however, not open to whoever was interested in partaking. The inclusive nature of the deliberations can thus be questioned because presumably some individuals who were interested in being involved were excluded. However, there is no clear evidence of this.

There is always some degree of exclusion in structured deliberations, which relates in part to the thresholds that practitioners must set. In doing so, there is almost always contention with respect to the representatives who are asked to participate on behalf of their constituents, and debate about who can rightly represent vulnerable populations. These debates will be addressed in Chapter 8. The central point here, however, is to show that deliberations offered municipalities, organizations and interested individuals a solid entry point into the official sex-work policy debate.

Criterion of Inclusive Reasoning Process

Under an agreement with the Netherlands Institute for the Study of Crime and Law Enforcement (NSCR), the University of Leiden hired Hendrik Wagenaar as a policy researcher. His primary task was to analyze the National Platform for Dialogue on Prostitution that led to the lifting of the *Brothel Ban*. In addition to being present during the majority of policy discussions leading up to the lifting of the *Ban*, Wagenaar also completed a number of interviews with stakeholders. For these reasons, he is a reliable expert on this period in Dutch politics. So too is Joyce Outshoorn, a historian who studies sex work and was also present at many of these discussions. Their status as academics brought a certain critical distance to their observations and recordings of the proceedings. This distance allowed for a wide breadth of environmental factors to be taken into account, which complemented the recalling of the proceedings by other participants who were interviewed nearly a decade later.

Deliberative models are held together by the minimum requirement that people provide reason for their arguments and that they remain open to having their views subject to criticism and to hearing the views of others (Van Hees, 2008). This requirement causes people to reflect on their own reasoning while they are simultaneously exposed to the views/reasons of others. According to Wagenaar, a reasoning process can easily be discerned at this stage because:

...the government experimented with its priorities and primary actors, consciously tried to reason with each other about the design of a feasible legalized sex services sector....the administration consciously sought the involvement and cooperation of the main actors both inside and outside the administrative apparatus (2007: 65).

As explained above, participants were brought together by the need to define the problem and design solutions that were feasible and responded to the agreed-upon problems (Eriksen, 2007: 95-96).

According to the Red Thread Union, there was no novel content in these discussions. Conversations about licensing, unionizing, social insurance, taxing and employee insurance had been happening for some time. In 1993, for instance, a National Consultative Committee on Prostitution (LPO) was established. At that time, the major players within the realm, including sex workers' representatives, social workers, human

rights activists and union representatives, came together with the promise of frequent dialogue. In this regard, there was a degree of structured dialogue between the major players in the work of prostitution before the national deliberations were launched. The Red Thread was thus unenthusiastic at the launch of the deliberations, for they felt that their role was merely to “reorganize these” conversations (Red Thread Union website, 2013). However, these latter policy discussions differed significantly in that they structured the reasoning process, brought the issue closer to political decision-making authority and matched it with the political and administrative will to change the system. Indeed, the national government purposefully used the deliberative democratic method as a way to determine the appetite for, and concerns about, legislative change. The state took an active role in establishing the grounds for this reasoning process, evidenced, in part, by its decision to hire a moderator. The moderator’s travel throughout the country during these deliberations established a consistent format and eliminated the potential (to the greatest extent possible) that any one region’s arguments would be over-represented in the final recommendation.

Criterion of Normative Constraints Invalidated by the Process

A focus on procedural guidelines and a shedding of moral constraints are also evidence of a deliberative democratic process. As discussed in the preceding chapter, deliberative democrats refrain from setting moral parameters on debate because these principles have rarely been validated themselves by a deliberative process (Gutmann and Thompson, 2004: 200; Bohman, 2003: 767). In the public deliberations leading to legalization, the Purple Coalition refrained from setting an over-arching substantive policy vision as previous confessional coalitions had. As mentioned previously, the Christian Morality Offensive in the late 1800 and early 1900s introduced the bill that resulted in the Brothel Ban under the pretense that the sale of sex was morally reprehensible according to religious scripture and principles.

Perhaps picking up on the unique opportunity presented by the exclusion of religious political parties, the moderator asked deliberators to shed, at least temporarily, their philosophical and religious perspectives on sex work (Interview, Wagenaar: 2011). This meant that deliberators could not automatically disregard the arguments of others

because their religious viewpoints found the very notion of sex work to violate stricture. Similarly, demanding that deliberators consider philosophies other than their own meant that they had to open themselves to persuasion and respect their fellow deliberators' arguments. The moderator asked that all perspectives be given equal consideration through the deliberative process, regardless of individual religious or moral underpinnings. As a result, religious standpoints were muted within the deliberative process and arguments were reasoned through and subjected to critical evaluation rather than invalidated, out of hand, by moral perspectives.

Democratic procedure was thus privileged as the method to determine the right policy path, which allowed for the force of a better argument to trump ideological commitments. The absence of moralism remained consistent throughout the public and parliamentary deliberations and was central to the government's approach to the issue. For example, when the *Brothel Ban* was eventually lifted, the Minister of Justice made the following public statement: "that prostitution exists is a given fact, even for the government. That requires a realistic approach, without moralism" (Dutch National Rapporteur, 2002: 15).

Outshoorn argues that the preference for procedural rules as opposed to morality is part and parcel of the Dutch cultural value of modernity (2004: 174). While these cultural historical traits may have been influential in setting the context for these deliberations, they cannot account entirely for the nature of the processes. A good deal of credit belongs to the moderator, who was critical to securing a commitment to democratic procedure and principle and creating an environment that made it possible to adhere to these commitments. The moderator explicitly asked people to refrain from relying on moral standpoints that invalidated other positions and set established rules of order that would encourage reasoned dialogue (Interview, Wagenaar: 2011).

Deliberative Democratic Output: Normative Consensus on Democratic Principles

As described in Chapter 3, a deliberative process can be identified, to some extent, by the levels of agreement it produces. To the extent that democratic principles were integrated into and guided these discussions, a normative consensus is recognized.

A normative consensus, in this sense, refers to the general acceptance of and agreement to high-order principles to guide the discussion (Dryzek and Niemeyer, 2006: 638).

The moderator played a significant role in integrating these principles and establishing the deliberative democratic character of the NPDP by setting out the expectations for deliberation. At the onset of the deliberations, the moderator verbally committed all participants to the “three closely related principles [of] integration, pragmatism, and the creation of support among all participants” (Wagenaar, 2007: 17). These principles relate to and can easily be read as the democratic principles of collaboration, pragmatism⁶² and mutual respect, which deliberative democrats view as critical to their process (Gutmann and Thompson, 2003). Earlier I noted the requirement of relinquishing self-interest for deliberation to work as it should. Of course it is not possible to entirely shed self-interest, but the point in establishing these principles is to redirect attention to the need to come to a shared vision for the future that may differ somewhat from one’s own ideal vision, but which one is willing to accept for the benefit of the greater good. The goal, then, is to search collaboratively for an agreeable output or an opportunity for joint action.

The linkage between the moderator’s own principles and those of democratic theory is made clearer by Wagenaar’s own detailed explanation of these principles in operation:

[This particular individual]...was in charge of establishing the licensing system, which was not easy - not because the brothel owners didn’t want to collaborate - in many ways they did, although they had big disagreements and had to go to court, but also because the different agencies within the City were fragmented. And as he formulated it, no one took responsibility. It was a logical step, not an easy step, to formalize that even more....What he managed to do, however, was bind all these city agencies together in one more or less collaborative network. And then he also pulled in the brothel owners.

[He was able to do so, largely because] of a so-called “planning process.” Because of the system of so-called regulated tolerance, the public order situation had gotten out of hand... the so called “planning process”...gave the police greater powers, it was a way to bring the major actors together and he basically deliberated with them, and he did so in a very interesting manner. He bound

⁶² According to Zoheiry, pragmatism is the transformation of “heated, problematic issues into non-issues through rational dialogue and accommodation....many of the policies and laws that are often treated as symbols of Dutch openness and liberalism are in fact motivated by hard-core pragmatism instead of ideological belief” (2012: 2).

people together through values. “One thing we need to realize is that we are responsible for each other,” he said (Interview: 2011).

Diverse groups came together because they were compelled to find a solution to an agreed-upon problem, but this shared understanding was not, in and of itself, enough to generate the reasoned exchange of ideas. As illustrated above, the participants were bonded by the moderator’s message that all participants were stakeholders with the power to be affected by the process and its outcomes, and held the power to affect one another. This approach assumed participants to be invested in each other’s well being (altruism), but the moderator also showed them that the outcome of the deliberations was not without consequence for others. In other words, the process in which they were involved mattered to people outside of their typical circle of influence, and their mutual responsibility for limiting the negative impact of the process’s outcomes on others was part and parcel of being a democratic citizen within a just nation. To this end, the moderator’s comments had the effect of replacing the impulse to act self-interestedly with the inspiration to cooperate, compromise and listen to the views of others. The integration of these principles is precisely what caused this time period to be about “the exchange of reason,” rather than the playing out of “contending interests” (Weinstock and Kahane, 2010: 7).

This is not to say that there was always agreement among participants, but that there was a strong commitment to reason through disagreements in a respectful manner. Indeed, lifting the *Brothel Ban* and creating a licensing and monitoring system had “all of the characteristics of a prolonged and ordinary political struggle,” marked by heated debates and intense political and legal maneuvering between various social, political and economic groups (Wagenaar, 2007: 17). For example, many of the brothel owners represented by the Association of Window Brothel Entrepreneurs (SOR) were initially opposed to any proposal that hinted at an increased responsibility, on their behalf, for preventing sex trafficking or sexual exploitation. Together sex business operators argued that they should not be responsible for investigating the origins of the women within their establishments because they operated their brothels like hotels, simply renting rooms (Interview, Broers: 2010). Today, many brothel owners maintain that view. Moreover, SOR claimed that because they operated their brothels like hotels, they wanted to protect

the renters' right to privacy and felt that a bill or act that would require them to take information from their customers and be extra vigilant as to their circumstances would violate the renters' privacy.

SOR's attitude to the proposal received serious resistance from some participants who, until then, had been willing to work with brothel owners to come up with a license and monitoring system that satisfied both parties' interests (Interview, Red Thread: 2011). Quickly the owners learned that others perceived the operation of their establishments very differently and that, should they fail to make some concessions, the lifting of the *Brothel Ban* might be further delayed and they would continue to operate illegally (Interview, Broers: 2010). It was after SOR and VER⁶³ agreed that it would be advantageous to have a clearer line between illegal and legal sex work (voluntary and involuntary), that SOR finally agreed to take on more responsibility for discerning what type of sex work operated within their establishments and cooperate with authorities by obtaining passport information from sex workers (Interview, VER: 2011). SOR and VER reasoned that if the revised Penal Code more clearly demarcated legal from illegal, the further conflation of these two types of sex work would be prevented and those who were involved voluntarily would gain better protection or would "be left alone" by police or vice squads (Interview, Broers: 2011). At this time, SOR acknowledged that helping to identify trafficking victims, would, in turn, help to legitimize them as partners with the law rather than positioning them as opponents.

The compromise on behalf of the brothel owners brings to light the relationship between negotiation and deliberation. In her analysis of this relationship, Mansbridge argues that "classic deliberation is deeply compatible with several forms of negotiation" (2009: 37). In those cases where the arguments are well-theorized, the participants negotiate in a non-coercive, non-antagonistic and cooperative way, and the output is integrative (win-win), (2009: 37); the process can be termed "deliberative negotiation." An orientation towards a negotiated outcome can risk undermining or rushing deliberation, as it places a focus on outcome as opposed to process, but if a process is oriented towards deliberation, and safeguards are put in place to protect the process from

⁶³ The Association of Relaxation Business Entrepreneurs, primarily consisting of escort agencies. The Association represents all Dutch escort agencies, but is run out of Amsterdam.

strategic manipulation and coercion, then negotiations and compromise are a democratically legitimate way to produce a collectively agreed-upon output. As Mansbridge reiterates:

Deliberative forms of negotiation not only can approach the deliberative criteria for legitimacy, they are also efficient. The mutual disclosure, joint fact-finding, and joint exploration of possibility that they promote usually generate joint gains (2007: 39).

To the extent that the moderator can be credited with instilling democratic values and orienting deliberations towards the production of mutually justifiable ends, she promoted compromise between these unlikely parties. To some extent, it was more reasonable to negotiate than it was to remain fixated on any one particular point, as this would have stalled legalization and could be interpreted as support for the status quo. The morally and socially contentious nature of the issue also made it difficult to reject those compromises framed as offering better rights to sex workers (Outshoorn, 2004: 188). For instance, had the brothel owners continued to reject the proposition to take on greater responsibility, it would have cast doubt on their commitment to combat trafficking and could have been interpreted as obstructing the process of finding a solution. In this regard, a political stalemate would be blamed on those parties that refrained from engaging in the collaborative process. In either scenario, the failure to compromise with one's adversaries reflects poorly on them (Brants, 1998: 238). Compromise, on the other hand, also makes for a truly collaborative output and shares the accountability for its outcomes, avoiding any finger pointing regarding its unintended consequences. For these reasons, compromise is a pragmatic and efficient mode of decision-making. The setting aside of one's own self-interests to come to a compromise or produce a collectively agreed-upon outcome demonstrates the integration of Dutch pragmatism. Pragmatism, as explained by Outshoorn, is also a typically Dutch political cultural behavior. Pragmatic political behavior ranges "from condoning deviant behavior, delaying policy action as long as possible, depoliticizing moral issues by redefining them as technical matters for experts to solve, to coming up with procedural, not substantive, solutions" (2004: 189).

The first part of the sentence demonstrates the "pragmatic tolerance," earlier discussed as *gedogen* (Brants, 1998), whereas the last part of the sentence describes the

processes immediately prior to legalization. Although the topic at hand was controversial and linked to human rights reforms, the process was not anchored in substantive principles such as sexual equality. That is, the debates and discussions were not aimed at finding ways to make sexual minorities equal to all other citizens, but to grant universal rights to sex workers and address all aspects of the problem of the *Brothel Ban*. Although human rights was a recurring theme, the deliberative process was not so much used as a way to provide equality for sex workers, but to fulfill the state's obligation to protect all people from the threat of death and/or abuse by offering them access to the same rights and conditions as other workers. While the argument that sex workers were entitled to equality was part of the political discussion, this was not a perspective that grounded the political process. To put it bluntly, deliberations were the method to determine the ways in which *all* citizens' interests could be satisfied, including who would have to compromise in order for the outcome to be mutually acceptable (Day, 1993: 5). The prevalence of the human rights frame might have privileged the individual rights of the sex worker, but the deliberative process was anchored first and foremost in democratic principles.

Criterion of Structures and Procedures for Mitigating and Balancing Asymmetrical Power Relations

The active recruitment of the sex industry into the deliberative process was intrinsic to the advancement of human and democratic rights. At a bare minimum, including sex workers gave them a chance to speak on their own behalf and share their situated knowledge within formally constituted and legitimizing political parameters. To the degree that sex industry personnel became a recognizable and vocal category to which the state had to attend, evidenced by their participation in formal meetings and inclusion on agendas, they were, at the very least, able to initiate legitimate speech about themselves.⁶⁴ Including the sex industry in these processes can be described as

⁶⁴ These stakeholders were indirectly supported by the work of feminist and democratic scholars who more broadly challenged academics and policy scholars to account for experiential knowledge. Democratic theorists such as Robert Dahl in *On Democracy* (1998) and Linda Weiss in the *Myth of the Powerless State* (1998), for example, assert that politics and policy-making are not necessarily matters of bureaucratic expertise and that a tension exists between technocratic policy knowledge and democratic representation in the political process. Other scholars are less concerned with the humanitarian and/or democratic elements of policy-making and are more concerned with the effects that

emancipatory because it “gave proper force” (Knops, 2006: 595) to the arguments put forth by industry personnel, and thus starkly contrasts with democratic institutions’ historic exclusion of that industry. The inclusion thus had an empowering effect and institutionalized real progressive change.

Too often, however, circumstances remind us that opening democratic processes does not guarantee political egalitarianism or create meaningful inclusion. As Tannen eloquently stated in *The Argument Culture: Moving From Debate to Dialogue*, “being admitted to the dance does not ensure the participation of someone who has learned to dance to a different rhythm” (1991: 95). Young and Mouffe have famously argued that a group’s meaningful inclusion is affected by varying levels of communicative competence, speech cultures and access to resources. By no means does the mere presence of sex workers and their representatives, or any other sex industry personnel, indicate that they had relative influence over the democratic process, that their input was valued or that it even had any kind of impact.

To determine the character of bias within these proceedings we can, again, rely on Wagenaar’s observations. Wagenaar felt the processes were imbued with balancing mechanisms. In particular, Wagenaar draws our attention to the moderator who, he claimed, was attentive to different forms of knowledge, different speech and often referred to people’s intelligence as “street wise” (Interview, 2011). Thus, the moderator not only gave everyone a fair chance to speak but also acknowledged traditional inequalities and highlighted the unique competencies of those who possessed less formal knowledge thereby leveling the deliberative environment. These balancing measures encouraged deliberators to give equal weight to the voices of the sex industry and were thus integral to the inclusive and equal character that the debate adopted (Interview, Wagenaar: 2011) and the influence that the sex workers had on the final recommendation (more on this in the next section).

As a result of sex workers’ inclusion and the moderator’s guidance, the relationship between the “moral majority” and sex workers improved. Indeed, the political participation of sex workers chipped away at a wedge that had grown over many years

deliberative efforts can have on policy efficacy (Bohman, 1996; Fishkin, 2000; Luskin, 2001; Larsen, 1990; Schindlmayr, Huber and Zelenev, 2007: 10).

between government officials and those who had become accustomed to operating outside of the law. The structured dialogue between the sex workers, brothel owners, police officers and politicians – former antagonists - not only helped all of those parties arrive at a better understanding of the problem but helped them to develop greater trust and respect for one another. From the view of Putnam (1993) and Van Hees (2008), deliberation between adversaries has the tendency to temper conflict and “promote toleration and understanding between groups” (Chambers, 2003: 318; Kahane and Weinstock, 2010). Of course, mutual respect was not achieved automatically, but as time wore on, the actors became more familiar with one another and were more likely to listen to and appreciate one another’s viewpoints (Interview, Marieke van Doornick: 2010).

Criterion of Meaningful Inclusion: Linked to Decision-Making Procedures and Able to Influence Government Decisions

The criteria of meaningful inclusion states that the policy processes in question must be open not only to direct stakeholders but that they must have relevance, meaning that they must have “discretionary powers in policy areas that are central and commonly considered important, not just peripheral or second order to a polity’s overall legislative activity” (Chambers, 2003: 16). According to these criteria, for a process to be considered deliberatively democratic, it must be connected to decision-making authority (Bohman, 2010). This means that the deliberative processes must feed directly into a formally constituted decision-making structure; that the participants themselves are granted decision-making power and/or that elected representatives are present, presumably, to be influenced. Many of the discussions leading up to legalization satisfied these criteria because they were financially sponsored, mediated and hosted by the national government. Fundamentally, the intention of these discussions was to produce policy; however, they did not go so far as to grant decision-making power to the stakeholders via a vote or referendum. Because “official” political decisions were made during these deliberations, the need to draw out more formal rules of procedure pertaining to a vote, for instance, was eliminated. Instead, the moderator drew participants together into a deliberative setting by the imperative to collectively find and propose a recommendation to the legislature. The Association of Dutch Municipalities was responsible for collating

the findings from the deliberations and proposed six main objectives, which would later influence the drafting of a bill and parliamentary debate:

1. Control and regulation of the running of prostitution
 2. Improve the combat of exploitation of involuntary prostitution
 3. Protect minors from sexual abuse
 4. Protect the position of prostitutes
 5. Separate prostitution and peripheral criminal phenomena
 6. Reduce the number of illegal migrants involved in prostitution
- (National Rapporteur, 2002: 16)

Taken together, it was clear that stakeholders advocated lifting the *Brothel Ban* as a way to establish greater control over the sector and better protect vulnerable people in the industry.

After the deliberations were officially concluded, a Report on Consultation was submitted to the Standing Committee on Justice, which is comprised of members from various ministries and a wide array (given the low threshold of proportional representation in the senate) of political parties. On April 13, 1999, the Standing Committee on Justice reported to the House that there was enough persuasive potential to lift the *Brothel Ban* (Preliminary Report, Standing Committee on Justice). The Minister of Justice followed with a letter to the public declaring the intent to amend the Penal Code.

The direct linkage between the Report on Consultation and the parliamentary process demonstrates that the criterion of meaningful inclusion was at least partially satisfied. Both the national government and the municipalities collaborated with the public to identify possible alternatives to the status quo and outline the most preferable solution (International Association for Public Participation, Planning for Effective Public Participation). The public reasoning that developed in this setting served as an important resource to guide politicians and the media in assessing the public mood. The government used the deliberations to anticipate Parliament's preferences (majority preferences), and drafted and introduced a bill accordingly. Less directly, the objectives that were outlined in the deliberations limited the range of policy alternatives for all parties and thus set parameters for the later parliamentary debate.

Additional evidence that the national deliberations were directly linked to policy-making authority was the creation of the Local Ordinance on Prostitution Policy. The VNG, which was deeply involved in the deliberations, developed a model ordinance for municipalities or what was more commonly referred to as a “handbook on local prostitution policy,” in direct response to the input received from stakeholders (Association of Dutch Municipalities, 2013). The handbook was intended to prepare municipalities that would be charged with implementing and enforcing the new legislation, should it pass. In accordance with the advice provided, the municipalities began to develop and implement their own policy memoranda. In this way, the VNG could use the information gathered from stakeholders to help promote the timely development of a municipal sex-work policy in the event that the *Brothel Ban* was lifted. The recognizable influence that these deliberations had on policy and their formal linkages to decision-making bodies illustrate a situation in which deliberations occurred alongside and not “instead of normal governance institutions” (Kahane and Weinstock, 2010: 7-8; Wagenaar, 2007).

There is another, less obvious way to measure meaningful participation. While the connection of deliberations to real decision-making procedures is important, for participation to be real “rather than symbolic” (Dryzek, 2000: 29), those invited to deliberate must feel that their aspirations, demands and interests are taken into account and acted upon by decision-makers. Dryzek (2005) extends our understanding of meaningful inclusion beyond its connection to decision-making authority by attempting to measure how arguments advanced from various camps influence the outcome. To Dryzek, genuine inclusion is facilitated by the “degree to which a movement can establish a link between its defining interest and a core function in the state’s system or priorities” (2005: 234). The links between the arguments made by advocates for sex-workers’ rights and the dominance of the human rights frame in official government documents further indicates that the sex industry has participated meaningfully in the process. Outshoorn (2004) explains how the influence of sex workers and their representatives is nowhere more evident than in the policy documents developed prior to legalization. Outshoorn highlights official Dutch Cabinet documents on the status of women and sexual violence that she claims were heavily influenced by “the femocrats of

the women's policy agency in the Netherlands," many of whom participated in the legalization debates (2001: 475). In the same vein, Kantola and Squires point out that the influence of sex-workers' rights advocates on Dutch public policy debates at this time was stronger than in most other European sex-workers' rights campaigns, evidenced by the wider horizon of policy options provided (2004: 77). These included "measures on pay, time off, workplace safety, work conditions, hygiene, health and recognition of the rights of the prostitutes to refuse drunk or violent clients" (Kantola and Squires, 2000:114).

Including the sex-workers' rights message in these debates is a result of far more than the influence of the moderator, however. The effectiveness of the feminist message in these debates is due, in part, to the strength of the relationship between feminists and the state at the time (Outshoorn, 2012). In the years before legalization, a formidable women's policy network had grown that increased the popularity of the feminist message. Outshoorn argues that the constant pressure from this network was integral to establishing channels for advocacy and integrating the feminist message into the legalization process. Similarly Kantola and Squires argue that after legalization, the state "legitimized its own sex work policies by claiming its legislation was in line with 'feminism'" (Kantola and Squires, 2004: 12; Outshoorn, 2001: 474). Clearly, sex workers were not only acknowledged as stakeholders and participants, but their messages were integrated and later even championed by political parties to demonstrate progressiveness (Interview, Marieke Van Doornick: 2010). This framing positioned the Dutch state on the cutting edge of modernity, and thus exemplifies what Outshoorn describes as Dutch "enlightened nationalism" (Outshoorn, 2012: 235).

In sum, it may go too far to say that sex workers and owners were given an *equal* place at the policy-making table, but they were certainly invited to contribute their policy positions to a process that was linked to a legitimate decision-making body. And judging from self-reports, the arguments advanced by SWRA and the owners gained "proper force" within the deliberations, thus eliciting deliberative democracy's emancipatory potential. It is plausible, however, that sex-industry stakeholders reported feeling meaningfully included because their central demands were reflected in the outcome (legalization). This begs the question, had the outcome been different, would reports of

meaningful inclusion have been the same? A proceduralist deliberative democrat would answer this question by emphasizing that the quality of the democratic process is not measured by way of the output and/or self-reported feelings of inclusion (that could be dependent on output). Instead, proceduralists have argued that a “just” output is determined first and foremost by the rules regarding the input (Estlund, 1994: 186). In this sense, I focus more on the established rules of procedure and the diversity of inclusion and the balancing mechanisms. While self-reports are important, the process was meaningful according to deliberative democratic theory because the procedural guidelines ensured that even minority views were included, respected and able to influence the policy debate.

Criterion of Inclusive Reasoning and Diversity of Perspectives

This section describes how the national government solicited a wide diversity of perspectives both within and alongside the formal deliberation process and gave special attention to the most marginalized of stakeholders. To this extent, the political processes leading to the lifting of the *Brothel Ban* not only fulfill the second criteria of inclusivity, but also privilege experiential knowledge.

During the time of public deliberations, the pressure on the national government to introduce a new bill was sustained by the VNG, the mayors of the four big cities (Amsterdam, Rotterdam, the Hague and Utrecht), the De Graaf Foundation and the Foundation Against Human Trafficking (STV) (Outshoorn, 2004: 170). At first glance it appears that these stakeholders were united in their thoughts that the Penal Code would protect sex-workers’ human rights. On closer inspection, however, it becomes clear that the stakeholders held contradictory viewpoints regarding why or how exactly the profession should be written into law. Where the De Graaf saw lifting the *Brothel Ban* as an opportunity to extend legitimacy to the sex-work profession and offer labour rights to sex workers, the STV saw it as opening the possibility for the greater protection of sex workers against coercion (Interview, Boonstra: 2011) and, finally, the municipalities saw it as an opportunity to use municipal regulation to establish more control over the criminal sectors of the sex sector. Evidently, the support to lift the *Brothel Ban* was anchored in different purposes and beliefs about the nature of sex work. Perhaps sensing

the conflicting motives for supporting lifting the *Brothel Ban*, even amongst sex-workers' rights organizations, the government commissioned additional research to ensure that the sex-worker's needs and interests were adequately reflected in the creation of the bill. While all stakeholder groups were invited to reason within formal deliberative forums, the government recognized sex workers to be direct recipients of policy change and thus actively sought their knowledge and input on the bill. Indeed, the government validated the experiential knowledge of stakeholders by giving equal, if not more credit, to their shared stories, issues and perspectives.

There is difficulty in the organizational representation of sex-workers' interests, however. While organizations like the Red Thread and De Graaf were run by former sex workers and undoubtedly represented the interests of some sex workers in the regional and municipal debates, these organizations are political and answer to interests and demands outside of the needs of local sex workers. Moreover, by their own admission, the Red Thread had limited reach to the most vulnerable segments of the industry (Interview, Red Thread: 2011). To this end, the national government deemed it necessary to open another channel for sex-workers' voices to enter into the political debate. The Purple Coalition commissioned two qualitative research projects from collaborative research institutes and academic enterprises, both of which are explained below. Together the projects had two goals. The first was to include all those diverging perspectives, even if no one was willing to offer a divergent view in the deliberation. The second was to establish a baseline on the current state of commercial sexual affairs in the country, including the status of sex workers and the sex-industry's relationship to crime. A baseline would help set the priorities for legislative change and set a plan for evaluation.

In 1999, the Purple Coalition commissioned the De Graaf organization to take stock of developments in sex work and to consider the possible effects of changes to the legislation. The resulting report is considered the first record of the Dutch state examining the effects of its policy changes on sex workers (Fisher, J; Oomens, H.; Boerman, F; WODC; Mr. A de Graaf Foundation; Project Profeit Plaats, 1999). Using extensive qualitative research, the report investigates the state of affairs related to sex work and trafficking in 1999 and the national trends that emerged between 1994-1998 (Red Thread, 2009). The researchers gathered input from some of the most vulnerable

minorities (sex workers), and shared these findings with the government. Similarly, the Dutch Institute for Sex Research looked at the social position and psychosocial well-being of sex workers at the time. The central argument was that the position of a number of vulnerable groups was not likely to improve as a result of lifting the *Brothel Ban* unless amendments were introduced that would specifically address the potential for coercion and allow sex workers to attain general labour rights. The Institute demanded a greater degree of certainty than did the previous policy regime regarding the protection of sex workers.

While the majority of the solicited research concluded with arguments that fell within the human rights frame, a series of corollary arguments followed, some of which stood outside the formal, reasoned dialogue. As mentioned in the methodology section, a number of assumptions and discourses contribute to “the policy problem” and can shape the solutions chosen to address it. Significant amongst these was the belief that legalization could increase transparency in the sector and expose those criminal networks allegedly operating within it (Outshoorn, 2004: 56). One of the most influential reports before legalization was that of Dutch criminologists Fijnaut and Bovenkerk. In 1996, they reported to a parliamentary committee that criminal groups exercised considerable commercial power within inner city districts and Amsterdam’s RLD in particular (Nelen and Huisman, 2007: 1). Fijnaut and Bovenkerk claimed that these criminal groups were violently controlling sex workers. From their analysis, the political strategy of *gedogen* was failing to prevent serious problems of public safety and/or the exploitation of women in some of the very same establishments in which these informal municipal systems were operating (Brants, 1998: 622). The report fortified the City of Amsterdam’s support for lifting the *Brothel Ban* as this political move was the only way in which they could then establish more local control over the industry.

Following Fijnaut and Bovenkerk’s report, Amsterdam’s Municipal Council established the Van Traa Team, comprised of criminal researchers and a project lead, to investigate the extent of these criminal networks and determine the need for special investigative techniques (Nelen and Huisman, 2007; Vander Beken and Black, 2001: 11). Almost immediately after its creation, the Van Traa Team began to look into “the hotel and catering sector, the gambling sector and the property sector, mainly in the inner city

districts and especially in the red-light district[s]” (Fijnaut and Bovenkerk, 1996: 126; Nelen and Huisman, 2007: 2). Echoing the earlier report by Fijnaut and Bovenkerk, the Van Traa Team argued that:

Criminal individuals and groups have, through their illegally acquired property and capital, gained control of most of the economic power. As a result, this enables them *de jure* and *de facto* to decide who, and to what extent, can develop illegal and/or legal activities, and thus, to a high degree, ultimately determine the level of public disorder or order in this area.

The report stated that the indecisiveness of the local authorities had created a fertile breeding ground for illegal and criminal activities in the red-light district (Nelen and Huisman, 2007: 1). Another key finding of the Van Traa research was that Amsterdam’s criminal infrastructure feeds off a range of local industries within the RLD, including brothels, smoke shops, smart shops,⁶⁵ souvenir shops, foreign exchange bureaus, gambling halls, coffee shops, mini marts, peep shows as well as hotels, restaurants and cafés (Future Perspectives Strategy, Heart of Amsterdam, 2006; Emergo Project Summary, I Amsterdam 2008). The Van Traa Team assumed the sex industry to be riven with criminal activity. Although little evidence was offered to support the linkage between crime, brothels, sex work and sex workers, the Van Traa-team report, entitled *Limits to Law Enforcement* (2007), states that:

There is a criminal infrastructure in the center of Amsterdam; consisting of high density of crime sensitive branches like brothels, coffeeshops [sic] and sleazy bars and hotels... fighting crime in that area can only be a lasting success if we reduce the size of that infrastructure.

The Report is littered with photos of the RLD and women in the windows, implying, by association, that the entire sex industry is caught up in these criminal webs. In many of these arguments, no effort is made to distinguish sex workers from the brothels in which they work and it is not clear whether the Van Traa Team understood sex workers to be criminals or victims in relation to these networks.

Non-governmental organizations that operated outside of the sex-workers’ rights frame began to draw their own conclusions about the status of women in the brothels, and the operations behind the RLD’s “supply of women” (Interview, 2011: Joep). Since the early 1990s, those providing services to, or working in, the RLD were witness to an

⁶⁵ A smart shop (or smart shop) is a retail establishment that specializes in the sales of marijuana and psychoactive substances, such as magical mushrooms.

increasing number of migrant women appearing in the windows “to only days later be gone” (Interview, Joep: 2010; Interview, Anton: 2011).⁶⁶ With the origins of these women, their transit routes and the organizational structure and operations behind their presence generally unknown, many aid agencies feared that the police had effectively “lost control” over the economy of the RLD and the sex industry more specifically (Interview, Joep: 2010; Interview, Anton: 2011). The Van Traa Team’s findings only confirmed their worst suspicions and the policy of toleration, or *gedogen*, came in for scathing indictment as an emaciated political approach to serious problems.

In line with these findings, the Van Traa Team formulated a report that included a series of recommendations for the authorities to increase transparency, all of which were immediately focused on lifting the *Brothel Ban*. Following this legislative change, the Van Traa Team argued for a collaborative approach to collecting information and being more proactive about using administrative regulation and law (Nelen and Huisman, 2007: 208, 209 and 213). Defining itself as a collaborative research network, the Van Traa Team dedicated itself to advancing “an administrative approach to organized crime” (Nelen and Huisman, 2007). However, it was not until after legalization that the City Council acted on the Van Traa Team’s recommendations.

As will be more thoroughly explained in the section on the *Implementation of Project 1012* in Chapter 6, the Van Traa Team’s research was picked up by “moral crusaders” and the anti-trafficking movement who were fighting to reform Dutch criminal law to make it more punitive regarding traffickers and pimps. It was these predatory individuals who they claimed were able to operate with relative impunity under *gedogen*. In the Van Traa Team’s so-called findings, these groups criticized the police tolerance of establishments known for sex work, equating that tolerance with disinterest, indifference and “administrative withdrawal” (Wagenaar, 2007: 4). In the same vein, Brants observes that the Dutch government’s traditional approach began to be viewed as not much more than “non-intervention in the districts near the harbor where, historically, brothels and bawdy houses have always been located” (1998: 238). Given the mounting

⁶⁶ Based on their interactions with women in the district, police and outreach workers speculated to me that the majority of sex workers now in the windows are of Eastern European origin because they lack fluency in Dutch or English and are, for the most part, white. Although Eastern European women are less visibly different than the majority Dutch population, they remain subject to discrimination and xenophobia because of their status as outsiders.

evidence of criminality, readily supplied by the Van Traa Team, lax political responses were deemed inexcusable. Concerns regarding sex trafficking and crime were well established within the historical center, but the fear had yet to peak and the municipal government lacked either the evidence necessary to initiate a strong formal political response or, perhaps, the political will. The popularity of the Van Traa Team's findings, particularly its "discovery" of a criminal infrastructure operating out of the sex industry was, then, the beginning of the move away from the permissiveness that characterized *gedogen*. From this angle, the government of Amsterdam partnered with the municipal governments of the other three major cities in the Netherlands to pressure the national government to remove the *Brothel Ban* and establish more local regulatory control over the industry (Outshoorn, 2004). The predominant influence of the criminal discourse is evidenced by the letter from the Minister of Justice before the bill was drafted. The letter stated that:

The Netherlands have come to realize that implementing a brothel prohibition, which will result in criminalization, is not the correct manner to manage the occurrence of prostitution and to effectively deal with the criminalization relating to this sector (Savornin Lohman et al. 1999: 3).

The state had acknowledged that the system of control as described by *gedogen* was faltering, and increasing criminality was the most vivid symptom. Anton Van Wijk, the lead criminologist from the Van Beke Institute⁶⁷ contends, however, that the National government was compelled to lift the *Brothel Ban* for a number of reasons that stood apart from the alleged increase in criminality, but which were not articulated in the public, deliberative realm. In this regard, not all arguments that came to define the problem were subject to scrutiny, thus failing to satisfy the criteria of openness and transparency.

From Van Wijk's perspective, the "administrative withdrawal" and laxity of enforcement did not reflect disinterest but an under-resourced and ill-equipped police force trying to cope with the fallout of a complex system (Interview, Van Wijk: 2011). Increased migration and mobility, combined with the lack of a formal legal structure,

⁶⁷ A leading criminology research centre in the Netherlands. The director, Anton Van Wijk, was interviewed as a part of my research. The Van Beke Institute was commissioned by the City of Amsterdam to write the Report *Samenvatting Kwetsbaar beroep: Een onderzoek naar de prostitutiebranche in Amsterdam*-an Investigation into the Prostitution Industry in Amsterdam.

made it difficult for police to enforce even some of the most informal agreements and expectations (Interview, Van Wijk: 2011; Nelen and Huisman, 2007: 1). Expectations of municipal police forces were high and yet the force had little intelligence about the criminals they were dealing with, even with the support of the Van Traa Team's findings. Moreover, prior to legalization, the police operated under a system that granted them very little legal authority to inspect premises. When they did inspect premises, rarely did they know what they were looking for (Interview, Boonstra: 2011). In addition, there was a lack of coordination among police forces, which made it exceedingly difficult to catch criminals such as pimps and sex traffickers who often work across jurisdictional boundaries and manipulate gaps in government communication. For these reasons, the police demanded that any new legal framework give them clearer authority, additional resources and better direction on how to enforce the law and combat sex trafficking and coercion (Interview, Van Wijk: 2011).

Conversely, some sex-workers' rights activists saw legalization as an opportunity to put a stop to police corruption and to protect themselves from harassment and extortion (Open Society Institute, 2006; Punch, 1979). As Leek and Montfort note, the "prohibition of brothels also apparently resulted in the corruption of civil servants" (2004: 433). The advocates for sex-workers' rights felt that the milieu of informal agreements and regulations was confusing, overly broad with regard to defining the parameters of police intervention, and caused the *Brothel Ban* to be inconsistently applied (Interview, Red Thread: 2011). Again, the need for new legislation was expressed, but from this perspective, the call for legal reform was based on the desire to demarcate, more clearly, where and when police could be involved and where and when they could not.

Shared Understanding of the Problem and Normative Meta Consensus

In the early stages of the policy processes, deliberation helped to clearly define the problem. The police, anti-trafficking groups, criminal investigators, academics, actors in the international arena, feminists and social workers held very different views on what the details of the proposed bill should be and the type of regulatory/policy framework that should be implemented after its passage, yet they all agreed that the illegality of brothels provided no context for human rights and that the *Brothel Ban* was difficult to enforce.

Pressure for change thus came from various camps, but despite their fighting for different means to secure their desired ends (policy preferences), they were joined together in the appreciation of a need for change. Daalder's 2004 study, "Prostitution in the Netherlands since the Lifting of the *Brothel Ban*," commissioned by the Dutch National Government, further demonstrates this view. He argued that all politicians involved were driven by the need to arrive at a mutually acceptable position on what were mounting concerns regarding agreed-upon problems (crime and human rights violations). Thus, as noted in the introduction, the status quo emerged as the shared understanding of the problem.

There was also an underlying set of values that tied stakeholders together and "agreement on the values that should predominate" political discussion or what Dryzek defines as a normative meta-consensus (2006). As explained earlier, the human rights frame offered by the 1985 World Whores Congress had gained acceptance and underlined subsequent efforts to eradicate the *Brothel Ban* (Outshoorn, 2004). In later years, advocates continued to construct the proposal to lift the *Brothel Ban* in terms of a sex worker's *need* to be free from the social stigma (and thus the oppression) associated with her profession rather than a set of interests that pertained only to her particular circumstances (or identity). As Dryzek contends, demands that are shaped as universal needs are more likely to garner empathy amongst the wider citizenry and convey a sense of political urgency and support as a result. Obviously, if these needs are not met, the outcome can be disastrous (Dryzek, 2005: 221). For example, the proliferation of sex trafficking has potentially disastrous outcomes for its victims as they are exposed to harsh treatment and sometimes even death. The deliberators succeeded in coming to agreement on the need to lift the *Brothel Ban* because this proposal was "oriented towards humanitarian principles" that all people could, to some extent, accept (Young, 2001: 674). In sum, political processes that are triggered by normative consensus are more likely than those that lack shared value sets to produce collectively agreed-upon outcomes.

The problems with the status quo were so vast and obvious that its removal also appealed effectively to "generalizable interests or need interpretations" (May 1993: 5). Generalizable interests are composed of those interests that are universally shared, such as public order, prosperity, security, and safety (May, 1993: 5). Lifting the *Brothel Ban*

appealed to generalizable interests because it was framed by its proponents as a pragmatic way to legitimize an already existing sexual activity (or a “social fact” as Jan Visser called it) and establish order in an area that was regarded as out of control. Here, the generalizable principle was to establish public order. In short, the *Brothel Ban* became defined as an obstructive piece of legislation, and a shared understanding of the political problem (the status quo) developed. Guiding the attempts to solve the problem was a shared-value set rooted in the human rights frame (Outshoorn, 2004), providing evidence of both a normative and, to a lesser extent, epistemic consensus. Insofar as the need for change was recognized, and the parties involved agreed that policy change would improve the situation for sex workers, the level of agreement reached epistemic consensus.

The Parliamentary Debates

As mentioned earlier, it was not until 1994 that legislative reformers gained political leverage. At this time, “the Christian Democrats were excluded from the cabinet for the first time since 1918” (Buijs, 2009: 9). The new cabinet of Liberals, Social Democrats and Social Liberals formed what would become known as the “Purple Coalition,” which effectively bridged “the left-right divide in Dutch politics by allying the Social Democrats with Conservative Liberals and Social Liberals” (Outshoorn, 2004: 183, 7). In rapid succession, “liberal issues” such as the legalization of euthanasia, abortion and marijuana were introduced in the House (Buijs, 2009; Outshoorn, 2012).

In the same social-liberal spirit (Aalbers and Deinema, 2010: 6), the Purple Coalition began to draft a number of amendments to the Dutch Penal Code that aligned with the priorities the national deliberations produced. At the heart of these amendments was the proposal to lift Article 250bis of the Penal Code, which had kept the ban on brothels since 1911. If successful, removing Article 250 would abolish the general ban on brothels, including any sex clubs, windows or other businesses that were run for the purposes of sex work (Hubbard, 2007: 8). The bill also amended Article 250ter, pertaining to trafficking and involuntary prostitution; and article 432, which prohibited pimping in an effort to establish clarity around the notion of consent. In doing so, the coalition responded directly to the report that was submitted to the Standing Committee

on Justice and which articulated the need for reforms to the Penal Code to more clearly demarcate between “illegal” and “legal” sex work and increase penalties for illegal sex work (underage and trafficked).⁶⁸ It was only after these recommendations were considered by the Standing Committee on Justice, that the Social Democrats drafted the bill known as the “*opheffing algemeen bordeelverbod* (Lifting of the general ban on brothels)” (Dutch National Rapporteur, 2002: 15). When it was brought to Parliament in 1999, the bill

...retained some of the earlier modern and humanitarian spirit, but placed more emphasis on child sex work and the “protection” of prostitutes. Lifting the ban meant municipalities could impose standards and license the sex trade and that sex work would be treated as sex work. Decriminalization, according to the memorandum to the Bill, would lead to the normalization and cleaning up of the sex market (Outshoorn, 2004: 198).

This was an interesting moment not only because of the bill’s content, but because it was the first time in Dutch history that the entirety of the governing coalition worked to amend the Penal Code in consultation with stakeholders (October 5, 1999 Parliamentary Debate). A number of legislative amendments had been proposed over the years that had come as a result of the political parties’ own consultations; however, these proposals were never translated into legislation because they were blocked by coalitions that had, until then, afforded stronger roles to the Christian Democrats than the Purple Coalition (Outshoorn, 2004).

When Parliament finally debated the bill in 1999, the previous national deliberations set the parameters and thus constrained the policy options available for discussion. As a result of these deliberations, there was widespread recognition that the continuance of the status quo would not serve the human rights of sex workers nor prevent criminality within the industry. The relatively low number of proposed

⁶⁸ In a commissioned study on lifting the *Brothel Ban*, Daalder explains the legal changes in such detail that the section is worth repeating here: “With the amendment of the law, which came into effect in 2000, the general ban on brothels and the ban on pimping were lifted; the relevant sections were removed from the Dutch Penal Code. At the same time, a more severe penalisation of undesirable forms of prostitution and the sexual abuse of minors was introduced. The new section 250a of the Dutch Penal Code penalised all forms of exploitation in the prostitution sector. In October 2002, during a partial review of the decency legislation, a number of relevant sections of the law were amended, particularly with a view to a more effective protection of minors. After section 250a was sharpened, extended, and renumbered, it was turned into the current section 273f of the Dutch Penal Code. The administrative responsibility has been devolved primarily to the local government. The municipalities, therefore, play the most important role in determining the form of their policy regarding prostitution” (Daalder, 2006: 11)

amendments to the bill best expresses the general acceptance of its intent. However, the overall support for the bill's purpose did not preclude a healthy debate, as the parties differed significantly on the ways in which they felt the aforementioned objectives could best be achieved. As expected in the parliamentary process, political parties articulated many different perspectives and advanced contrasting policy preferences. However, a parliamentary debate does not necessarily qualify the process as deliberative. As Rasch elaborates:

Deliberation refers to a process by which reasoning is utilized to form preferences and reach a collective decision. A real exchange of arguments has to take place and participants must be willing to adjust their opinions – both beliefs and desires – over the course of the debate, before the debate is closed by a collective decision of some kind. If nothing of this sort happens during a debate it of course still can be called a discussion, or even a form of arguing, but it cannot be characterized as deliberation. The fact that some people talk in sequence on some matters from the same rostrum is not sufficient to make it a deliberative process. Nor is it deliberation if participants in a discussion do nothing more than state the reasons for their own views or opinions, without an element of interdependence or reciprocity in the exchange of arguments (2011: 8)

While parliamentary debate can demonstrate collective reasoning, there are a number of factors and issues that undermine its deliberatively democratic potential. Rasch argues, for instance, that parties often use parliamentary debates to strategically position themselves through electorally oriented activities such as “advertising, credit-claiming and position-taking” (2011: 8, 20). As a result, the parliamentary debates become more about defending a voting position and criticizing the government than about the exchange of reasons and, as a result, they produce predetermined outcomes. Other factors that tend to divorce the parliamentary process from its deliberative democratic potential include strict rules of procedure that grant too much authority (and thereby an imbalance of power) to the ruling coalition by limiting smaller parties’ access to debate, speech and agenda setting (Rasch, 2011: 20). The constitutional nature of these imbalances makes it difficult to privilege experiential knowledge that emanates from a minority position, nor would it be easy to introduce balancing mechanisms as referenced in the theory section. In the Dutch case, the government maintains a “tight grip on the parliamentary timetable and a near-monopoly of both the information and the drafting skills needed to prepare legislation” (Laver and Shepsle, 1994: 295). However, while I acknowledge that the

parliamentary process does not necessarily offer equal political opportunity for participating and I draw insights from the distinction Rasch makes between deliberation and debate, I refrain from criticizing the parliamentary process as inherently non-deliberative. Below, I will explain how the parliamentary process in this case demonstrates elements of deliberative democracy, although admittedly I do not use as demanding a standard of deliberation as Rasch.

In the theory chapter I proposed that the deliberative reasoning process offers only the opportunity — not the guarantee — to shift preferences. For this reason, I initially did not look for shifts in preferences as being critical evidence of the deliberative process. At the same time, I acknowledge that a deliberative reasoning process requires a degree of willingness (termed reciprocity) to shift one's preferences in alignment with the force of the better argument. However, the "willingness" of parties to change their opinions is as difficult, if not more difficult, to measure than are actual shifts in preference before and after deliberation. For this reason, I sought to determine whether there was evidence of political parties having changed their political positions as a result of parliamentary debate.

The first and perhaps strongest indication of the political parties' willingness to change their perspective was the series of concessions and agreements made between parties that have historically opposed one another. The national deliberations had set the imperative for political parties to reach agreement and thus played a strong role in establishing a reciprocal political atmosphere. Had political parties tried to strategically manipulate the discussions or politically posture themselves within these debates, they would have been viewed unfavorably as being non-cooperative and as undermining the efforts to change the status quo. As a result, even those political parties that are morally and philosophically opposed listened to one another's arguments and agreed on the need to increase penalties involved in non-voluntary aspects of the industry, more clearly establish boundaries of municipal authority and establish a framework for labour relations (Minister Korthals, Parliamentary Debates, October 9, 1999). Most notably, during the deliberation process, the People's Party for Freedom and Democracy (the VVD), which had previously sought increased criminalization of the sex industry, began to support lifting the *Brothel Ban* (Interview, Marieke van Doornick: 2010). Similarly,

the right-wing liberalist faction of the VVD, which had a history of abolitionist activism, came to support lifting the *Brothel Ban* because it “considered the old Brothel Act an infringement on the right to free choice of labour” (Aalbers and Deinema, 2010: 7). The parliamentary debates thus took on a transcendent character, inserting some flexibility into the long-held positions of political parties.

The second indication of flexibility was the proposal and acceptance of a number of amendments “formulated on the floor during legislative debates” (Rasch, 2011: 10). In the Netherlands, the parliamentary committee has the authority to re-write the bill according to proposed amendments and these are reconsidered by the House and voted on in sequence (Rasch, 2011: 30). The passage of these amendments suggests that the bill originators’ initial preference was transformed. In the 1999 parliamentary debate, three amendments were submitted and accepted.

The parliamentary process produced a series of interesting debates. First, the Senate Working Group took issue with a part of the bill that put a temporary ban on sex workers from certain nations. The working group’s members questioned why sex work should be left only to Dutch labour and argued that, under the proposal, half of the existing sex workers would be considered illegal and forced to leave the country overnight. To prevent a “witch hunt,” as they called it, they argued that sex workers should be given time to leave the country (Parliamentary Debates, October 9, 1999). As a result of their proposal, non-native sex workers without European Union permission to work in the industry were given a six-month grace period after which they were required to find a new job or leave the country (October 5, 1999 Parliamentary Debate; more on this will be discussed in Chapter 7). The allotment of a grace period is evidence that legislators were prepared to alter their stance after listening to arguments advanced by other parties (Rosch, 2011).

A second amendment to the bill included even greater punishments for traffickers and pimps. The Christian Democrats (CDs), holding onto the position that sex work fundamentally violates the body, argued that “prostitution was not normal work and pimping was not ‘just entrepreneurship’” (October 5, 1999 Parliamentary Debate). At the same time, the CDs agreed with the Purple Coalition’s position that “inherent harms” of sex work could be reduced through greater regulation and surveillance of the industry

(October 5, 1999 Parliamentary Debate). The PvdA, VVD and D66 supported lifting the *Brothel Ban* and, like the CDs, they emphasized the “special nature” of the profession and the need for the bill to focus more strongly on the involuntary aspects of sex work (Parliamentary Debates, October 9, 1999). The Labour Party (PvdA) became the strongest proponent of the need to distinguish between voluntary and involuntary, citing the work of feminists at the 1985 World Whores Congress (Outshoorn, 2004).

Through these discussions all parties came to agree that amendments should include stricter penalties for benefiting or profiting from involuntary prostitution. Consequently, the bill was amended to include greater punishments for trafficking and for those engaging with minors (Dutch National Rapporteur, 2002: 15). The difference between the original and final drafts of the bill demonstrates the power of deliberation to transform preferences. As a result of deliberation, the most acceptable option for all parties emerged as the preferred option. In this regard, the process was democratically legitimate in that the deliberative method produced the better argument. The force of the better argument was achieved through collective decision-making.

The deliberative democratic quality of the parliamentary debates rests not only in the use of the deliberative method, but also on the inclusion of evidence from regional consultations, research commissioned by the government and insights gained from frequent contact with direct stakeholders (Outshoorn, 2004). While the government maintained authority over the agenda and the information that was tabled in the house, it did so in a manner that afforded a diversity of opinion. Indeed, organizations like the Red Thread were invited to provide evidence for consideration by political parties. For example, Mr. Van Schindel, a member of both the Red Thread and the Senate, was invited to give a speech to the parliament (Parliamentary Debates, October 9, 1999). His speech detailed the need for adequate labour regulations and was commended by Minister Korthals for being both informative and brave. The aforementioned research reports on the current status of sex workers were also tabled. These efforts can be interpreted as a government working to ensure a high quality of deliberation with reference to relevant information.

The debates were also transparent in that transcripts were made available to the public. Parliamentary debates are also open for the media to attend. However,

interestingly, Outshoorn cites only scant media coverage of the parliamentary deliberations. She argues that these debates were downplayed within the “wider public realm” because of the acknowledgment that lifting the *Brothel Ban* was somehow inevitable (2004). While, in retrospect, the absence of media involvement and the lack of publications on the debates could signal less transparency, the evidence indicates that the debates were open. A lively and in-depth debate may not have played out in the media, but the details of the bill were hotly contested within the formal political structures of the legislative process (Wagenaar, 2007). Moreover, the media’s limited involvement has an added benefit of limiting the kind of distortion that Dryzek (2005a) warns ruins the purity of the deliberative democratic process (resulting in “imperfect deliberation”).

Parliamentary Debates: Criterion of Meaningful Inclusion

Although the parliamentary debates covered a wide range of topics and surely affected the opinion of political leaders, there were several key arguments that were not in any way reflected in the final piece of legislation. That these arguments were not integrated into the final output brings into question the meaningfulness of parliamentary debate. As described in the theory chapter, meaningful inclusion is measured not only by the deliberation’s linkage to formal decision-making processes but by the impact these deliberations have on the final output. In this case, the unfortunate result is that the bill passed with a number of unsettled debates.

For instance, the D 66, while generally satisfied with the first draft of the bill, demanded that more national regulations against trafficking follow and that the government guarantee a sufficient degree of resources for enforcement. The Christian Democrats echoed these sentiments and expressed concern for what they considered the unnecessarily heavy emphasis on municipal regulation given that organized crime was national or transnational (October 5, 1999 Parliamentary Debate). The final piece of legislation, however, made no reference to the national government’s commitment to resources or enforcement.

Article 151 was also heavily criticized, but remained unaltered from its first draft. This article extensively expanded municipal power by giving municipalities the authority to license brothels and, by doing so, effectively placed sex work under civil law. The

VVD, the Dutch Political Reformed Party (SGP) and Greenlinks questioned transferring authority, concerned that brothels could now be judged according to how municipalities interpreted the threat posed to the “public order” or “public morality” (October 5, 1999 Parliamentary Debate). The problem, as the VVD argued, was that sex work has historically been considered to be in conflict with public order and thus would likely continue to face discrimination due to subjective interpretations. For this reason, the VVD argued, sex work should be considered outside of the scope of civil law, even though doing so might not represent full decriminalization. The SGP questioned the civil code on the basis that it would not adequately protect the unique aspects of the profession. As with the D66, the SGP demanded more national standards and regulation. The Greenlinks also questioned placing sex work within civil law, arguing that it gave too much political power to the municipalities who could then freely interpret public order and stamp out sex work by claiming it to be a nuisance. The Greenlinks took the argument further by stating that the instruments available to regulate sex work, such as refusing a license due to improper maintenance of the public order, had a negative undertone that implied the brothel was a higher risk to the public order than was actually the case. The Greenlinks argued that, in future, municipalities should be less concerned with regulating sites along the lines of public order, nuisance and inconvenience and more with methods of customer acquisition and work conditions (October 5, 1999 Parliamentary Debate).

Interestingly, the CDs argued for more municipal authority, not less. They cited the desire, on behalf of some municipalities, to apply a “zero policy,” which meant that no brothels would be tolerated within their vicinity. They framed their demand in terms of municipal autonomy. With the exception of the SGP, the other parties argued with the CDs that municipalities had several tools available through which to limit the industry’s presence. The SGP, on the other hand, supported the CDs’ wish to institute a zero policy but did so only because they lacked the confidence that municipalities would be able to devise adequate regulations in time (October 5, 1999 Parliamentary Debate). In the meantime, they suggested that municipalities should be allowed to enforce a zero tolerance policy until they secured their regulatory approach. In order to secure enough

support for the bill, the coalition conceded to allow four months for municipalities to arrange their regulatory affairs. As Outshoorn elaborates:

The only concession the religious parties were able to obtain was that the bill would only take effect [four months later than originally intended] in order to provide local authorities with more time to set up their own regulation and system for licensing (2004: 235).

The CDs remained unsatisfied, however, and submitted an amendment to gain zero tolerance zones for municipalities. The amendment was rejected as unconstitutional (Buijs, 2009: 5), because it posed barriers to the freedom to work. As the only amendment pertaining to the issue of municipal authority was the one advanced by the CDs, the final bill lacked any details regarding restraints on municipal authority as requested by all parties.

Labour was another topic that was left unsettled when the *Brothel Ban* was lifted. The Senate Working Group⁶⁹ that reviewed the *Brothel Ban* had submitted a report to Parliament asking that it consider the extent to which sex workers wanted to be self-employed and questioned the risks if they were given that choice. Would brothels continue to operate as they do now and would brothel owners avoid fair taxation? (October 5, 1999 Parliamentary Debate) Although labour relations were briefly discussed in Parliament, it was only when the FNV (the largest union) brought sex work under its umbrella in the post-legalization period that the Ministry of Labour began to seriously contemplate creating a tax scheme.

As briefly alluded to, one of the central reasons these arguments were not integrated into the final output was that they were not translated into the proper format of a legislative amendment. In this case, the strict structure of legislative procedure undermined the force of the better argument, indicating that one of the strongest impediments to deliberative democracy within the parliamentary setting can be its strict adherence to legislative procedure. At the same time, however, it is important to note that these concerns *were* at least heard and recorded within the parliamentary process,

⁶⁹ As summarized by Paul Koch: "The First Chamber or Senate is elected by the provincial States (parliaments) directly after the provincial elections. Being a senator is less demanding than being in the Second Chamber; the Senate sits for only two or three days per week, allowing members to simultaneously pursue other careers. This is considered a Good Thing, since it allows senators, more than Second Chamber MPs, to keep in touch with society in general. The Senate has 75 members. In theory, the Senate can only approve or reject proposals; it cannot amend them. In practice, though, government or the Second Chamber reacts to problems in the Senate by slightly changing the proposals. In general, the Senate as a whole and individual senators act somewhat more independent than Second Chamber MPs. Nonetheless, proposals that are passed by the Second Chamber but rejected by the Senate are rare, and such an occurrence usually causes quite a stir" (Quirksmode, 2011).

which demonstrates that the concerns did influence the decision-making even though they were not effectively integrated. In effect, the parliamentary debates are placed further along the left side of the IAP2 spectrum where public input is heard, but they do not become integral to the solution (See Chapter 3 for the image of the spectrum).

Summary

Two political processes stand at the center of the analysis in section 3. The first of these processes consists of six regional deliberation sessions and more than a dozen workshops throughout the country, occurring from 1998-1999. Together, these deliberations were called the National Platform for Dialogue on Prostitution and were sanctioned by the Ministry of Justice and the Association for Dutch Municipalities. The Platform ran from 1998-2000. These state-sanctioned deliberations were hosted in an effort to determine the persuasive potential for the legalization of brothels and, in the event that it was plausible, they were also to help shape the bill's content. In line with the deliberative democratic criteria outlined in the theory section, I argue that they qualify as such because they purposefully included direct stakeholders in a meaningful discussion that was open to all interested parties. Although there is little evidence indicating the extent to which these deliberations recruited across different segments of the population, the diversity of perspectives represented indicates a satisfactory level of inclusivity. Two years after the deliberations began, it was determined that a bill to remove the *Brothel Ban* was necessary. The input from the deliberations was submitted to a Parliamentary Standing Committee on Justice and the ruling coalition submitted a bill. Shortly thereafter, political parties began to debate and propose amendments to the bill.

The parliamentary debates surrounding the bill's proposal to lift the *Brothel Ban* also qualify as deliberative democratic because they satisfy a number of the criteria, albeit not as clearly. The parliamentary process was directly linked to these deliberations and relied heavily on the input gathered; consequently, it took on many of the inclusive qualities that are a hallmark of deliberative democracy. By establishing a linkage with these national deliberations, the parliamentary debate differentiated itself from more typical parliamentary procedures that are more exclusive in nature and rarely involve public consultation. Another uniquely deliberative democratic attribute of the

parliamentary debates included the efforts to commission research on sex work from a diversity of perspectives, which demonstrated a concern not only for the lives of sex workers but for the diversity and credibility of evidence. In sum, the parliamentary process demonstrated an open and transparent reasoning process that enabled a series of agreements and negotiations. These agreements combined to create an epistemic agreement (see Dryzek and Niemeyer's typology of consensus in Chapter 3) reflected in the lifting of the *Brothel Ban*. As a result of these deliberative democratic qualities that led to the lifting of the *Brothel Ban*, the *Brothel Ban* itself can be understood as a communicatively secured consensus. Although not everyone necessarily agreed to its passing, the *Ban* resulted from an inclusive and transparent reasoning process and thus can be recognized as a democratically legitimate output.

Section 4: Outcome

The Christian Democratic party, constituting 26 percent of seats in Parliament (Outshoorn, 2012: 235), was the only party to vote against the bill to lift the *Brothel Ban* (Buijs, 2007).⁷⁰ With the lifting of the ban, the year 2000 saw the legalization of prostitution, and a clearer distinction made between legal and illegal prostitution, with only the latter made punishable. However, the CDs' no-vote meant that the parliamentary process did not produce unanimous agreement or consensus. But when we refer back to the typology of consensus presented in Chapter 3 and focus our attention on the deliberative process rather than the legislative outcome, we see how varying levels of consensus were reached throughout deliberation, and qualify the process as democratically legitimate, even if its ultimate outcome was not unanimous agreement.

Dryzek's term "communicatively secured consensus," is more appropriate in this sense because it focuses our attention less on the output to which all deliberating citizens agree and more on the "pragmatic concessions, negotiations and compromises" that are achieved through transparent, open and reasoned dialogue (2005a, 2005b, 2006). In this case, not all parties supported the final legislative outcome, but all parties took part in the deliberative process. The CDs, for instance, were active in submitting amendments.

⁷⁰ As I highlighted in the theory chapter, the deliberative method can be supplemented with non-deliberative democratic decision-making procedures and still be considered democratically legitimate. The parliamentary voting process is not collective decision-making in its truest sense, but it is not necessary for deliberative processes to be totally abstracted from a decision-making procedure.

Although these amendments were not reflected in the ultimate outcome, the fact that other parties voted for them reflects what Dryzek and Niemeyer call a preference consensus: the ultimate “agreement on the expressed preference for a policy” (Dryzek and Niemeyer, 2006: 638). Such consensus represents the highest level of agreement.

The CDs’ vote against the bill should be read as a rejection of certain elements of the bill, rather than an outright rejection of its overall purpose. In fact, the CDs favoured a “limited reform” so that authorities could more adequately do their jobs (Outshoorn, 2012: 233). On this basis, the CDs also agreed with harsher penalties for traffickers. So while the CDs saw some of their wishes reflected, there were insufficient concessions to elicit their endorsement of the bill. Indeed, the most important point about the communicatively secured consensus is that it is not something that all deliberating citizens necessarily agree to, but the one which people are least likely to reject in principle (Dryzek, 2005a). If we recall the number of times that the CDs agreed with the amendments to the Penal Code, then we see how the party showed its support for the bill’s general premise, but rejected it in favour of municipal autonomy.

The debate also produced a communicatively secured consensus in that it was the end result of “processes of judgment and preference formation and transformation within informed, respectful, and competent dialogue” (Dryzek, 2010:3). The success of the legal reform initiative in lifting the *Brothel Ban* was due, in part, to a secular ruling coalition, but could also be argued to have resulted from the inclusive and deliberative process that caused the legislation itself to be deemed legitimate. In combination with recognizing a deep need for political change, the national deliberative process relied heavily on cooperation and compromise to legitimize the process and build support for the bill.⁷¹ The coalition’s emphasis on the Dutch culture of cooperation and compromise was deemed integral to attracting a majority vote and gaining public support (Rasch, 2011: 14). As Outshoorn elaborates, the deliberative processes were evidence of the Dutch commitment to compromise and discussion, influenced by the historic corporatist model (2004: 186). A deeply ingrained cultural tendency towards cooperation, which grew from the Netherlands’ corporatist heritage, is, Outshoorn argued, what oriented the

⁷¹ A 1997 poll showing that 74 percent of the Dutch population regarded prostitution as work and 73 percent were in favor of lifting the ban on brothels demonstrates that the bill satisfied the preferences of the vast majority of the public (Brants, 1998: 628).

parliamentary processes towards inclusivity and compromise. While that tendency does not necessarily help us to evaluate these processes, it does help to explain the origins of the deliberative character.

Corporatist Cultural Influence on the Deliberative Processes

According to Outshoorn (2004), the culture of “compromise and cooperation” evident in the parliamentary process is part of the history of Dutch public administration. Similarly, Otenyo and Lind argue that the sociological characteristics of “pillarization, corporatism, and the political characteristic of ‘consensus democracy’” are the three main characteristics of the Netherlands in the 20th century” (2003: 795). The first two sociological characteristics will be described, in order, below.⁷² My intention is to show that the corporatist character of Dutch society is conducive to using deliberative democratic mechanisms and may in fact have positively influenced their use during this period. Indeed, the relationship between corporatism and deliberative democracy is symbiotic.

The pillarization of Dutch society refers to the deep ideological and religious divides, to which almost all civil groups historically oriented themselves, and by which all public funds and programs were administered. Elites atop each pillar negotiated to represent their members’ interests, but all was done “in a spirit of accommodation” (Reinarman, 2012: 92). As Reinarman elaborates:

There was no consensus across pillars on substantive policy matters, but the elites of each pillar shared a clear consensus about procedural matters, the rules of the game. Each compromised, each got something for their constituents, and each upheld the overall political system. Each pillar had an investment in and thus helped support the overarching Dutch state. Lijphart called this type of society “consociational democracy” (2012: 92).

Unlike the corporatist model of Dutch democracy, which refers more specifically to the coordination of economic policy amongst a small group of business, labour and state representatives, consociationalism depicts formal, national power-sharing agreements across traditional pillars (Reinarman, 2012). The consociational model rests upon “the agreement to disagree, the rule of proportionality and depolitization in decision-making”

⁷² The characteristic of consensus democracy requires less explanation, as it is the compulsion to derive an agreement/consensus from within a coalition government in order for a Bill to pass.

(Michels, 2006: 327). For public administration to work effectively under this system it needed to hand over a great deal of discretionary power to representatives of these pillars and accommodate, compromise, and build consensus across them (Oyeto and Lind, 2003: 795). Michels adds that in order to build coalitions within the proportional system, elites must look for opportunities to collaborate and compromise (2006: 327). This culture or “politics accommodation,” as Lijphart called it, has been widely credited for the stability of Dutch democracy.

Like consociationalism, corporatism describes a state of interest representation, where elites representing labour and capital were historically granted privileged or “monopolized access” to the state (Oyeto and Lind, 2003: 795) and were given formal legal recognition in policy. In exchange for these “institutional rights of access” it was demanded that the leaders negotiate and compromise on policy in order to produce a consensus (Oyeto and Lind, 2003: 795). Thus, we see that the

norms of public deliberation are implicit in corporatism, which holds that interest groups should participate in public policy-making and ought to consult with each other so as to determine what each of them wants or needs and what is best for the wider society (Hunold, 2001: 17).

Where some have considered the corporatist mode of governance as a “strategy” to prevent class revolt (Ost, 2011), others have credited it with the “successful” management of labour relations and the negotiation of employment policies and social welfare (Williamson, 1990) throughout much of the 20th and now the 21st centuries (Oyeto and Lind, 2003: 796). The Dutch corporatist model and the collaborative behavior it encourages has also been credited with accommodating difference (Uitermark et al., 2004: 10). Such a perspective articulates corporatism as the pragmatic means by which the Dutch have “peacefully integrated minorities” (Uitermark et al., 2004: 18). For instance, establishing cultural advisory councils in Amsterdam was done in the “spirit of accommodation” embodied by the corporatist model (Uitermark et al., 2004: 18). According to Uitermark and colleagues, these advisory councils worked across group differences and with the government in efforts to foster a culture of acceptance and diversity.

Multicultural advisory councils are a modern example of what the Dutch people believe is a part of their cultural fabric. The Dutch commonly believe that “consummate

pragmatism and the tendency of avoiding conflict” via institutional design is “a necessary part of their national character” (Demeester, 2010: 1). Each of these interpretations perceives corporatism as a style of government rooted in the historic necessity of cooperation, compromise and, to some extent, localized governance.

Some scholars have more deeply investigated the history of corporatism arguing that it is a remnant of the polder model.⁷³ This term has been used to refer to the historical, local organization of people across sects, which was necessary to maintain the Netherlands’ dykes. Reinerman provides us with an excellent explanation. Historically, Dutch citizens were charged with

not only creating polders and maintaining the dykes but also participating in the institutions of one’s village or city -- churches, guilds, and the civic militias represented in paintings in museums all over the country. These quotidian forms of proto-democratic political life left the Dutch with early egalitarian sensibilities and a willingness to grant others the *presumption* of rights, both of which... were conducive to tolerance. These tendencies were reinforced in generations of struggle against centralized foreign powers intent on imposing political and religious domination on them and reinforced a preference for local autonomy (2012: 87).

The above quote is further evidence that cooperative and inclusionary governance at the local level has historically been the standard in the Netherlands. Promoting cooperation and compromise as a piece of Dutch culture encourages, rather than prohibits, the uptake of deliberative democratic mechanisms. Indeed, their familiarity with collective models of reasoning and decision-making as a result of the “corporatist pattern of interest representation,” makes Dutch citizens well-versed in compromise and consensus-formation, as well as in non-adversarial negotiation (Hunold, 2001: 4).

It is not clear, however, what eventually compelled Dutch governments to stray from this traditional political behavior. As the next few chapters will show, the political culture of accommodation and consensus began being compromised after sex work was legalized. Modern models of sex-work policy-making stand in stark contrast to the consociational model of democratic governance evident in earlier periods. Despite a

⁷³ Polders are those areas of land built from the sea, which require the “constant pumping and maintenance of the dykes” (Kranenberg, 1999). By virtue of their immense physical structure, polders require that different pillars of society cooperate “because without unanimous agreement on shared responsibility for maintenance of the dikes and pumping stations,” the polders would have flooded and great damage would have occurred (Kranenberg, 1999).

national law requiring the widespread cooperation of the citizenry, Dutch governments failed to incorporate a diversity of interests when crafting local sex-work policy. By 2008, the national government amended the Municipality Act to withdraw the requirement for local governments to engage citizens in federal decision-making processes. These findings demonstrate that this historical attribute of governance is not a permanent element of Dutch society but a trait with fluctuating influence. Although using political culture as a variable helps to explain the relative ease of incorporating deliberative democratic mechanisms, the assumption that these aspects are an integral part of Dutch culture does very little to explain how and why Dutch society later dismissed the mechanisms. The Dutch may tout these democratic behaviors as part of their culture, but wider structural changes have significantly challenged the idea that the behaviors have any effect on modern political behavior. For instance, and as will be explained in Chapter 7, “depillarization put a provisional end to the politics of accommodation” (Michales, 2006: 328). The next section of the chapter will describe those immediate political consequences or “outcomes” of legalization for all Dutch municipalities, and will address explanations regarding the policy’s alleged failure.

The Role of Municipalities Following the Lifting of the Brothel Ban

The first notable outcome of legalization was to decentralize sex-work policy-making to the local level. As explained by the Dutch National Rapporteur on Trafficking in Human Beings⁷⁴:

... The municipalities are designated as the major designers and upholders of the new policy. This policy is aimed at control, guidance and cleaning up of the prostitution industry and improvement of the conditions under which people work in prostitution. This involves not only suppressing public nuisance, but also improving the position of the prostitute. Because of this multi-disciplinary objective the development and execution of the local prostitution policy is a joint responsibility of the municipality, the police, the Public Prosecution Service and the individual initiative, such as organizations for support and protection of the interests of victims (National Rapporteur, 2002: 18).

⁷⁴ “In 1997, at an EU ministerial conference on trafficking, the so-called Hague Declaration was adopted. One of the recommendations in this Declaration was to appoint national rapporteurs. The Dutch government did so on 1 April 2000, appointing Ms. A.G. Korvinus as the first Dutch National Rapporteur on Trafficking in Human Beings” (Dutch National Rapporteur home page, “About”).

However, following decentralization, it was not immediately certain to local governments how to interpret what was, arguably, a rather vague act. In effect, the Act reflected the Dutch cultural value of modernity, described as the preference for procedural rules *and* vague and/or flexible outcomes (Outshoorn, 2004: 174). Municipalities did not have long to ponder the Act's meaning, however. One year after legalization, the national government obliged municipalities to "draw up their own bylaws on how brothels should be operated, based on established licensing codes governing size and location and the provision of basic services and protection of workers' physical and mental integrity" (Hubbard, 2007: 9). Article 151a of the Municipal Act was amended to permit municipal licensing of the sex industry and the creation of by laws that would determine the sex industry's conditions (National Rapporteur, 2002: 19).

At first glance, it appeared that municipalities would be able to design their own sex-work policy without national oversight. But where the national state may have divested its responsibility as a "moral task master" through lifting the *Brothel Ban*, it did not entirely "relinquish its regulatory powers" (Outshoorn, 2004: 50). In conjunction with its demand that municipalities craft and implement their own regulations, the national government maintained a strong regulatory presence both explicitly and implicitly. Indeed, the national government suggested a range of regulatory alternatives that erred on the side of greater, not less, control over the sex industry. For instance, the National Government

published an action plan ("*Ordering Bescherming van de Prostitutie Sector*") for sex work encouraging municipalities to devote [even] more time to its supervision and asking them to participate in the development of standards for businesses and model contracts for workers and owners/managers (Naloop, 2004: 15).

Moreover, the national government suggested that municipalities "require proof of linguistic capacity" and working permits for sex workers, likely in an effort to enforce the Aliens Employment Act, which included a "categorical ban on nationals" from outside of the EU working in the sex industry (Aalbers and Sabat, 2012: 121; National Rapporteur, 2002: 22). Under what was referred to as the "identification obligation," municipalities were also strongly encouraged by the Ministry of Justice to register sex workers centrally with their local chambers of commerce as well as have the sex workers declare their earnings and pay taxes (National Rapporteur, 2002: 22; Aalbers and Sabat, 2012: 121).

In essence, these guidelines served to constrict the breadth of regulatory options available to municipalities.

In other situations, the national government exerted less direct influence by shifting its own focus to *catching* non-EU nationals or people from countries where intergovernmental agreements did not permit migration for the purpose of sex work (O'Connell Davidson, 2006: 14). By instituting harsher immigration policies, the national government sent a strong message to municipalities regarding the preferred approach to migrant sex workers. In many respects, municipal governments followed suit, introducing administrative law and surveillance practices that were designed to “detect” sex trafficking and, more generally, aimed to deport those with irregular immigrant status (O'Connell Davidson, 2006: 14). Suffice it to say that decentralizing sex-work policy was not born entirely of the intention to enhance local autonomy, as the Christian Democrats had hoped (October 5, 1999 Parliamentary Debates).

Normalization as a Result of Legalization

Despite the national government's guidelines, the substance of the new law gave municipalities the opportunity to respond in a manner suited to their own circumstances. The majority of municipalities took the opportunity to initiate their own unique processes of normalization (Leek and Montfort, 2004: 431). Normalization⁷⁵ here refers to the social acceptance and/or legal and political recognition of a profession or social identity as equal to and/or representative of the norms in society (Taylor, 2009: 45). Lifting the *Brothel Ban* and subsequently regulating the industry thus normalized sex work, to an extent, by legally recognizing it as a legitimate form of employment (Kilvington et al., 2001: 78) and allowing it to be contemplated within a labour rights frame.

However, where rights advocates had long expressed the demand for regulation as a means to normalization, the peculiarities of their profession meant that sex workers were not prepared to be treated exactly equal. For instance, many sex workers feared repercussions from disclosing their activities openly, through registration, reporting

⁷⁵ The term normalization is problematic, of course, because it implies an acceptance of the practice of norms and lacks a critical assessment of whether these norms are more restrictive than they are productive of freedom (Taylor, 2009: 45). Regardless of the theoretical drawbacks to normalization, however, the sex industry continues to advance its desire to fully normalize the profession and gain the same rights and conditions as other workers.

earnings and/or paying tax (Aalbers and Sabat, 2012: 121). To remain anonymous, the majority of sex workers refuse to register and pay tax (Interview, Van Wijk: 2011). In this regard, municipalities continue to face resistance in their attempts to normalize and manage sex work. Where the relationship between the state and the sex industry has become more “normal,” however, is in the realm of public health. The full decriminalization of brothels obliged the nation-state to establish formal linkages with brothel owners to ensure that they were aware of and adequately met health and safety regulations. The relationship between the state and brothel owners has been further normalized via the government’s support of sexual health programs. Following legalization, government health organizations such as the P+G 292 were granted regulatory power and financial support to lead workshops and provide training for sex workers; conduct routine, voluntary health check-ups; and investigate brothels. The degree of normalization varies across municipalities, however.

Variance between Municipalities as a Result of Decentralization

As mentioned previously, municipalities now control and regulate the conditions under which sex work is permitted, and they exercise significant discretion in designing those conditions, including, but not limited to:

the size of brothels and their geographical location, health and safety regulations (minimum dimensions of the working area, running hot and cold water, presence of condoms, fire escapes) and the status of sex workers (protection of their physical and mental integrity, no under-age workers and none without a valid residence permit) (Kilvington et al., 2001: 7).

In an attempt to establish some semblance of standardization, the Association of Dutch Municipalities drew up its own “model ordinance for municipalities on how to regulate the business” (Outshoorn, 2005: 171). However, it was only a rough framework and has rarely been adopted in its entirety (Interview, Kashyap: 2011). As a result of their own peculiarities, municipalities vary with respect to levels of regulation and enforcement, as well as in their relationships with brothel owners. These variations remain as significant as they were in the decades prior to legalization. As Daalder demonstrates, the “actual granting of licenses; the amount of regulation; the enforcement of these regulations and the severity of punishment for non-compliance vary considerably across the country”

(Wagenaar, 2007; Daalder, 2007: 13-14). Similarly, in their analysis of municipal brothel policy in practice, Leek and van Montfort found that brothels vary significantly according to “the number of brothels that may operate in the municipality,” the number and type of barriers erected for the operation of brothels; the “intended future developments of the number of operational brothels in the municipality” and the “extent to which municipal brothel policy is in keeping with the central government objectives of normalization” (2004: 436). Leek and Montfort found that

...one in seven municipalities do[es] not operate an establishment prohibition, however, they use alternative methods in their attempt to ensure that it is not possible to establish and operate a sex establishment [referred to as back-door constructions]. This occurs through implementing supplementary requirements for the establishment, by altering the planning regulations, by implementing non-viable regulations or by raising technical or legal barriers. All of these actions are implemented in order to ensure that no brothels be permitted (for example by excluding brothels from the planning regulations)... Only three out of the ten municipalities are striving towards an increase, while a quarter of the municipalities aim towards a reduction in the number of legal brothels (2004: 436-437).

The variation between municipalities is at least partially explained by the different levels of control that towns and cities had over the sex industry before the *Brothel Ban* was lifted, but this variation can also be ascribed, as Leek and van Montfort claim, to the number of confessional/religious-based parties (Christian Democrats, Politically Reformed Party and Christian Union) on the municipal board (2004: 440). The higher the confessional nature of the municipal board, the more it dampens the incentive to adhere to the national government’s objective of normalization (Leek and Montfort, 2004: 440).

In recent years, Amsterdam has oriented its regulatory mechanisms towards its broader strategic goals of becoming a world-class city, and has reimagined itself to be liberated from its association with sex work. As Leek and Montfort tell us, these efforts contradict the central government objectives of normalizing through legalization (2004: 440) and lean more towards earlier policies that tried to limit the visible presence of sex work. Leek and Montfort suggest that municipal governments’ divergence from the national policy objectives pertains to the confessional nature of the parties; however, Amsterdam’s council is largely secular. Clearly there other factors that must be explored to explain Amsterdam’s distinctive approach. Leek and Montfort’s analysis makes more

sense, however, when we extend it to the national level. In 2002-2003, the electoral success of Pim Fortuyn's radical right wing party signaled a sharp rightward shift in Dutch politics. This shift was maintained from 2003 onwards with a return of the dominance of the Christian right. After 2007, the coalition government (Balekenende II, VVD/CDA/D66) was again right-wing with a strong presence of religiosity (Outshoorn, 2007: 185; Leek and Montfort, 2004). Coalitional politics demand that parties negotiate, but the strong presence of the abolitionist Christian Democrats ensured that municipalities did not have their policies called into question by the national government when they sought to limit sex work within their jurisdictions. These political dynamics, then, contributed to the multiplication of variation across municipalities, especially with respect to normalization.

Regardless of the impetus behind such variation, the decentralized approach to governance has resulted in fragmentation, creating three primary challenges. Firstly, a fragmented regulatory system makes it easier for criminals to manipulate gaps in enforcement and escape prosecution. According to criminologists, criminal networks are able to operate more easily in fragmented systems than in cohesive ones (Van Traa Team, 2007). A lack of national regulatory standards and coordination across jurisdictions makes transnational illegal activity hard to detect and adequately punish (van der Wolf, 2008). Secondly, differences across municipalities also send an unclear message with respect to the desired relationship between the state and the sex industry. Antagonisms are exaggerated where they do exist, because the system fails to delineate clear boundaries regarding the regulation of intimate life. Thirdly, the divergence from the national objectives of lifting the *Brothel Ban* shows, arguably, that municipalities have undermined the legitimacy of the national justice system by not upholding the rule of law. As Leek and Montfort argue, "a government that does not uphold the regulations that have been implemented in a democratic manner, loses its credibility and also to a certain extent its right to speak" (2004: 445). Confidence in, and respect for, the state's authority diminish as the state fails to uphold those laws and regulations that were arrived at through deliberation. This failure makes the system more vulnerable to manipulation by criminal networks (van der Wolf, 2008: 13).

Unfortunately, sex-work scholars and activists who had hoped that legalization would create a sense of certainty and clarity with respect to sex-work policy have largely been disappointed. In the years following the lifting of the *Brothel Ban*, several other criticisms of legalization emerged. Integral amongst these was the argument that the policy change failed to achieve a safer work environment for sex workers — one of the central objectives outlined by the national deliberations (National Rapporteur, 2002: 16). In 2002, the Mayor of Amsterdam, Job Cohen, was quoted as saying “it appeared impossible to create a safe and controllable zone for women that was not open to abuse by organized crime” (Expatica, 2003). In his statement to the public, Cohen implied that the government had effectively lost the battle against crime and that there was little it could do within the existing legal framework. But Cohen’s position contradicted earlier criticisms, which held that a lack of both national standardization and coordinated and well-funded enforcement approaches were to blame for the increased criminality. Instead of focusing on different ways to politically manage the issues sometimes associated with sex work, politicians focused their disappointment on one policy change that they figured was a catchall solution. The problem is that those advocating imposing greater restrictions on brothels and eliminating visible sex work quickly picked up arguments regarding legalization’s alleged failures, which triggered a policy reversal.

Failure(?)

Even though lifting the *Brothel Ban* can be read as a deliberative process, the means by which it was lifted did not necessarily produce more long-lasting and efficacious policy, which is what many deliberative democratic theorists suggested should have happened (Fung, 2003; Chambers, 2003). The implications of this observation for deliberative democratic theory will be discussed in the concluding chapter. My point here is that, at least according to some commentators, lifting the *Brothel Ban* failed to achieve the desired outcomes (Daalder, 2007). According to the Dutch National Rapporteur, an office that was established after legalization, the legal reform contingent Advanced six main objectives:

1. Control and regulate running of prostitution
2. Improve efforts to combat the exploitation of involuntary prostitution

3. Protect minors from sexual abuse
4. Protect the position of prostitutes
5. Separate prostitution and peripheral criminal phenomena
6. Reduce illegal migrants' involvement in prostitution

As will be discussed in Chapter 7, the discovery of sex trafficking rings after the *Brothel Ban* was lifted has introduced a great deal of doubt into the efficacy of legalization and, indeed, for all six points listed by the National Rapporteur. Politicians including Mayor Cohen had hoped that legalization would solve many of the social and political ills that plagued the industry, particularly sex trafficking and criminal networks operating out of the RLD.

Of course, these assertions of failure depend on what was expected of legalization in the first place. For example, the “demands of sex worker organizations for the right to work, as adults, through choice, and in reasonable conditions” (Kilvington et al., 2001: 7), have been partially met. Still others had more limited expectations, understanding legalization as a way to legitimize an ongoing social practice (Visser, 2008). In this regard, lifting the *Brothel Ban* has been integral to the process of normalization, allowing sex workers to attain employee rights and, in some cases, open bank accounts even after they have fully disclosed their occupation (Interview, Red Thread: 2011; Interview, Boonstra: 2011).

It is important to note that evaluation mechanisms do not appear to have been part of the legalization process and thus there is no evidence, one way or the other, to determine with certainty what the desired outcomes were and whether they have been achieved, at least in policy terms. The National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children was appointed the same year in which the *Brothel Ban* was lifted and, since that time, has been tasked with assessing the effectiveness of policies, including legalization, that relate to the sex industry. However, in casting its judgments about legalization, the National Rapporteur observes only those issues that relate to trafficking and sexual abuse. Those aspects of the policy that others have heralded as successes, such as the inclusionary nature of its processes and the potential for the normalization of the profession, have largely been ignored. The only sociological and political evaluation of legalization occurred five years after implementation (2006). It was written by Hans Daalder, who was hired by the national government to assess

legalization's outcomes. Dalder failed to link his assessment to the policy's multitude of purported purpose(s), including those identified by the National Rapporteur, nor did he discuss the processes that produced the policies. Instead, he based his evaluation on the wider discussion of these social ills which, arguably, are not completely resolvable under any policy regime. Most importantly, his assessments of legalization failed to take into account the deliberative process that produced legalization, which can, as I assert, be conceived of as a success in its own right. Looking back, however, we see that the success of legalization across a number of these objectives was limited because the communication channels that brought the policy into being were effectively shut down post-legalization (Hubbard, 2007: 10). The corporatist culture of communication and dialogue was largely absent in this latter time period, which contributed to a lack of coordinated policy implementation and evaluation. With no standard regulations, each municipality acted independently and failed to take into consideration the impact of its actions on other municipalities. This accentuated the waterbed effect, whereby the sex industry or criminal activities emerge in those areas that are less regulated. Moreover, no national forum was set up to address the unsettled issues regarding labour and "public order" that had surfaced in the parliamentary debates. Without an open culture of communication, stakeholders and citizens could not express the negative, unintended consequences of the law and were prevented from suggesting alternative ways in which the rights of sex workers could be better protected.

It is clear, then, that a weak deliberative model offers some of the explanation for why lifting the *Brothel Ban* failed to meet people's expectations. As Bohman has argued on several occasions, for deliberative democratic models to function as they are intended, they need to move from the "experimental stage to a fully institutionalized process" (1998: 401). The only way to institutionalize deliberative democracy is to write its procedural and substantive requirements into policy and law, a discussion that is saved for Chapter 8. Indeed, the institutionalization of these mechanisms establishes the formal parameters within which discussion about the policy issue can continue, including an evaluation of its implementation, linking it, of course, to the policy's stated intentions. Thus, aside from promising continued democratic engagement, deliberative democracy's reflexive character assures some oversight regarding the unintended consequences of a

policy and strives to keep the policy relevant to its changing context. Indeed, most deliberative democratic models advocate for the constant re-visioning and justification of policies, through reflexive, ongoing dialogue. If there is no formal venue within which to continue the debate, then the initial deliberation falls short of its full potential (such as producing sustainable outcomes). In this way, the deliberative democratic character of these policy processes evaporated after the Act to lift the Brothel Ban was implemented.

Summary

This last section addressed the legislative output and outcomes of the deliberative processes. Although several of the variables causing the processes to take on their democratic character were previously alluded to, such as the moderator and a shared understanding of the problem, this section drew our attention more closely to the wider socio-structural influences. For instance, the Netherlands has a long corporatist heritage, which Outshoorn argues oriented the parliamentary processes towards inclusivity and compromise. While this factor does not necessarily help us to evaluate these processes, it does help to explain the origins of the deliberative character. Unfortunately, deliberative democratic theory pays little attention to those wider forces that have an effect on its potential for success in practice.

The latter half of the section turns to the immediate political consequences of legalization. I note the similarities between transferring responsibility for sex work regulation to the municipalities after the *Brothel Ban* was lifted, and after the French withdrew in the 1800s. On both occasions, a great deal of variance and inconsistency emerged across the municipalities. The problem with lacking a standard approach to sex work is that it risks aggravating the waterbed effect, whereby, to escape detection, criminals facing increased surveillance or enforcement in one city move to another that has a more lax approach to enforcement. The risk of the waterbed effect can be thought of as a “race to the bottom.” A non-harmonious regulatory regime also makes it difficult for national police forces to coordinate their efforts, whether the intention is to monitor for trafficking or to inspect brothels for health and safety or labour violations. Lastly, and perhaps most troubling, is that after the national government withdrew from the development of sex work policy following the lifting of the Brothel Ban, some

municipalities took the chance to regulate their own sex-work affairs as an opportunity to effectively shut down the sex industry within their borders. In this way, the part of the bill giving local authorities greater power actually led to an outcome that would eventually contradict one of its central objectives. Although it not fair to call the legalization of sex work a failure, since several advancements have been made with regard to sex workers' rights, what is certain is that the deliberations that were produced failed to be sustained. Unfortunately, those responsible for instigating the deliberations did not permanently democratize the making of sex-work policy within the Netherlands, which prevented these consequences from being considered within a deliberative democratic forum. This point is discussed more thoroughly in Chapter 8.

Summary:

Through a brief exploration of the history of sex-work policy in the Netherlands, this chapter showed that the location, size and visibility of the RLD have been deeply affected by the history and politics of sex work and “by centuries of intervention and non-intervention” by the state (Aalbers and Deinema, 2012: 130). Despite the overarching ban on brothels, for much of the 1800s and 1900s, municipalities let brothels operate without persecution under a cultural system called *gedogen*. However, the reasons for “tolerance” differed across municipalities, as did the extent of permissiveness. Some municipalities implemented stringent regulations to gain control of what they interpreted as both disorder and rampant disease (Brants, 1998). Within the patchy system of informal regulation, the ban on brothels was often blamed for allowing criminality and human rights violations to persist, strengthening the desire for a standard system of regulations to protect sex-workers rights. As the campaign to legalize brothels grew, it became increasingly obvious to a wide spectrum of politicians that the policy of tolerance needed to be both politically and legally reconsidered (Bernstein, 2007: 43).

In 1994, a strong feminist policy network and group of legislative reformers gained political leverage, and the government agreed to open deliberations on the topic of legalization. In partnership with the Association of Dutch Municipalities, the Ministry of Justice sponsored a series of national, regional deliberative sessions. The sessions produced six objectives for politicians reconsidering the ban on brothels. The ensuing

parliamentary and formal legislative processes took on a distinctly deliberative democratic character.

As the chapter argued, lifting the *Brothel Ban* represented a communicatively secured consensus insofar as it rose from a shared understanding of the problem and developed through deliberation, and because the political processes leading to its creation were open and transparent, connected to meaningful decision-making processes, included a diversity of perspectives, and valued experiential knowledge. However, by effectively decentralizing sex work regulation, municipalities were left entirely responsible for implementing the law, obliging them to develop their own approaches to sex work. In an interesting parallel to the history of brothel regulation, a high degree of municipal variance emerged, although the reasons for municipalities seeking to establish more control over the industry now differ from the social hygiene rationale of earlier years.

Municipalities have responded differently to the policy change and thus a new patchwork of regulation effectively continues the inconsistent governance of sex work that informed the pre-legalization, *gedogen* approach. This inconsistency sends an unclear message with respect to the desired relationship between the state and the sex industry, further exacerbating antagonisms between state agents and the sex industry. Amsterdam, in particular has taken a more rule-bound approach to sex work, apparently in line with national anti-trafficking imperatives, and has targeted its enforcement practices to enable the establishment of desexualized zones that are safe for international capital investment. This last point is the major focus for the following chapter. Other trends in the regulation of sex work and the governance of Amsterdam's RLD, which were only alluded to in this chapter, include the roles of criminal intelligence, the international anti-trafficking movement and sex workers' rights advocacy. Each of these influences continues well past the period under study in this chapter and are discussed in greater detail in subsequent chapters.

CHAPTER 5

POST BROTHEL BAN, FROM THE RED LIGHT TO THE RED CARPET

Introduction

This chapter focuses on the sex work policy-making process, post legalization, and takes the state-led gentrification of the City of Amsterdam as its focus. The chapter concentrates on Project 1012, an urban policy package aimed at transforming Amsterdam's inner city, of which the RLD is a large part. Although Project 1012 does not explicitly aim to regulate sex work, it does aim to reduce the visibility of sex work and as a result has drastically reconfigured the relationship between the city and the sex industry. The chapter takes a different approach than does Chapter 4 to evaluating the political processes behind Project 1012. Rather than moving through each of the deliberative democratic criteria methodically, the chapter starts from the premise that these processes failed to satisfy the criteria outlined in Chapter 3 and thus reserves more space for elucidating the discourses that anchored these policy practices and how they functioned to limit the democratic citizenship of sex workers.

The chapter is divided into eight sections, each of which outlines a distinct facet of Project 1012. The first section, "Post-Legalization Period in Amsterdam: Intolerance Brewing," explores how a group of criminologists were able to gain influence after legalization and frame the sex industry and the red light districts, in particular, as having criminal underpinnings. It was the research of the Van Traa Team that positioned Amsterdam's RLD as ripe for gentrification. The next section, "Project 1012: Origins and Intent," explores how local politicians partnered with private sector elites to combat this alleged criminality under the assumption that it negatively impacted the image of Amsterdam abroad and thus their ability to attract capital to the city. Project 1012 was their solution- a contemporary urban development plan designed to restructure and alter the functional composition and character of Amsterdam's core in the absence of the sex industry. I make clear, however, that the state's involvement in this partnership cannot be wholly explained by its capitalist motivations. As the chapter demonstrates, there is

strong evidence of a moral discourse at work,⁷⁶ through which the sex industry and its personnel are assumed not to add any value to the City and are thus overlooked in the distribution of space. Thus while we can understand the plans for the RLD to be part of a much broader gentrification project, they are also a specific attack on a sexual space, an attack that is motivated by negative assumptions regarding sex work.

The section, “The Design of Project 1012: Lacking Democratic Legitimacy,” explores how Project 1012 was produced via an exclusionary policy-making process, spear-headed by bureaucrats with limited involvement from elected politicians. To this end, Project 1012 clearly failed to be validated by a reasoning process and thus cannot be considered democratically legitimate. Perhaps even less democratic, however, was the use of municipal tactics to execute the project. These tactics were not only exclusionary and discriminatory in their creation but also biased in their application. Under the heading “The Execution of Project 1012: Selection and Implementation of Four Key Policy Instruments,” I describe in greater detail those municipal tactics that have allowed Amsterdam’s growth coalition to effectively shrink the size of the RLD in Amsterdam and mark the sex industry for removal. To reduce the sex industry, the City has emphasized the administrative arm of the law, instrumentalized the urban planning process via zoning, allowed for intrusive tax investigations and drawn in a number of partners to increase the financial pressure on brothels to sell. The rationale underlying these measures is less troubling than the ways in which the measures themselves have been disproportionately applied to the sex industry. The application of these measures post legalization has effectively recriminalized sex work, countering the normalizing intent of legalization. Understandably, then, Project 1012 and its related modes of implementation have triggered resistance.

In “Conflicting Interpretations of the Problem: Inconsistent Evidence, a Lack of Public Demand and Framing,” I show how Project 1012 has been justified based on a body of research alleging that commercialized sex within the RLD is partially responsible

⁷⁶ The origins of the moral discourses that are at work within the RLD will be explained more fully in Chapter 7. In short, the emergence of discourses that victimize and denigrate the sex worker relate to the rise in anti-trafficking efforts, which are tied together by the assumption that the majority of sex workers are incapable of acting independently. Chapter 7 also discusses the increasing rates of xenophobia which causes migrant sex workers and non-native business operators to face a greater level of scrutiny, in that they are assumed to not be able to act in accordance with so-called progressive Dutch values that the RLD needs to function smoothly, such as gender equality. On this basis, the RLD’s closure to them is justified.

for the neighborhood's "degenerate," criminal culture. This research also asserted citizen demand for urban "renewal" (Heart of Amsterdam Strategy Paper, 2009). The growth coalition has taken direct aim at the Red Light District by associating it with sex trafficking. However, competing understandings regarding the nature and extent of crime within the RLD, and the Netherlands more generally, are at the centre of contemporary disputes regarding the RLD. Various groups may share the desire to do something about sex trafficking, but many dispute the linkage between the RLD and sex trafficking and question the extent of the problem. For this reason, many interviewees did not deem an overhaul of the RLD to be necessary. Since Project 1012 has been introduced, alternative research has emerged that shows a relative degree of satisfaction with the status quo, which further pulls into question the legitimacy of the project.

What becomes clear is that underlying the emphasis on crime is a perception of the sex industry as possessing a "degenerate culture" and a "seedy" appearance on the part of its personnel, both of which constitute a "foreign threat." Long before evidence of criminality was produced to justify the urban renewal plan to the public, the problem of sex work in Amsterdam's RLD was defined through a discursive, ideologically driven process. These discourses will be discussed in greater detail in Chapter 7. The point I make here is that, unlike in the earlier period leading up to legalization, there has been no deliberative process within which to better define the problem and debate the set of options made available to tackle it. Project 1012 lacks democratic legitimacy in that its processes failed to include stakeholders, lacked grounding in democratic procedure, relied on unsubstantiated "evidence," and remain un-validated by a reasoning process.

The last three sections attend to the host of negative consequences that Project 1012 has had for sex workers and, particularly, migrant sex workers. Project 1012 has displaced many of RLD's constituents: sex workers and sex business entrepreneurs. These effects are assessed in light of one of the purported aims of the policy: to reduce the vulnerability of sex workers. One of the central arguments of this dissertation is that since the state has actively participated in the processes leading to the displacement of sex workers, the political leadership should establish a grievance system to address the resulting negative consequences, and be held to account for its decisions. When it

facilitates these private sector-led processes, the state at least owes it to the people being displaced to have a political conversation.

Post-Legalization Period in Amsterdam: Intolerance Brewing

Before the repeal of the *Brothel Ban*, Amsterdam abided by its own system of informal regulations, agreements, and administrative rules to control the sex industry. Throughout much of the 1990s, these included:

...closing brothels outside the core Wallen area, checking on illegal migrant sex workers and minors in sex work, as well as closing down sex clubs which failed to meet fire and safety regulations. [However,] brothels with what the police defined as “some semblance of decency” were condoned (Hubbard, Matthews and Scoular, 2008: 12; Wagenaar, 2006).

The tendency to overlook brothels with “some semblance of decency” reflects *gedogen*. As described in the previous chapter, *gedogen* is a term that generally denotes the informal condoning of sex work despite its formal criminality (Brants, 1998: 624; Hubbard, Matthews and Scoular, 2010: 12). In practice, only the worst violations resulted in sex work operators being fined and punished under *gedogen* (Brants, 1998: 624).

When the *Brothel Ban* was lifted, however, the new regulatory environment gave Amsterdam’s municipal authorities (the City) the freedom to develop and solidify their own unique policy stance. Contrary to what many of those involved in the process of legalization had assumed, the City did not take steps to normalize existing social practices related to sex work (Interview, De Vries: 2010). While labour relations were being considered at the national level by the Ministry of Social Affairs and the unions at this time (BN De Stem, 2008; Interview, Boonstra: 2011), the City of Amsterdam neglected to consider what the industry needed that would help to equate it with other more established sectors. Instead, the local government began to clamp down on sex work via Project 1012, noticeably altering its permissive attitude towards the sex industry. Although there had been strong support for legalization from the then Mayor of Amsterdam, Mr. Schelto Patijn, representatives of the municipality and the Central Borough voiced their objections to the national law a mere two years after it was enacted. They concluded, somewhat prematurely, that legalization had done nothing to solve those social problems, such as trafficking, that were emerging with increasing frequency

(Gemeente, 2009). From this perspective, further normalization would only spur further criminality.

This view was supported by the Van Traa Team's research, discussed in Chapter 4, which argued that criminality was so embedded within Amsterdam's RLD that only a thorough-going reconfiguration of its infrastructure would eliminate it. Mayor Patijn had supported the work of the Van Traa Team, often citing its research to support his position that the number of brothels and coffeeshops in the RLD should be halved due to their "criminal underpinnings" (Reuters: April 28, 1996). However, it was not until after legalization that these reports were fully integrated into policy documents. While the Van Traa team might have wielded some influence over Patijn, it was not until Job Cohen⁷⁷ became mayor and a coalition between Social Democrats and Greens was formed, that the Van Traa Team's research gained influence and was officially incorporated into policy (Interview, Vervoort and Van der Mass: 2011). Another reason that the Van Traa Team's research came to be more fully utilized after legalization was that the City was now empowered to regulate the industry and thus focus its political efforts beyond the narrow parameters of the lifting the *Brothel Ban*. If sex work within brothels was still illegal, any formal regulation of the industry would have been perceived as illegitimate and as officially condoning sex work. In this way, Mayor Patijn's focus on, and support for, legalization throughout the national deliberations could be interpreted as a strategic move that would pave the way for a less tolerant municipal approach in this later period. The implicit motivations that bubbled below the surface of the national deliberations suggest that those deliberations were imperfect. I will discuss this in Chapter 8.

Following legalization, the Van Traa Team claimed that the situation within the RLD had worsened. From its perspective, the influx of capital and people following legalization caused "criminogenic" businesses to be even more susceptible to criminal activity, extending into money laundering and tax evasion (Huisman et al., 2005). The City has described "criminogenic" businesses as those "companies that may not be selling anything illegal, but that are built on 'black money'" (Aalbers and Deinema, 2012: 137). According to the Van Traa Team's understanding, included in this category

⁷⁷ In 2000, the Labour party politician Job Cohen resigned from Cabinet. In January 2001, he was appointed Mayor of Amsterdam. Dutch mayors are appointed by the cabinet under the authority of the Queen (Council of Europe, 2003).

are “souvenir shops, many non-global fast food places, grocery stores, coffee shops and sex related companies” (Aalbers and Deinema, 2012: 137). The Van Traa Team’s recommendations to restructure Amsterdam’s core to extinguish criminogenic businesses were released at the same time that an emerging growth coalition was reevaluating Amsterdam’s inner city properties (more on this below). These two trajectories meshed well as both aimed to overhaul the RLD, albeit for different purposes. The City became all too keen to incorporate the Van Traa Team’s research to support its policy reform agenda, and the Project’s supporters appealed to the general public by emphasizing the crime-fighting element of Project 1012, again, relying almost entirely on the Van Traa Team’s research.

Project 1012: Origins and Intent

Coalition Project 1012 (Project 1012) was produced three years after legalization, a joint effort by the Central Borough and the Municipal Council. A contemporary urban development plan, Project 1012 was designed to restructure and alter the functional composition and character of Amsterdam’s core. It is both named after and targets postcode 1012, represented by the Central Bureau,⁷⁸ and an area that includes Central Station, the Historic Center, the University of Amsterdam and the De Wallen, the Spuistraat, and the Zeedijk (the Red Light District). It also includes a plan for restructuring:

[t]he so-called “Red Carpet” — from Central Station to Dam Square and Rokin... The gaudy lampposts and shady hole-in-the-wall business will have to make place for more attractive street furniture and upscale stores (Project 1012, Heart of Amsterdam Strategy Paper).

Originally, one of the Project’s goals was to reduce by 60 percent window brothels and coffee shops within postcode 1012 (Gemeente, 2012). The Project also aims to “lower the number of low quality businesses (snack bars, mini supermarkets, pizza vendors),” many of which are owned by immigrants, particularly the Turkish (Visser, 2008: 1). While the racial dimension of this plan is interesting and deserving of attention, the primary focus of this dissertation is the Project’s plan to reduce brothels.

⁷⁸ In the Netherlands, large cities were divided into smaller units called “stadsdelen,” known as service points or neighborhoods. These neighbourhoods are represented by their own “bureaus.” The Central Bureau represents postcode 1012 and works directly with City Council in all development plans.

Although the number of brothels slated for closure fluctuated, it is estimated that this goal of 60 percent represents more than 225 window brothels (Sydney Morning Herald, 2007). In 2008, the Amsterdam Tourism Agency reported: “Amsterdam Mayor Job Cohen hopes to close all 25 legendary windows on the historic Ouderkerksplein (Old Church Square) by 2011, and some 200 others in nearby streets over the next ten years” (Sydney Morning Herald, 2007). It is difficult to get a sense of how many brothels have been closed since the official launch of Project 1012, however. As Aalbers and Deinema note, policy statements vary widely with respect to how many more brothels the City aims to close (2012: 133). This fluctuating target suggests that the actual effect of the Project on the number of closures may in fact be higher than 60%. To reduce the presence of brothels within the RLD, the City uses a variety of administrative and financial tools that will be discussed in the section, “the Execution of Project 1012.”

Project 1012's and Image Building

Reiterating one of the Van Traa's team's central arguments, the Project's documents label legalization as a failure because of the RLD's alleged continued connections to organized crime and its “inhumane” operations. A significant motivation for Project 1012's efforts to rid the RLD of the sex industry, then, is about regaining “control in the inner city,” including ridding the area of criminogenic businesses.⁷⁹ But the Project also promises to attract a new kind of activity and consumer to the area. The following examples are excerpts from city documents:

.... Sex workers' windows will no longer be welcome. They will be replaced by traditional activities... The redesign and improvement of public space will mean that the square and surrounding streets will become a pleasant place (Future Perspectives, 1012: 2).

The above quote suggests that not only is sex work non-traditional, which contradicts the history provided in Chapter 4, but that its very presence is unpleasant. It begs the question of whose views these are and for whom the redesign and improvement are intended.

Looking more closely, we see that international image was critical to the City's restructuring plans and continues to be critical to its status in the global economy

⁷⁹ As discussed previously, the Van Traa Team has declared these types of businesses to be more susceptible to organized crime -but here the focus is not on its alleged criminal elements.

(Rensink, 2010: 1; Hubbard, 2012: 196). Driving this transformation was a marketing research report commissioned by the Alderman of Economic Affairs.⁸⁰ Essentially, the report called “Choosing Amsterdam: Brand, Concept and Organisation of the City Marketing,” argued that “Amsterdam can present itself more effectively in the world by making conceptual changes and combining forces” and cited the weaknesses of the RLD as “dirty, disorderly, not appealing for families, no modernisation and [hosting] a saturated drugs industry (politics, criminals)” (October, 2003: 58).

Upon the Report’s completion, the Alderman of Economic Affairs approached the Mayor of Amsterdam, Job Cohen, to become chairman of “Partners of Amsterdam.” Together, the Mayor and the Alderman approached a number of top companies they felt would be integral to revamping Amsterdam’s image (October, 2003: Timeline). A subsidiary report outlined a City Marketing Policy to be implemented in the 2004-2007 marketing cycle (October, 2003: 3). The vision outlined was so compelling that in 2005 City Council approved the marketing plan by an overwhelming 43-2 majority (Niemantsverdriet, 2008). In support of the vision, Amsterdam’s City Council combined forces with the Central Borough to produce the *Heart of Amsterdam Strategy Paper*. The Strategy was one of the first policy documents that described Project 1012 in detail and laid out the implementation plan for the makeover of Amsterdam’s core.

The Heart of Amsterdam Strategy paper is explicit in its aim to replace “Amsterdam’s standard image of a modern Sodom and Gomorra where drugs can easily be obtained and where prostitution is present with the image of Amsterdam as a historical and modern business city” (Marchand, Reid and Berents, 2010: 4). As elaborated in policy documents, this new image will be achieved through the physical transformation of space:

Here we aim to place top-notch internationally known retailers as well as high quality hotels, restaurants and cafés... Both noise reduction and traffic safety are important factors in the redevelopment of this area. ...Durable and high quality

⁸⁰ “The day-to-day running of Amsterdam is the task of a ‘college’ made up of the mayor and eight aldermen. Aldermen are elected by and from the council. After they are appointed, the aldermen remain members of the full council and vote in its meetings. The mayor and the eight aldermen share their work: Each has his/her own portfolio and areas of responsibility. The college has to prepare the resolutions to be adopted by the council, and implement the resolutions once they have been adopted. The council may also reject a proposal of the college; the council has the final say. To be able to manage effectively, the council delegates many tasks to the college. These mainly concern decisions taken on the basis of an established policy which therefore do not need to be debated by the council” (Quip Web Archives).

design should be a stimulus to property owners and developers to refurbish their properties (Heart of Amsterdam, Future Perspectives Project 1012, 2005: Appendix).

Urban Growth Coalition and Gentrification:

To execute the strategy, the Municipal Executive (comprised of the Mayor, Aldermen and senior bureaucrats), City Council and the Central Borough forged partnerships with Amsterdam's elites to form what Aalbers and Deinema call Amsterdam's urban growth coalition (2012: 132). The term urban growth coalition denotes a partnership between local governments and elites to advance large-scale urban development projects. Private financial partners generally play a significant role in these collective agencies, as they provide cities with the capital for infrastructure and development when national infrastructure funds fall short. In exchange, the City promotes the interests of these private partners, by enabling their influence on local urban policy (Aalbers and Deinema 2012: 130).

Amsterdam's growth coalition is comprised of property developers, corporate retailers and financiers (Aalbers and Deinema 2010), each with a vested interest in property within the core of the city. Included in the coalition are the commercial agents: ING Real Estate, Corio, AM Vastgoed, Redevco Nerderland, Stable International, Rabo Bouwfonds, Abvest, ABN and Multi Vastgoed (Aalbers and Deinema, 2012: 137). In earlier works, Aalbers and Deinema claim that Hotel Krasnapolsky "whose back faced the red light district," was also deeply involved in Project 1012, with a reserve of 120 million euros to invest in postcode 1012. It is no surprise, they say, that the sight of Project 1012's first presentation was at the Hotel Krasnapolsky (2010: 10). Undoubtedly, the financial assistance from these private partners has been critical to the City's ability to purchase a number of brothels. However insightful Aalbers and Deinema's analysis of these partnerships is, it largely disregards the substantial role played by housing corporations (HCs) in executing Project 1012. HCs are increasingly privatized entities that are actively involved in the City's infrastructure plans and were the largest supplier of finances that made possible the original purchases of brothels under Project 1012 (Nelen and Huisman, 2008: 209). HCs and real estate agencies also play an important administrative role, specializing in the acquisition and management of real estate on

behalf of the City. Further details regarding these transactions will be discussed in the section “financial tools,” under the “Execution of Project 1012.”

Tying each of these commercial actors together is the drive to return a profit on their investment. Indeed, their interest in revitalizing Amsterdam’s core relates to their speculating on “increasing ground values” (Rensink, 2010: 1). Private, commercial actors are concerned with criminality insofar as it affects the prospective property value of the areas they are interested in developing.

According to Korthals Altes, Amsterdam’s urban growth coalition is not an exception to the rule. Rather, it is a part of a growing trend towards increased private-public partnerships at the Dutch local level, whereby municipal councils set up collective agencies to lead large scale urban gentrification projects, “including all the land development” under the National Urban Regeneration Grant (IUR) (Korthals Altes, 2005: 295). Decentralizing urban policy to collective agencies generally affords a greater role for private entities, and thus has the potential to dilute political power while strengthening the power of capital. The result is that policies like Project 1012 are no longer simply the products of the formal policy-making system. Indeed, as I elaborate throughout this chapter, networks of power and influence at the local level have become the central determinants of urban policy, which is opposite of what deliberative democracy advocates (Knops, 2006: 596).

State Motivations behind Project 1012

Neoliberal gentrification is a concept that helps to describe both the cultural and political change processes within postcode 1012. In its simplest form, the term denotes a situation whereby capitalist development and investment either aim to transform or do transform urban space, often resulting in social and economic polarization.

Neil Smith has famously argued that gentrification is a central model of capital reproduction in the urban context, and is “based on the cyclical nature of capitalism applied to the land market” (1979: 538). From this lens, neighborhoods decline:

...when the built environment in which capital is invested reaches a point in their life cycles where there is more value in decline (for future new use) than in maintenance. Gentrification happens when there is a sufficient gap between “capitalized land rent” under present use and potential land rent. This spurs both

private and public investment and provides a new cycle of investment and profit for private capital (Lecce, 2011: 3).

This theory, referred to as the rent gap theory, suggests that inner cities are revived primarily by capital. When these processes are sanctioned by the state (Duyvendak, Kleinhans and Uitermark, 2007: 427), the process is termed state-led gentrification.⁸¹ But why do local governments consort with private capital and engage in exclusionary urban restructuring plans?

Ulterior Moral Motivations

Traditional gentrification theory does not give adequate consideration to the motivations behind state involvement. Where it does, it suggests that local governments pursue gentrification in order to increase their tax base (Uitermark, 2003). Dutch critical scholars like Duyvendak et al., however, argue that since Dutch municipal governments receive most of their funding from the national government, the motivations behind state-led gentrification in Amsterdam are less clear. Municipal governments are not reliant on the tax base and thus do not stand to profit directly from gentrification, as traditional gentrification theory implies (Duyvendak, Kleinhans and Uitermark, 2006). Aside from the capitalist urge to further develop and attract investment, then, the state's involvement in gentrifying Amsterdam can be understood as a means by which the government establishes social control and ousts socially marginal activities.

Smith argued that behind many regeneration efforts are ideas to “tame and reclaim” the city from its “unruly working class hordes” (1996: 30). This impulse is acted upon not necessarily by a gentry that moves in, but rather by “middle-class white professionals” (Smith, 1996: 30). In the case of the RLD's gentrification, the RLD's sex industry has been heavily criticized for its so-called sleazy exhibitionism. The result is

⁸¹ According to Smith, gentrification first emerged in Amsterdam in the 1970s and has been fueled since the early 1980s by significant shifts in municipal housing policy. It was not until the early 1990s that gentrification became “de facto public policy” in Amsterdam (Smith, 1996: 178). Similarly, Jobse writes on how questions of housing and “redevelopment have in fact been at the heart of municipal politics in Amsterdam since the 1980s, perhaps even more so than in most other European cities, and they have played a central role in the restructuring of the city” (1987: 2). Dieleman and van Weesep concur, pointing out that “few national governments, even among those of the social democracies of Western Europe, intervene so extensively in the housing market as that of the Netherlands...it's virtually comprehensive” (1986: 310). These authors demonstrate that from the early 1970s, the municipal government of Amsterdam has been deeply involved in its land and housing markets. The state's role, however, has shifted in the past few decades from a strict regulator of housing with the apparent intention of social equality to an active participant in the private gentrification of Amsterdam.

that the “sexual others” whom occupy it are marked for removal by a deliberate process of urban transformation. The point is that where gentrification has obvious class implications, it also denotes a cultural process whereby characteristics most representative of the dominant culture outweigh those of the marginalized, leading to uneven spatial distributions and displacement.⁸² The effect of these targeted gentrification efforts, then, are to “reassert and reinforce” more “traditional understandings of sexuality” (Bain and Nash 2007: 19; Hubbard, 2002: 357–358). Private actors with commercial interests in Amsterdam’s core gain from the prevailing stereotypes regarding sex work and efforts to “clean” it up because they work to undermine those individuals who currently maintain economic dominance within the RLD, such as brothel owners. As the sex industry is targeted for removal, more physical space opens up for less alternative commercial activities, such as retail.

Below, I expand on the character of the policy-making processes producing Project 1012. I elaborate on the second stage of the policy-making process, where content and objectives were designed. Following this discussion I attend to the policy instruments chosen and used to execute the vision as set forth by Project 1012.

The Design of Project 1012: Lacking Democratic Legitimacy

At minimum, deliberative democracy requires that all decisions be validated through a reasoning process in order to be considered democratically legitimate. This requires that political decisions have been defended, tested and argued in a publicly accessible debate and that minority positions have been included, listened to and taken into account during the course of a collective and inclusive process (Chambers, 2004b; Stie, 2003: 5). Where the processes leading to legalization promoted the agency of sex industry personnel in the deliberative process, the discourses that aligned to produce Project 1012 have promoted the opposite set of circumstances, excluding sex industry

⁸² While there are cases to show that gentrification has positively revitalized a neighbourhood (via increased policing, improved city services and expanded commercial corridors) (Wharton, 2008), it is often also true that vital, diverse communities like the RLD are culturally devitalized and homogenized through gentrification (Smith, 1996). The cultural effects of gentrification may “take a long time to settle in as businesses and people fall victim to the pressures to relocate at various times, [but] its effects are eventually very visible” (displacement, uneven development, biased cultural development, increased poverty) (Smith, 1996: 30). Opposition to state-led or private gentrification is often quickly dismissed, however, “as a rejection of progress” and those who resist are often deemed nostalgic defenders of the past (Cahill, 2006). When opposition is framed as such it becomes even more difficult to hold the state accountable for the effects of this harmful practice (Cahill, 2006: 346; Mitchell, 2003; Smith, 1996, 2002).

personnel in decision making on the assumed basis of their assumed criminality or victimhood.

A discussion with the deputy director of Amsterdam's spatial planning department describes this exclusionary process in more detail:

Interviewer: At the time, were you witness to high levels of citizen involvement?

Interviewee: No, no, no there was not because it was dominated by police and BIBOB [Bevorderende Integere Besluitvorming Openbaar Bestuur, the Public Administration Probity in Decision-Making Act], it was almost top secret. And so you, there, there was no way for people to participate in this process. It would have been totally different if they would have chosen ...real bottom-up processes [that were] participatory... And that's the result of this very clear choice to start with the police and crime, to keep it top secret. And sorry -- I was very much opposed to that.

Interviewer: And when you were opposed and voiced your opinion, how did you do that at the time? Was it heard? Or was it basically ignored?

Interviewee: Ya, ya [ignored] But I do feel very much respect for all the people working on this, and in a way I admire them because they are very brave. But nevertheless, I think you can do it in a totally different, far more democratic way. You don't have to do it this way, this difficult way (Interview, 22: 2011).

Contrary to Van der Belt, the director of the Van Beke Institute recounted a process where the Project also alienated the police. From his perspective, the police were responsible for targeting criminal activity within the RLD, but they were never invited by the Project's creators to participate in a dialogue on the Project's execution and/or its impacts. As explained below:

Interviewer: So then how would you describe the character of the policy-making? Have you been at the table lately? Or the discussion? I mean you must have been, with the book and the report, I mean who is at the table? If this is a meeting with the municipality, who is there, who is not?

Van Beke: Who is there? Who else?? That is a good question. Ummm you better [to] ask who is not there...

Interviewer: Who is not there?

Van Beke: The sex workers, they are not there. There's a major gap between the local government and the sex workers, and their organizations. They don't

communicate very well with each other.

Interviewer: This is the... when you speak of the sex workers you are thinking about organizations like the Red Thread and sex workers' representatives.

Van Beke: Yes and others. So there's a major gap between policy makers on the local level and the sex workers. ... Who isn't at the table? The police. Sometimes the local government, Amsterdam delegates their responsibility for controlling the sex work sector with the vice police. But if you look closely [at] the job of the vice police it isn't work of the police, you have to check the papers and that's it. The local government should do that, not the police. The police are angry about it because it consumes a lot of time controlling the clubs and the sex work and all that. So there's not, it's not transparent who's responsible for what. They try to get rid of their responsibility.

Interviewer: Right, and so a lot of these people, or the police aren't doing as effective as a job as if, say, there was a committee dedicated to this specifically, towards checking papers and going into the brothels? I know there is a group of six police officers that have been assigned to these kinds of projects.

Van Beke: Yes, and they hate it. I've been with them and they hate it.

Interviewer: Are they the young ones, the rookies?

Van Beke: No they are the old ones. They say it's not our job to control papers and check passports... And ask the women are you being forced, how are you doing... ok thank you, good-bye. That's it, that's all, it's window dressing (2010).

The exclusion of police officers from these processes and the lack of clarity regarding their responsibility are peculiar, given that throughout legalization, a police officer was granted the notable role of moderator and that Project 1012 maintains a strong focus on criminality. Police officers, however, are only one set of stakeholders whose views were valued and included in the legalization debates but were then excluded from Project 1012's creation. In the design of Project 1012, elite negotiations between the City and its partners completely alienated the majority of 1012 residents: the artists tasked with transforming it, the sex workers who would be displaced, and the brothel owners whose business licenses were revoked and/or who had their properties bought out.

While there were interactions between the public and the Project's elite, these came in the form of a handful of forums focusing on Project 1012 and certainly do not qualify as democratic. Firstly, these forums occurred long after the policy had been

written and months, even years, after the entire policy package was implemented (Interview, Broers: 2011; Interview, De Vries: 2010). The time lapse is evidence of the deep disconnect between the actual decision-making process and the public as far as Project 1012 is concerned. In this way, Project 1012 does not satisfy the criteria of meaningful inclusion as laid out by Dryzek, whereby deliberations should be connected to real decision-making processes (2000: 29). For the processes to qualify, discussions with stakeholders would have had to occur during the Project's design and implementation. Even as concerns grew, citizens who were or are suspicious about the Project have been unable to exercise their deliberative democratic right to request further justification for these policies and actions because the official decision-making process has been closed.

Secondly, those present at the forums recounted a classroom style design (Interview, Broers: 2011), a far cry from the more traditional, circular seating design of the polder model. In the deliberations leading to legalization, stakeholders were described as having sat *around* the table (Outshoorn, 2004). A classroom format, on the other hand, places an authority figure at the front of the class to lecture *at* an audience. It is clear that these forums were poised to convey a message and communicate a decision rather than elicit deliberation. Mouffe has argued that if the method of inclusion does not adequately prepare itself for deliberative exchange, then it is merely a co-optation, a symbolic effort to legitimize a policy that the dominant class has already chosen (Dryzek, 2005a).

Bureaucrats' failure to "give proper force to arguments...advanced by all groups" (Knops, 2006: 595) in the design of Project 1012 may have been an effort to silence any potential opposition, or may have occurred because the decision had been made to close the brothels and welcome in a different form of capital. The intentions, however, are more difficult to ascertain than are the democratic effects of this exclusion. Most fundamentally, diverse perspectives were not invited to scrutinize the Project, which means that the project has not been communicatively secured (Dryzek, 2005). Contrary to the legalization, it stands as a democratically illegitimate product. The processes that are described in this chapter also represent an alteration of the relationship between the government and sex industry more generally and serve to distance sex workers from the democratic ideal of citizenship. In this respect, this latter period lacked the emancipatory

character of the earlier period (Knops, 2006: 595). The section below highlights the choice of policy instruments by the growth coalition, which demonstrates the growth coalition's interpretation of the sex industry. Indeed, these instruments are based on a perception of the industry as criminal, which has resulted in the creation of measures that further investigate, monitor and discriminate against it. Again, what this shows is that the state's actions are not necessarily limited to its capitalist functions; it can act as a conduit for a number of other governing logics that politically and physically alienate citizens.

The Execution of Project 1012: Selection and Implementation of Four Key Policy Instruments

After legalization, explicit efforts to eliminate voluntary sex work were in violation of the Penal Code; thus attempts to control and eliminate it are couched in municipal regulations and bylaws that do not specifically target the industry and branding exercises that ignore it. In this way, a more diffuse and thus less explicit form of policy-making and control is now exercised over the sex industry than in the years prior to legalization (Hubbard, 2012: 198).

The next three sections will describe in greater detail those municipal tactics that have allowed Amsterdam's growth coalition to manage the "location, visibility and operation of adult businesses" within the RLD (Kohm, 2004: 12). The City has emphasized the administrative arm of the law (section 1), instrumentalized the urban planning process via zoning (section 2), funded further tax investigations (section 3) and has drawn in a number of partners to increase the financial pressure on brothels to sell (section 4). Another important strategy that local authorities used was to introduce the "arts" into the RLD via Red Light Art and Fashion, which stands as perhaps the most obvious example of the state's effort to gentrify and attract global capital. Due to the size and complexity of this program, a full discussion of it is saved for the following chapter. In the section below, then, all of the other tactics used to clear the sex industry from postcode 1012 are discussed with a critical eye towards their exclusionary and discriminatory nature as well as their ability to reach Project 1012's stated intentions.

1. The Execution of Project 1012: The Administrative Arm of the Law

With an eye to the RLD, the Van Traa Team recommended introducing a new national law that would set in motion screening procedures for businesses and target suspicious financiers in their applications for business licenses. Together with national legislators, the Van Traa team drew up the BIBOB Act (Doelder, Huls and Nelen, 2006: 16). As explained by Doelder, Huls and Nelen, it was not until three years after legalization and after years of “discussion amongst the political parties on the legitimacy and range of the Act,” that the BIBOB Act was written (2006: 17). On June 18, 2002, the Dutch Parliament passed the BIBOB into law (Council of Europe, 2012: 19).

With the passage of the BIBOB Act, a wide range of measures became available for municipalities to investigate businesses should municipal officials so much as suspect criminal activity. The BIBOB Act grants Dutch administrative authorities the right to refuse “contracts, subsidies or permits for organizations” and companies if they have serious doubts about the integrity of the relevant applicant (Nelen and Huisman, 2007). Local authorities are able to refuse to allow brothels if the brothels are unable to satisfy local standards for “good conduct” or are a “nuisance,” although these criteria are not always written into the by-laws (Dutch Ministry of Foreign Affairs, 2012: 8). Municipalities can also choose the “zero option,” which does not actually allow them to prevent the existence of brothels within city limits, but allows them to withdraw licenses for window soliciting on a number of pretexts, the broadest of which include: “if it is in the interest of the public order” and/or “it makes the area less desirable to live or work in” (Dutch Ministry of Foreign Affairs, 2012: 9).

Since decentralization, municipalities are also able to monitor brothels according to their own standards in order to “ensure that they satisfy the conditions for a license... [and]... it is up to the local authorities to decide who is responsible for doing so... Local enforcement is coordinated by the major, the public prosecutor and the chief of policy,” and is based on agreements reached between them (Dutch Ministry of Foreign Affairs, 2012: 8). Due to the range of state partners in the Van Traa project, enforcement tools include, but are not limited to the:

refusal or withdrawal of licenses and permits, the levying of taxes, the closure of certain establishments, the initiation of criminal investigations, and, under certain

circumstances, the acquisition of real estate by the City itself, in order to prevent criminals from investing their money in specific objects (Nelen and Huisman, 2007: 209).

The Van Traa team coordinates the implementation of the BIBOB Act on behalf of the City of Amsterdam. Full integrity assessments, however, are conducted with the assistance of the Ministry of Justice (Nelen and Huisman, 2007: 208). This collaborative process results in a recommendation to the municipality about the degree of risk that the administrative authority runs if it licenses or grants a permit to a particular business. In conducting this assessment, the BIBOB Bureau has access to secure sources such as police files and information provided by the Tax and Customs Administration Bureau (Dutch Ministry of Justice, 2003). The BIBOB Bureau is unique in that it not only “inspects the antecedents of the applicant, but also checks his or her immediate environment such as other persons in leading positions in the relevant organization and business relationships” (Dutch Ministry of Justice, 2003; Nelen and Huisman, 2007: 209).

In 2006, several key players in the RLD came under investigation by the Van Traa Team, and authorities announced that 16 brothel licenses would be withdrawn unless the entrepreneurs concerned were able to submit a transparent accounting system. As none of the entrepreneurs was able to meet the desired standards of transparency as set out by the BIBOB, about 50 “windows” in the RLD were closed overnight (Middelburg 2011, 1; Nelen and Huisman 2007: 209). What compelled authorities to investigate the activities of these specific individuals was never made explicit nor confirmed. Ten years earlier, a report by criminologists Fijnaut and Bovenkerk referred to these key players as potential criminals, but according to Nelen and Huisman the original criminal intelligence analysis they referred to was never actually received by the City (2007: 209). In 2005, a local crime reporter released the names for the 16 anonymous “criminal” individuals described by Fijnaut and Bovenkerk and allegedly this information caused enough suspicion to initiate an extensive investigation (Nelen and Huisman, 2007: 209).

With the introduction of the BIBOB Act, many brothel owners claim that they have been forced into the courts merely on the basis of suspicion (Interview, Broers:

2011). Revealingly, the Act has been disproportionately applied to Amsterdam's sex services sector (Doornbos et al., 2007: 6), although all cities and all business types fall under the law (Doornbos et al. 2007, 6; Nelen and Huisman 2007, 209). The unequal application of the law suggests that brothel owners are perceived by the City as at a higher risk for criminality than other types of businesses. Because the government did not rely on evidence but suspicion to come to its decision, and closed its reasoning process to the public, it falls short of satisfying the criteria of openness and transparency as well as the criteria whereby the state assembles evidence/information in a neutral and inclusive way. A more transparent and evidence-based policy process, on the other hand, would have scrutinized the information available and likely exposed those implicit assumptions, networks of power and less frequently articulated motives such as Amsterdam's re-branding efforts. The government's failure to share the information that it relied upon to come to its decisions implies that it believes that the public does not have a right be involved in the logical processes that guide government decision-making.

Regardless of the local government's motivations, the BIBOB Act has negatively impacted the sex industry in Amsterdam. Once in court, business owners are faced with the administrative burden of proof (Aalbers and Deinema, 2012: 139).⁸³ A number of other business owners who came under investigation after 2005 were intimidated by the high level of scrutiny and, bowing to the pressure, sold their properties (Interview, Broers: 2011). Moesa,⁸⁴ who has owned a brothel on the Singel⁸⁵ for 19 years, shared her experience about what happened when she had to visit the BIBOB Bureau:

Interviewee: And then we go to the BIBOB, and it's very strong, but ok for me no problem. I am not a criminal. I am not a black market person. But I am always nervous. I am always nervous. I have a light on my bicycle, I do everything, but I am always nervous.

Interviewer: Because they criminalize you anyways. What was the BIBOB process like? To file paper, et cetera?

⁸³ For instance, it is well known that in November 2008, the popular Yab Yum sex club was forced to close its doors, and in January 2008 the authorities withdrew the operating license of another prominent industry location, the live sex theatre Casa Rosso. The authorities withdrew the license on the basis of the brothel owner's suspected violation of the BIBOB Act (they were suspected of housing criminal activity). The license for Casa Rossa has, however, been reinstated following an appeal by Jan Otten (Interview, Kashyap: 2011 and Interview, Broers: 2011)

⁸⁴ Name changed to protect the identity of the interviewee.

⁸⁵ A street in Amsterdam that is known for sex work, but one that exists on the outer edges of the RLD where mostly Latin American women work.

Interviewee: A lot, a lot. So many questions, so many questions. She [the representative from the City] ask everything, how you can buy the building? What's for money you did? So many things she ask, how did you pay that, who do you pay that to? I say no problem, I have all the papers, but she's always thinking that I am a criminal. But I am not a criminal.

Since the BIBOB's enactment, brothels, brothel owners and those who work within them have come under regular investigation. The brothel owners interviewed argued that, as a result of these investigations, the women who worked within the windows were frequently harassed. Unlike escort agencies and other, less visible, forms of sex work, window brothels are an easy target for surveillance and investigations, with literally nothing but a door or a window between the investigators and the women. Moesa, for example, worried that the sex workers suffered the most at the hands of the BIBOB Bureau:

But now, the policy, the Gemeente-the City, they are always coming to the girls, to look, sometimes two times a day. They ask the same thing, you are alone? Do you have friends? Where is your money? Where do you put your money? (Interview, 11: 2010)

Clearly these questions are probing for answers that might hint at the presence of coercion and/or money laundering. But the sex workers within the RLD have come to feel as though their livelihood is threatened, if not more so, by the intrusive investigations of the BIBOB than by predatory criminal networks. As a result, they are disinclined to share information (Interview, 11: 2010). The result is that the sex workers' trust in the state is further eroded.

Other harmful aspects of the BIBOB include the restriction of licenses within the regulated sector, which has prevented the emergence of new brothels and/or companies owned and operated by sex workers themselves. As Metje Blaak from the Red Thread Union explains,

[Trafficking] is still a problem, but it is not caused only by businesses but also by [the government]. Permits are primarily issued to existing operators. So most municipalities ... [issue a] maximum limit, while also different municipalities introduce... the [policy] system ...to [reduce] the number of companies... As a result, not only [is there] little room for innovation in the sector, but it is for prostitutes itself as well as [it becomes less] possible [to start] their own company. And perhaps most importantly: the possibilities ...to work

independently... [are] far less rather than before (2010).

Thus, the restrictions placed on licenses and permits have made it more difficult for sex workers to open their own establishments and “to become self-employed within the legal sector as they [may] lack the financial resources necessary to adhere to [strict] municipal requirements for licensing” (Hubbard, Matthews and Scoular, 2010: 12).

Impact of the BIBOB

As Hubbard and colleagues argue, under these circumstances, “it is perhaps unsurprising one of the major impacts of the repeal has been to encourage the growth of the unregulated sector” (2010: 12). In accordance with the aforementioned water-bed effect, “both legitimate and illegitimate entrepreneurs who want to avoid intensified state control and surveillance will inevitably start looking for new opportunities in the unofficial economy” (Nelen and Huisman, 2007: 2). In the same vein, several small brothel owners have sold their windows to a few larger players who are better equipped to counter and evade criminal investigations. For instance, in explaining the vacancy of some of brothels on adjacent streets, Moesa posited that, “others sell maybe to bigger [enterprises] who are [better equipped] to fight the BIBOB” (Interview, 11: 2010). The result, as Moesa suggests, is that the smaller brothel owners who could not afford the legal fees to defend their businesses sold and opened up new sex businesses in less visible areas. Thus the market for sex work continues to lack transparency even under the strict and watchful eye of the Van Traa Team.

The municipal government’s failure to anticipate the consequences of Project 1012 was inevitable given that it neglected to talk to stakeholders while determining a course of action. Certainly, the inclusion of experiential knowledge would have helped the government to anticipate the growth of the unregulated sector. In collaboration with the industry, the City could have then developed plans to address the perverse effect of the unregulated sector’s expansion resulting from Project 1012. The failure to speak to sex workers is further troubling because the City justifies Project 1012 and its use of the BIBOB Act in terms of the need to better protect sex workers in the RLD from criminal activity, such as human trafficking.

The BIBOB Act Serving the Interests of the Growth Coalition

The BIBOB Act has revoked space from the sex industry. In this way, it has directly supported the goals of Project 1012 and its partners by making way for a new kind of business environment. The BIBOB Act is of even further use to the growth coalition because it can be primarily interpreted as an attempt to undermine criminality. Thus the Act helps to develop the City's image as being tough on crime, thereby improving its relationships with its international partners and attracting capital.² Safe neighborhoods attract desired businesses, residents, visitors and investment (Serino, 2010). By willingly sharing with local government agencies the task of "taming" these neighborhoods, including but not limited to enforcement and planning, the growth coalition has expanded its membership to include city agencies.

When we consider the BIBOB Act's role in attracting capital, we can see how the success of any growth coalition relies, to some degree, on the local government's efforts to promote its city and use administrative tools such as the BIBOB Act to advance a commercial agenda. These interdependencies demonstrate that a coalition becomes the "governing elite" only after it has successfully negotiated with the city to develop policy (Korthals Altes, 2005: 309).

Resistance to the BIBOB Act

In light of conflicting information and in addition to the fact that the BIBOB Act was disproportionately applied to the sex services sector, it not surprising that the Act is facing an increasing number of political challenges. To contest the revocation of licenses, brothel owners banded together under the Association of Brothel Owners (SOR) to hire a lawyer and launch a number of appeals (Interview, Kashyap: 2011). To date, the City has lost two court cases against those charged with criminal activity under the BIBOB Act (Middelburg, Het Parool: 2011). The first brothel owner to win his case was Jan Otten, now the owner of Casa Rosso (Interview, Kashyap: 2011). The authorities could not prove that Otten had earned or laundered criminal money and, as a result, he was legally entitled to keep his famous club running. The second successful defendant was Jan Venekamp, who owned several of the window brothels around the Old Church (Middelburg, Het Parool: 2011). Because of his success, Venekamp was allegedly offered

a large sum of money from the City and its partners but refused to sell (Interview, Visser: 2011). The SOR's lawyer, Ms. Anit Kashyap, insists that after failing to appropriate the properties using administrative and legal tools, the City offers money to targeted business owners, pooled from its private partners. Kashyap is encouraging SOR's members to reject further negotiations with the City until all appeals are addressed (Interview, Kashyap: 2011). Kashyap contends that, despite these legal successes, the appeals process is grievously flawed and the investigations are inherently biased against the sex industry.

Based on these criticisms, the BIBOB Act was supposed to be reviewed by Parliament by the end of 2006 (Nelen and Huisman, 2007). However, as of 2013, no outcomes from this review have been announced, nor is the review accessible in any form, suggesting that it may not have even occurred. The Council of State, which acts as an advisory board to the Dutch parliament, is also skeptical about whether BIBOB Act is being used for its intended purpose. In 2010 it expressed concern that allowing municipalities to extend their use of the Act may be a violation of the European Convention on Human Rights (Dutch News: March 15, 2011). Despite this mounting political criticism and a widening breadth of legal cases that have challenged the law's rationale and implementation, there is no sign that the Municipality of Amsterdam will stop using the Act. In fact, in 2012, the City of Amsterdam released its annual report showing "better results" for the use of the Act, with 24 more cases referred to the BIBOB Bureau than the year previous (Francien Sellies, Volkskrant: 2012). Of these, in at least 13 cases there was a risk for "abuse of the permit," meaning that these businesses were thought to be somehow connected to criminal activity, and therefore in violation of their responsibility to conduct business in a lawful manner in exchange for their permit/license. In 2011, seven licenses were denied, compared to three in 2010 (Francien Sellies, Volkskrant: 2012).

Feeling pressure from the administrative arm of the law and financial pressure to sell, the majority of those within the sex industry have, understandably, become more intransigent towards the City. In addition to their legal maneuverings, sex business entrepreneurs and a few sex workers formed Platform 1012 (now defunct) and began to take to the streets in protest. Led by the "figurehead William Boef" (Interview, Jan

Broers: 2011), Platform 1012's primary goal was to bring awareness to and resist the advancement of Project 1012 and its tools of implementation. As Boef explained:

All the business people in the RLD support the BIBOB law, because it's meant to separate the good from the bad. But what's happening now? It looks like Casa Rosso may be shut, purely on the basis of "findings" and rumors. It's a disgrace (Radio Netherlands, 2008).

The Council's efforts to stigmatize the entire neighborhood were especially galling to members of Platform 1012:

Everyone with a business in the 1012 postcode area is now regarded as a potential criminal. It's scandalous (Radio Netherlands, 2008).

Brothel licenses made available after legalization provide very few rights to business owners. The Van Traa team has the power to launch in-depth investigations and revoke licenses under the slightest suspicion. No formal procedures are listed for investigations and sex services operators feel that they do not have access to a fair hearing or due process. Although the legal system has made sex work a legal enterprise, neither its workers nor owners have been offered the same legal protections afforded to other businesses.

The BIBOB Act, while perhaps laudable in principle, is a ham-fisted mechanism that operates via financial threat and intimidation. Even the international marketing director for Topstad⁸⁶ expressed his concern about the use of the Act in executing a vision that he had a part in creating (see Chapter 6). The director's view of the Act is presented below:

Whenever there was suspicion but no evidence you could turn it around. And you would have to prove whether or not they were right. Of course this is absolutely really difficult, because to me, you are really touching democracy in this... That it says you are guilty and you have to prove me the other way around, this is what you do in Third World countries. So you have to be really careful, but they turn it also then to a legal issue, and that's a bit different. Fiscally it was difficult to do these things, so they take it to legal. So it's a really thin line that you have to act. And that you have to be really aware of your responsibilities as an actor in the government then ... (Interview, Topstad: 2011).

⁸⁶ Topstad is an initiative that aims to place Amsterdam among the top five European cities with respect to cultural experiences, creativity, modernity and quality of life, by rebranding Amsterdam and clearing the way for a new type of business within the RLD. Topstad and the wider movement of which it is a part, are described more thoroughly in the following chapter.

From the perspective of Platform 1012, the disadvantages of the BIBOB Act were that it stigmatized, that it “stimulated the use of straw men; that too little was known about the veracity of the data used in the procedure and that the current method of application” resulted in an increase in business owners’ administrative expenses (Nelen and Huisman, 2007:6). From their perspective, the growth coalition strategically advanced a discourse of criminality that painted brothel owners as criminals and degenerates, and thus delegitimized the industry.

When Platform 1012 staged a protest in 2006, its members did so because they were unable to be heard through normal political channels (four years prior to the Council of the State considering the issue). To the extent that political legitimacy requires that all “stakeholders [must] have had the chance to contest the proposal” via formal political channels (Iverson, 2010: 115), Project 1012 fails to satisfy even the most basic level of democratic engagement required to be considered even remotely politically legitimate.

Figure 4: Platform 1012 Protest



Reads: “Beware beholder, admirer and tourist of Amsterdam, with this drum it will soon be cleared”

Sources: <http://www.1012.tv/?p=28>; <http://www.1012.tv/?p=28>

Protest as Evidence of the Failure of Democratic Illegitimacy

Blocked from the policy making process, left to express their grievances through the courts and slandered by the operation of the BIBOB Act/Bureau, many of those in the sex industry have developed a general lack of trust and faith in their government (Interview, Broers: 2010). When issues are introduced into the courts, stakeholders are placed in an adversarial position and are induced “to denigrate the legitimacy” of the other side’s claims which is neither conducive to consensus or the advancement of democratic dialogue (Dryzek and Niemeyer, 2006: 639). From this lens, the protest

illustrates the deep schism that now exists between the sex industry and the municipal government.

Unlike the period leading up to the lifting of the *Brothel Ban*, input from stakeholders, such as business owners, was not solicited nor were stakeholders invited to deliberate on the original content of the BIBOB Act. Protests against the Act thus can also be seen as a reflection of the populous that is reacting to the state's refusal to bring these changes to formal deliberation. Indeed, Platform 1012's protest can be read as an expression of activism that has erupted in direct response to brothel owners' having felt stonewalled by the political system. However, protest and political action outside of and, in some cases, against the state, is understood very differently in the deliberative democrat community.

Young, for instance, argues that activism is an alternative form of democracy that arises in an effort to secure democratic procedure in its absence (2001; Drake, 2008: 98). From this perspective, protest is evidence of a state that has failed to sustain a democratic policy system. Others have argued that protests demonstrate active counter publics and are a necessary piece of the democratic system in that they hold the government accountable to the wider citizenry (Gaventa, 2002). According to this view, deliberative democratic mechanisms are thought to better connect counter publics with the representative government and encourage principled, communicative exchanges between the two (Gaventa, 2002). But what happens when protests are antagonistic and individuals are protesting on the very basis of their political exclusion? Can a protest then be interpreted as a symbol of a well-functioning democracy?

In line with Young's argument, Platform 1012 cannot be understood as a democratic interaction between the formal political sphere and the counter public. Indeed, the protest erupted because there were no democratic mechanisms through which brothel owners could reasonably express their grievances and funnel their demands. Admittedly, protest can be interpreted as a sign of a healthy democratic system in those cases where it is used to build awareness, but certainly not when it is used as a last recourse or when individuals are protesting on the very basis of their democratic exclusion.

Some deliberative democrats have overlooked this point, however, preferring instead to cast the scorn of illegitimacy on protestors upon whom they lay blame for

failing to reasonably engage with the state (Drake, 2008). From their perspective, protest is evidence not of the failure of the state to open its processes and engage the public, but of people playing “interest group” politics and failing to construct their arguments in principles “everyone can accept” (Young, 2001: 674). In the same vein, Young argues that some groups *choose* activism because engaging with the state may “confer legitimacy on existing institutions” that do not adequately serve fair, inclusive democratic dialogue (2001: 674). At the same time, by highlighting the failures of the democratic institutions, Young suggests that activism outside of the state may not be a choice but a last resort.

In looking to civil action it is important to critically assess the reason(s) that a particular political method is chosen. If the choice to engage in protest rests in having exhausted all other options, or when people feel compelled to protest in order to be heard, then the system of governance is not demonstrating the kind of reflexivity that is required of deliberative democratic systems. As you might recall from Chapter 3, the principle of reflexivity supports the constant justification of political procedures, processes and outcomes, and encourages citizens to appeal to reason, not protest, should they feel excluded (Knops, 2006: 606). Within a truly reflexive deliberative democracy, the local government would provide the forum within which citizens could express themselves; would consider valid the demands for a review of the BIBOB Act; and certainly would not hesitate to open up the decision-making processes to scrutiny, especially in the face of accusations of exclusion.

BIBOB: Summary

The BIBOB Act failed to gain the people’s trust as a neutral mechanism for addressing organized crime. The joint administrative team responsible for implementing the Act has not presented itself as a neutral enforcement arm, instead lambasting the sex industry and deflecting demands for a review. Under these conditions, democratic institutions can no longer be perceived as mechanisms for conflict resolution or problem solving. The adversarial nature of the current relationship and oppositional dialogue between the sex industry and the growth coalition is far from the principled discussion that deliberative democracy advocates.

If the state was interested in forging a new type of relationship with the sex industry using deliberative democratic mechanisms, it would first need to work towards rebuilding trust and goodwill with industry stakeholders. Until trust and mutual respect are established, people cannot be expected to want to reason with the state on issues in which they have a history of conflict. While trust takes time to build, governments can start by at least consulting or listening to sex workers on the harms of certain policies, and refraining, wherever possible, from reproducing societal stigma within policy. Relatedly, automatic inclusion into deliberative democratic processes and procedures does not guarantee that stereotypes and unproven associations will be confronted or that myths regarding the industry will be dispelled. However, a more thorough discussion of these points will be saved for Chapter 8, which will consider the unique challenges of including marginalized individuals within the formal decision-making processes.

2. The Execution of Project 1012: Under Investigation by the Tax Authorities³

In addition to the increased surveillance as a result of the BIBOB Act, sex workers are also under routine investigation by the national tax authorities who operate in conjunction with the BIBOB Bureau. Despite the fact that the labour question was left unsettled in parliamentary debates, municipalities were immediately granted the authority to investigate tax “abuses” following legalization. Although it is presumed that many sex workers pay income tax due to their status as entrepreneurs, they are also supposed to be charging 19% sales tax on each service, with either the brothel owner or the sex worker returning the tax to the state depending on the employee/employer relationship (Sinmaz, January 13 2011).⁸⁷ According to Sinmaz, in the context of fiscal austerity measures that

⁸⁷ The development of the sex industry’s tax system is largely attributed to an individual policy entrepreneur who took leadership to bring together different national departments, as opposed to a coordinated approach led by entire government departments. Interestingly, this individual argued that, following legalization, the sex work regulatory system was not as developed as other national systems would have been (Interview, R. Janssen: 2010). Below, he explains his efforts at coordinating a national system of tax in the absence of a wider national commitment:

The task was to see that our department was aware of the change on October 1st 2000. My task was to make sure that the tax obligations were clear ...towards other governmental organizations, but also clarified to the group (brothel owners as well as prostitutes). We followed “a” train metaphor. I invited Labour Inspection, Immigration Office and others at the table, to make sure we had the same goal. Then we set up a number of experiments with municipalities, police and public prosecution. We soon found out that the tax obligations had a low priority. During time [sic] this attitude changed. Now the Tax Authorities play a role of some importance in this field (Interview, National Tax Services: 2010).

The attitudinal change towards taxation occurred when the courts recognized employee-employer relationships within the brothels. At this point, the possibility for various tax models opened, including income tax and an opt in/opt out system for the brothel industry. The opt in/out system, if this is not a quote, delete the comma offers brothel owners the

increased taxes across the board, the sex industry has been identified as an untaxed business (2011).

A common concern amongst both operators and sex workers, however, is that there is little certainty with respect to labour relations, including employment status and tax obligations. The uncertainty, for instance, “about the relationship that sex workers have with the Ministry of Finance and the Tax Man” (Interview, Moesa: 2010), has caused sex workers in Amsterdam to become even more distrusting of those authorities who investigate them. This paradoxical situation has led to failures in the system (Interview, Boonstra: 2010), depicted by sex business owners and workers being willing to pay tax, and a lack of adequate and relevant employment protections for sex workers within the existing opt-in/opt-out scheme.

According to the Red Thread Union, the issue is not that sex workers are not willing to pay but that fundamental obstacles stand in the way of normalizing the sex industry and must be addressed before sex workers can be expected to pay tax. For instance, no bank in the Netherlands allows a sex worker to declare herself and set up an account that would enable her to pay tax, obtain a mortgage, and receive government benefits (Interview, Red Thread: 2011; Interview, VER: 2011). Moreover, sex workers have requested that the tax system be set up in such a way that lumps their profession with others and precludes their identification as sex workers. For the most part, those who work within the industry prefer to remain anonymous. To protect their anonymity, many risk the penalties associated with not paying taxes (Interview, Red Thread: 2010). Thus, even those with the best intentions to pay taxes and avoid criminal activity are concerned about the lack of protection for their privacy.

Other sex workers’ rights activists are less concerned with anonymity and have

ability to pay tax as employers (pay insurance contributions and/or income tax) and grant their employees access to a number of benefits if they choose to opt-in. Many brothel owners that opt out do so because they refuse to acknowledge an employee-employer relationship; in fact, most refuse to do so (Interview, Boonstra: 2011; Dutch Ministry of Foreign Affairs, 2012). In this scenario, sex workers register as self-employed and pay income tax on this basis (BN De Stem, 2008). However, there is still a great deal of uncertainty with respect to these tax options for both the brothel owners and the sex workers, and a “great need for negotiation at this point” (BN De Stem, 2008).

According to the same interviewee from the Ministry of Finance, a nationwide network of compliance is now in place for the opt-in/opt-out. However, this official admits that the lack of enforcement and inspection makes compliance highly voluntary. From his perspective, if the Dutch authorities wish to succeed fully in normalizing the sector, they need to work across levels of government to develop a better model with clearer standards and prices, and institute better monitoring and enforcement. In an extension of the train metaphor, he claimed that without all government agencies jumping on board, the ability to enforce these laws will continue to be undermined and many sex work activities will remain outside of the government’s purview (or control).

stated that while they understand that paying tax is a part of normalizing their profession and treating it as a “job like any other,” they feel it should be accompanied by a number of other advancements, including the ability to purchase property. Mariska Majoor, the head of Amsterdam’s Prostitution Information Center, puts it this way: “We are stigmatised, made to feel that we are not part of society, we have trouble getting a bank account – why should we pay taxes?” Unfortunately, in many news articles, sex workers are presented as refusing to pay tax, with no context provided for their predicament.

Perhaps most troubling, however, is that taxes have become another means by which the state can investigate the sex industry. On the one hand, legalization opened the door to greater normalization by granting Amsterdam the authority to regulate its industry, but on the other, there has been increasing pressure to investigate the industry for criminal activity, such as tax evasion and/or trafficking. This pressure has enabled the local government to exercise this authority in ways that “increased their propensities for surveillance, and ultimately harassment, of prostitutes” (Marchand, Reid and Berents, 1998: 960). As Metje Blaak from the Red Thread, explains:

The stigma of sex work is so large... that [it] does not change by deleting parts of the codes-sex workers have a great interest in being anonymous. Also in the taxation is the issue of privacy sensitivity. It’s not encouraging when suddenly a tax inspector comes to your door, and talks to you like a prostitute, while your family does not know your work (2010).

In 2011, the state revenue agency launched an investigation into the sex industry, but it failed to deliberate with stakeholders and to take into consideration their concerns. Instead of being engaged in the design of tax policy, window sex workers and brothel owners were informed that “Agents of the Tax Service will walk through various elements of your business administration with you, such as prices, staffing, agendas and calendars...The facts will be used at a later date in reviewing your returns” (Sinmaz, January 13, 2011). The notices were not well received within the sex-work community.

3. The Execution of Project 1012: Zoning

Those owners who have “passed” their BIBOB investigations still face obstacles to running their businesses in the form of new zoning regulations. Zoning is a rather weak tool compared to the BIBOB Act because its only legislative power lies in the

refusal to re-issue licenses to businesses in areas that have been rezoned. When a license is not renewed, a brothel or a coffeeshop⁸⁸ is required to move, but the shop is not shut down, as it could be under the terms of BIBOB.

Zoning is thus another method used to oust alternative sexual activity from the core and to “clear the way” for the investments of the growth coalition. Notably though, zoning is a method of last resort. As Kashyap explains:

...the people who have to leave now, according to the 1012 project, it's not because they are criminal or they didn't pass the BIBOB test. It's just because the government says, “we cannot manage this area. It's too difficult for us.” So, and we cannot close this place based on the BIBOB. What are we going to do? We are just going to point out some streets where sex work is no more allowed. Zoning. We are going to try it this way. But, that is the big problem we had with this thing. Because, if people are breaking the law or if they have done anything wrong, and they have to leave, we understand. But, just pointing down the street, and saying, “go” when people build up their company their whole life? It's really crazy... What are the problems for the city now? The problem is, the money is finished, so it is not going to work, getting all these people gone, by just buying the buildings and the windows.

Public officials have used zoning to execute Project 1012, framing the rationale in terms of diversifying the neighborhood. In the following section I examine the stated intentions of these zoning practices and their capacity to achieve the goals set out by Project 1012, such as introducing more diversity and high end businesses and eradicating criminal activity. The moral, social, and political implications of zoning are then discussed with an eye to the symbolic value of the RLD for the sex industry, and sex workers more specifically. The last section focuses on the exclusionary method of zoning and explores how and why sex work has been deemed as no longer the best use for the land, despite its capacity to generate a significant profit.

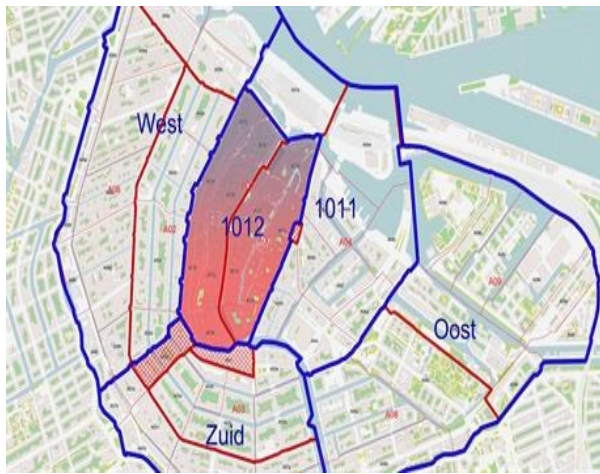
Zoning for Diversity?

The City has argued that postcode 1012, as seen below, is currently occupied by a monoculture.

⁸⁸ A coffeeshop is an establishment where customers can buy marijuana in any amount under five grams. Most coffeeshops are located in the core of Dutch cities. During the time of the research, there was much debate surrounding a proposal to issue individual licenses only to locals so that foreigners could not buy marijuana (Dutch Amsterdam, 2011: “Are Amsterdam's Coffeeshops About to Disappear?”). Due to international pressure those coffeshops that have been closed are no longer replaced with new licenses, which has caused a drastic decline in numbers (Dutch Amsterdam, 2011: “Are Amsterdam's Coffeeshops About to Disappear?”).

Figure 6: Postal Code 1012

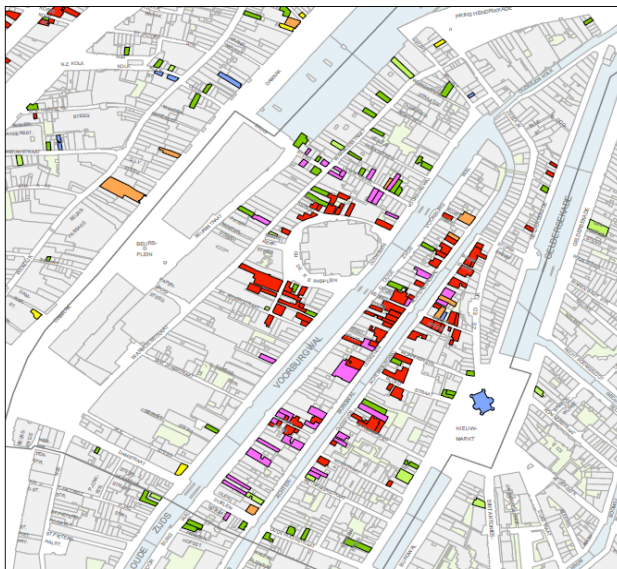
Source: <http://www.centrum.amsterdam.nl/buurtten-0/gebied-1012/>



The map to the left depicts Amsterdam's central neighborhoods and their postcodes. Central station is located at the mouth of 1012 and 1011. The map below depicts the monoculture that is argued by Project 1012's proponents to occupy postcode 1012 and includes markers for *casinos*, *sex clubs/brothels*, *coffeeshops*, *smartshops*, *currency*

exchange shops, *sex shops*, and *internet/telephone shops*. According to the Van Traa Team, these business activities comprise the majority of Amsterdam's criminogenic activities. As late as 2012, the Van Traa Team counted 482 window brothels, 76 coffeeshops, 40 massage salons, 51 sex shops, 18 smartshops, 4 telephone shops, 12 slot machine centres, 19 super minimarkets, 53 fast food restaurants, 45 souvenir shops, and 11 currency exchange shops (Graaf-Van Traa Team, 2012: 9).

Figure 7: Distribution of Business Types in Current RLD



From the perspective of the Van Traa Team, Project 1012 is appealing because it promises to eradicate this "low-grade" monoculture by using zoning to remake sections of the city for other uses (Heart of Amsterdam Strategy Paper, 2005). To break up this monoculture, the new plan proposes to remove alternative sexual activities from the core (although it does not say exactly

how), concentrate remaining sex industry businesses along one street, and introduce a

broader and less “sleazy” range of commercial endeavors to the area (Graaf-Van Traa Team, 2012: 9). Project 1012 enlists a color-coded map to restructure Amsterdam’s core with distinctions drawn between areas designated for *creative industries* (including studios for emerging artists and cultural institutes), *entertaining* (including restaurants, theatres, and tourist dedicated activities), *culture* (including artisanal shops, book stores, museums), *care and support* (including spas, hospitals and social service agencies), and *other functions* (including brothels and sex theaters as well as sex shops). The blue outline in the map below delineates postcode 1012.

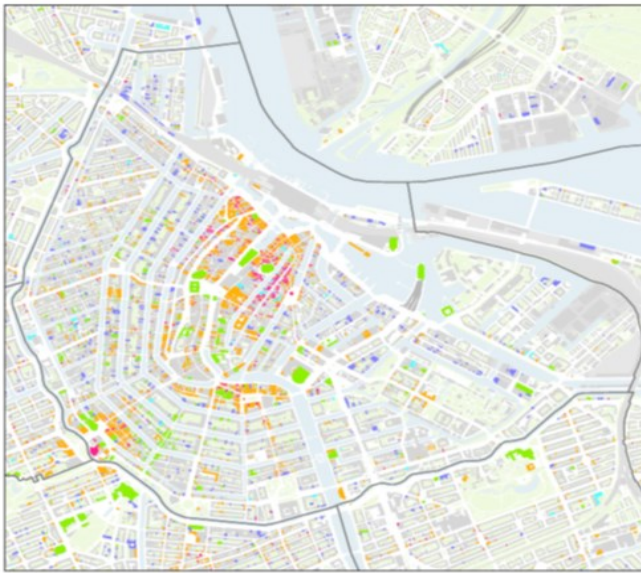


Figure 8: Project 1012’s Zoning Plan

To assess the claim that Project 1012 will introduce to postcode 1012 a broader range of commercial, social and cultural activities, I draw on Rensink’s two-pronged definition of diversity: “diversity in spatial functions and a mix of users, diversity in activities and symbolic value of places”

(2010: 4-5).

With respect to the diversity of functions, we can see that Project 1012 actually proposes to reduce the range of functions from seven to five, a confusing proposition, given the diversity objective. While a degree of mixed function remains within Project 1012’s vision, it hardly resembles the kind of diversity that currently exists within the area.

What is not shown in Figure 8 is all of the other commercial and non-commercial enterprises that exist alongside the sex shops and coffee shops in the RLD. A kindergarten is situated next to a brothel, and high-end chocolatiers and shoe stores are proximate to fast food establishments/snack bars. As it currently exists, the RLD embodies endless visual and moral contrasts that could satisfy any appetite for diversity, patently negating its characterization as a monoculture. It would be more accurate to

state that Project 1012 aims to replace a commercial culture oriented towards sexuality, leisure, and the service economy with a consumer-oriented culture that is more conducive to corporate commercial development and international investment (Future Strategies Priorities, 2009). The only function in Figure 8 that lies outside of this commercial imperative is that of “care and support.” Perhaps space is preserved for this function so that those community and government agencies that currently reside within the RLD will not be ousted as a result of the Project. Those functions that Project 1012 defines as “sleazy,” such as brothels, sex shops, coffeeshops and souvenir shops, are not so fortunate. Proponents of Project 1012 describe these fully legal ventures as inherently undesirable parts of the core (Gemeente, 2006).

In 2008, architect Tsaijer Cheng designed a plan to transform the existing buildings within the RLD to mixed-use buildings. This plan would have allowed for a diversity of spatial functions within each building and would have promoted a mix of users within a dense urban setting. For example, Cheng’s plan kept brothels on the lower levels and created space for shopping and public use on the upper levels. Most importantly, however, Cheng’s research found that several of the brothel windows had vacant top floors that, if used, would be a better use of space in an area with high demand for occupancy. Below is an example of the proposal that Cheng provided to City Council.

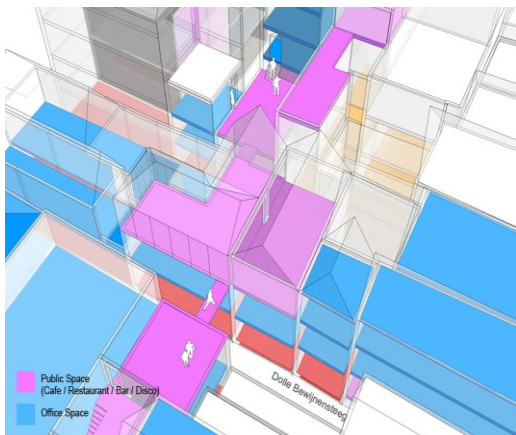


Figure 9: Boundary Unlimited’s Proposal to City Council for Mixed Use Development

*Courtesy Tsaijer Cheng, Boundary Unlimited Ltd.

City Council never heard Cheng’s proposal, nor did it ever provide a reason as to why. Although I am speculating, the City might have refused to hear her ideas because it was not interested in pursuing the kind of mixed-use diversity her design champions. Indeed, mixed-use properties would blur the lines of spatial segregation that Project 1012 is trying to draw between sexual activities and the less “sleazy” commercial ones (Bevan, April 2013).

Project 1012 plans not only to reduce the number of brothels by 60 percent but also aims to condense all remaining brothels into the Oudezijds Achterburgwal, thus separating sex work from other activities. Aalbers and Sabat liken this compartmentalization to a “long standing type of moral social organization” where alternative activities are spatially segregated from the “respectable masses” (2012: 113; Hubbard, 2012: 1). As Aalbers and Sabat argue, in many societies where RLDs exist, sex-related activities are “considered highly a-moral but are still...tolerated as long as they stay within their moral regions” (2012: 117). The Project 1012 zoning plan separates those regions where sex work will be tolerated from those where it will not. Uitermark and Dyvendak (2008) insist that imposing this categorization is, in fact, supported by a Dutch political culture that “increasingly places a premium on moral clarity and revanchism instead of on moral pluralism and permissiveness” (2008; Aalbers and Deinema, 2010: 9).

Zoning for moral clarity by geographically segregating functions, uses, and people stands in opposition to the notion of zoning for difference and/or “diversity” as advocated by Iris Marion Young (2001) and other deliberative democrats. These scholars argue that “zoning should be viewed as a pragmatic way to mediate the irreconcilable conflict in a city through spatial differentiation” (Yen-Wen Peng, 2004: 46). From this view, establishing areas devoted to a diversity of functions, uses, and symbolic values attracts people from different races, ethnicities, cultures, and classes. It also enables social mixing, exposing people to new cultures and behaviors and potentially fostering greater respect, trust, and empathy across differences, improving social skills and tempering radicalism (Dryzek, 2005). Indeed, public socialization within mixed-use spaces has been deemed central to the development of the democratic citizen (Luskin and Fishkin, 2003; also Benhabib, 1996; Cohen and Fung, 2004; Fung, 2003, 2005 and Gutmann and Thompson, 1996, 2004). Public socialization is a form of contact that is “random and cannot be promoted or produced by capital or the state” (Bell and Binnie, 2004: 1812).

The preference for geographic segregation exhibited by Project 1012’s creators is peculiar given that Amsterdam’s urban planners have long established themselves internationally as leaders in the method known as “social mixing” (Uitermark, 2004). Sprinkled throughout Amsterdam are neighborhoods designed to mix housing types

(social and owner-occupied) and thus income levels, as well as building uses (Uitermark, 2004). But it may be that the City regards this method of social mixing as dangerous in a time when the nation-state is pressured by rising racial tensions and the RLD is characterized by a purported lack of control. Through this lens, social mixing is equated with chaos and is cast aside in the spirit of urgency. Project 1012, then, is not only a reversion to a more traditional way of organizing the city, but a means for the state to prevent potentially explosive political conflict and assert political and social control.

Symbolic Diversity?

The drive to establish clarity and control is not without serious moral and symbolic implications. The RLD is vivid in the social imaginary (Koski, 2007: 2) as one of the only places in the world where the exception to the heteronormative standard is the rule (Hubbard, 2012: 196). For this reason, the RLD maintains a deep symbolic value not just for sex workers but also for sexual rights activists. By taking direct aim at an area “where socially ‘marginal’ or ‘alternative’ activities predominate” (Aalbers and Deinema, 2011: Conference), Project 1012 attempts to constrain these types of activities and force people to conform to dominant standards of behavior. The restructuring of the area, then, not only uproots sex workers (more on this in the section on consequences) but it also disconnects them from an area to which their struggles are historically connected, and frustrates the work of activists who regard the RLD as a symbol of hope.

Nowhere in the Project’s plans is there a discussion about how specific groups, like sex workers, might lay claim to the district; how various interests embedded within the district will be negotiated; and whether or how the histories of different groups within the RLD will be honored. As will be discussed in the section on racial relations, the majority of fast food restaurants within the RLD are owned and operated by Turkish immigrants. This cultural group’s business connections to the RLD undoubtedly contribute to the area’s diversity, yet their right to space within the RLD has been undermined by Project 1012’s defining fast food businesses as “sleazy” and therefore as undeserving of space. Other cultural groups that contribute to the diversity of the RLD are the Chinese, who operate massage parlours and restaurants and have come under increased suspicion by Coalition Project 1012 (Interview, Janssen: 2010). By aspiring to investigate and remove

the majority of fast food restaurants from postcode 1012, the Project does not honour the attachments that certain immigrant groups have to these areas, the contribution they make to cultural diversity and the benefit that interactions between these various groups have to promoting tolerance and social acceptance and, ultimately, the benefit to social capital. Indeed, policy documents are completely silent on the histories of all minority groups in the area, from immigrant groups to sex workers. , Project 1012 thus not only disregards the various groups that occupy the RLD and their symbolic attachment to it, but it fails to preserve or promote the diversity of symbolic values that may exist below the commercial surface.

Zoning for Moral Clarity versus Zoning for Difference and Diversity

Project 1012's ability to foster diversity is also questioned by scholars who doubt that large-scale urban renewal projects, imposed from the top down, can create an authentic and sustainable balance of uses. As Rensink explains, these authors argue that: "large scale urban projects result in elite islands (Salet, 2009)... elite projects (Swyngedouw et al, 2002) or just depressing places (Trip, 2007)" (2010: 5). As is the case with Project 1012, categories of use that are imposed via the application of administrative law may apply the concept of diversity to a neighborhood, at least on paper, but if the planners fail to deliberate with constituents, the version of diversity that the plan espouses may reflect a balance of uses/users/symbols that may not be in tune with citizens' interests (Rensink, 2010). The risk is that the categories on which a renewal project is based can be seriously out of touch with the complex realities and real interests of the neighborhood. As a result, the proposals are not authentic community projects but elite initiatives designed to advance the interests of only a select few. Even more troubling is the notion that when citizens lack voice in the design and transformation of their neighborhoods, the sense of community that local involvement fosters may be undermined, and people may take flight as a result.

Another drawback of these elite-driven, large-scale projects is that they often impose less, not more, diversity. Matthews explains the process by which growth coalitions strive to develop new identities for their city in order to compete effectively on the international scale. In doing so, they rely on proven models of capitalist success and

apply them without regard to the existing diversity within the neighborhood (2012: 663). By using standard urban design models that are rooted in a desire to become “world-class” cities, a different kind of homogenization of culture occurs that is based on attracting and sustaining capital (Matthews, 2012). International franchises and chains are most demonstrative of the type of cultural homogenization driven by capital interests. Amsterdam City Councilor Marieke Van Doornick admitted that there is a real fear of capital homogenization amongst city councilors, who worry, for example, that all the coffeeshops closed under Project 1012 could be replaced with Coffee and Company© franchises. Yet even though Amsterdam’s councilors are presumably representing the views of their constituents and are supported by a small “local markets” movement (Socialist Party Website, 2013), they are rather powerless in the face of the wider non-elected bureaucracy that has forged strong partnerships with the private sector and is inculcated with neoliberal principles.

As will be discussed in Chapter 7, Amsterdam’s various state agencies, most specifically its city marketing campaign, are actively promoting Amsterdam to international investors and acting as brokers for the City. If elected politicians challenge these campaigns, based on values that lie outside of the market, they risk being viewed as restraining the free-flow of the market and exacerbating any existing economic problems within the accumulation regime. One such problem is that of unemployment, which peaked in 2005 (the same year the Project was launched), and fell in the years after (CIA World Factbook, 2013). Under these circumstances, if Amsterdam’s city councilors were to refuse to partake in the interurban competition, they would likely be labeled as anti-market and pro-unemployment by those who espouse the dominant neoliberal ideology or by investors who may threaten to withdraw their money. Likely in recognition of the potential for such a backlash, Amsterdam’s city councilors did not incorporate any kind of policy protection for postcode 1012 against the threat of capital homogenization. As such, the risk that postcode 1012 will be taken over by large corporations and chain stores, especially in those areas where brothels have been or will be closed, seems very real.

In sum, the assertion that Project 1012 will introduce diversity is dubious. Project 1012’s zoning plan reflects a compartmentalized version of diversity that aims to separate

out alternative sexual activities. It actually reduces the number of functions within the core. By introducing mixed-use buildings, it has ignored proposals to use space more effectively. It has also ignored the existing social and cultural diversity of the RLD, and has failed to protect against the homogenization of culture due to the influx of global capital investment, particularly in the form of chain stores. Project 1012 thus falls short of satisfying Rensink's definition of diversity, defined as "diversity in spatial functions and a mix of users, diversity in activities and symbolic value of places" (2010: 4-5). Indeed, the Project's commercial orientation risks ushering in a monoculture that is only different in kind from the one that it mistakenly asserts already exists in 1012. The type of monoculture that the RLD is at risk of now being subsumed by is one that is aligned with the interests of a commercial elite that is influential among City officials. Clearly, the aims of Project 1012's zoning plan must extend beyond its perceived ability to introduce diversity as claimed by the Heart of Amsterdam Strategy Paper.

Attracting a Different Kind of Capital: The Moral Discourse Underpinning the Zoning Plan

Project 1012's zoning plan is based on a system of exclusionary zoning "where land use categories are differentiated by type of use[,] and allocated space in separate zones or sectors is based on some notion of 'highest and best use' for a given area of the City" (Kohm, 2004: 8). Despite the fact that commercial interests are behind the push to gentrify the RLD, and that sexual services are extremely profitable, sexual services have not been deemed the best use for this land. Rather, the City has joined forces with only a few select interests to transform one highly profitable situation into another.

Prior to Project 1012, the RLD and its international reputation attracted a large number of international tourists and, in turn, generated significant profit for surrounding businesses and the City. In 2007, the RLD brought in more than 1.5 million visitors a year and 200,000 of these visitors had used the services of a sex worker (Klantonderzoek de Wallen, 2007: dsp-groep.nl). Indeed, until the Project's introduction, "Amsterdam's sex and tourist industries [were] merging and reinforcing each other's growth" (Aalbers and Sabat, 2012: 117). Yet clearly, the revitalization of the RLD includes an understanding of "best use" that does not depend on the tourist draw of sex work. In its

new vision, the local government attributes value (economic, but also moral) to businesses, and sex work is placed well down on its list. But what has caused the role of sex work within Amsterdam's core to be reconsidered?

In the past few decades organizations and businesses have increasingly turned their attention to historic city centers in the effort to revive and transform them into metropolitan hubs (Schoonenberg, 2012: 1). Amsterdam's inner city hosts the majority of its medieval architecture, including long and winding canals and beautiful, historic buildings. The "save the inner city" discourse has translated into an effort to (Schoonenberg, 2012:1) promote the inner city to visitors and the creative class (Florida, 2000). "Creatives," as Florida argues, are capable of molding history centers into modern, environmentally friendly, and internationally acclaimed city centers (2000).

The transformation of Amsterdam's core is not intended only as a method to attract greater international investment and tourism, however. As several interviewees lamented, the RLD caters primarily to tourists who come to Amsterdam either to visit the sex workers or gawk at them. A shame, they say, since the RLD is centrally located and therefore should be more welcoming to and frequented by Amsterdammers. As expressed by an RLD resident:

Gentrifying the Red Light District is not the intention. But things have got out of hand. The British should be welcome here in the neighborhood to have a drink, but stag parties are not only tacky and sometimes overwhelming, they are also a waste of a great medieval city (Foster, Telegraph: December 11, 2011).

The Mayor and other local government members have echoed these sentiments by criticizing "sex tourism," which they claim dominates the activities in the RLD (Foster, Telegraph: December 11, 2011). Within this frame of understanding, sex tourism is a problem not only because it tarnishes the RLD's international reputation, but blocks out other uses for the district. As Shaw recounts:

Under thunderous rhetoric, the city declared war on what they viewed as "tourist trash" and illegal activity. Lodewijk Asscher proclaimed: "We are going to reconquer the heart of the city, and give it back to the Amsterdammers" (I AM expat, Shaw: February 20, 2012).

The assumption that the RLD is infiltrated with criminality has had the effect of causing sex tourism to be viewed as the demand side of what is now considered by the local government as a corrupt industry. As such, those who travel to Amsterdam to purchase

sex have become intricately, yet perhaps unknowingly, implicated within the discourse of criminality. Presumably in an effort to respond to the local electorate's demands for improved access to the core and because they want to secure votes, when the City promotes Amsterdam on an international scale it does so with careful attention to local, non-sex industry related claims to the center of the city. Reclaiming Amsterdam's core via the eradication of sex tourism contrasts heavily with the messages of RLD marketing campaigns in the 1980s and 1990s. These campaigns actively promoted sex tourism, causing the sex industry to become part and parcel of Amsterdam's global image (Koski, 2007). Now, we see a local government struggling to divorce itself from this image and from the hierarchical system of social organization where those functions that compromise local citizens' access to the core, such as sex tourism, are pushed out in an effort to establish Dutch dominance in the area.

There are, of course, competing visions for the core. Many local business owners, such as brothel and sex shop owners, rely on the kind of tourism that the City now abhors and publicly degrades. Even though these owners are stakeholders in the RLD *and* constitute a part of the dominant economic class, they are not part of the business elite that played a leading role in transforming the RLD. It's not necessarily that the Growth Coalition had specific predispositions unfavourable to the sex industry, but that they saw sex workers as a physical, visual and symbolic impediment to a more modern Amsterdam from which they could profit directly. As elites competing for dominance, they were compelled to push for a brand of urban revitalization that was more attuned to the type of business that they had a hand in, such as retail and hospitality. As a result, the proposals of business owners already invested in Amsterdam's RLD were never even considered by policy makers, thus demonstrating a political process that was not only exclusive but purposefully non-deliberative. For example, the high end fetish store Priscilla Jourdain joined forces with other sex shops in the district and put forth a proposal for the RLD called "Project 1012, Red Glam's Version." Their proposal outlined a vision of Amsterdam that retained its provocative and alluring edge and, most importantly, left room for existing sex related businesses. However, Ms. Jourdain's requests for a conversation with City officials received no response, despite her many efforts to set up a meeting (Interview, Jordain: 2011). It is clear that the Amsterdam growth coalition

affords a stronger political role to private investors who promote a less sexualized vision for the City and perhaps retain a less explicit sexual morality. Proponents of those businesses that capitalize on the RLD's sexual liberality, on the other hand, were excluded from the development of plans to revamp and revitalize the area, thus reinforcing social and political, rather than economic, inequality. The political alienation of businesses and people with ties to, or who are supportive of, the sex industry provides evidence that a strong moral discourse operates alongside the demand from Amsterdammers to "save" *their* inner city. In this way, Project 1012 is implicated in the "repressive governance of sexuality," in which the regulation of space is entwined with attempts to "foster and guard specific, sanitized forms of sexual citizenship" (Catungal and McCann, 2010: 90). The very language of Project 1012 suggests the apparent need to "clean up" the district, implying that sex work is a dirty enterprise. The Coalition has employed a series of administrative tools to "purify space and address sexual activities that 'pollute,' 'taint,' or 'contaminate' other land uses" (Catungal and McCann, 2010: 76) and in doing so it has questioned "the appropriate presence of sexuality within public space" (Catungal and McCann, 2010: 90).

To Cossman (2003), the state has an agenda, part of which involves constructing and identifying the "good sexual citizen" and, by implication, the "bad sexual citizen." The law and various related regulatory practices promote this agenda by participating in the construction of "normal" and "deviant" sexualities and denigrating those activities associated with deviance. Policies like those of Project 1012, intended to remove sex work from the public eye and encourage other kinds of business in its place, identify sex industry personnel and, to a lesser extent, industry customers, as "bad" sexual citizens. The point is that despite the fact that sex work is now a fully legal practice, those who work within the sex industry are still struggling to get equal access to space. This distinction is consequential in both the "formal legal sense of the word," as well as the "metaphorical," as the sex worker is ascribed second-class citizenship status (Robson and Kessler, 2007: 539). As Bell and Binnie aptly point out, while all citizenship is sexual citizenship because "the foundational tenets of being a citizen are all inflected by sexualities... we are not [all] equal sexual citizens" (2000: 10).

The refusal to deliberate with various stakeholders in this restructuring

demonstrates a process that is in direct opposition to the normative claim that the distribution and design of space should be democratic, or at least democratically controlled (Fainstein, 2000; Ivison, 2010: 115). Within the planning profession, there is an ongoing debate with regard to the ethical responsibilities of urban planners to seek the “fair” distribution of space. This debate has had significant influence not only on how urban designers plan but also on who should plan. Some scholars have identified these changes as a “revolution” in planning, which has advanced the recognition of a need for more public participation and a more open process that includes and is transparent to stakeholders (Assher, 2012: 1). In recognizing the potential for “planning prejudice” that comes as a result of systemic, ideological and structural bias, democratic planners have carved out greater opportunities for advocacy and pluralism within the planning process (Asher, 2012: 1).

By all descriptive accounts, however, the urban planning system described here is non-democratic in nature. Unfortunately, opportunities for collective reasoning or even inclusion were largely absent in the planning process. Project 1012’s mode of spatial distribution is wrought with a bias in both process and outcome, demonstrating its seeming impermeability to the democratic revolution in planning. An inclusive politics of space, on the other hand, would have provided for a discussion of the different needs, lifestyles and economies within the district and would have privileged a form of social mixing over that of segregation based on sexuality.

With that said, the urban planning process was not particularly reflective of the traditional, rational approach to planning either. The rational approach is technical in nature and consists primarily of a cost-benefit analysis conducted by what are assumed to be neutral bureaucrats. The rational approach also postulates “a consensus on values and goals,” which is determined not solely according to economic efficiency (Asher, 2012: 1). Another aspect of the rational economic approach to planning is “comprehensiveness, the desire to analyze all rational alternatives” (Asher, 2012: 1). Contrary to the rational economic approach, Project 1012 did not emerge in response to the planning elites’ rational analyses of alternatives. Rather, the City asked the urban planning department to devise a zoning scheme in line with the demands of the urban growth coalition (Interview, 22: 2011). Amsterdam’s urban planning department not only had no

opportunity to contribute creatively to a vision for Amsterdam's future, it was prevented from exercising its professional expertise in the provision of alternatives. The head of the urban planning department argues that because his department had such limited involvement, Project 1012 actually had "nothing to do with urban planning" (Interview, 22: 2011). In fact, he refused to even call it a project, preferring instead to call it a plan. From his view, the political nature of Project 1012 defined a set of priorities that had little to do with spatial and/or neighborhood revitalization and more to do with property development, political exigencies and crime control (Interview, 22: 2011). In effect, the urban planning department, with the blessing of elected city councilors, was co-opted and used by the growth coalition to secure the coalition's broader vision. The obvious problem is that this vision was developed only in collaboration with private sector interests, rather than in consultation or deliberation with the wider public. The circumvention of democratic process means that this vision has been enacted without substantive legitimacy.

In conclusion, Project 1012's creators have been incredibly prescriptive regarding what kind of economic growth they want to achieve. In this vision, the best uses for the RLD have not been determined based solely on their ability to produce profit, but by how well they fit into a moral discourse that has retracted permissiveness in favor of a sanitized version of sexuality, moral clarity, and public order. A system of moral coding has been inscribed into Project 1012's zoning plans (Klantonderzoek de Wallen, 2007: dsp-groep.nl), whereby retail-oriented consumer experiences have taken precedence over those of sexually oriented consumers. As it currently stands, the only impediment to Project 1012 is the brothel owners: because brothels have such a high earning potential, many owners have refused to sell, which effectively prevents other functions from taking over the RLD.

4. The Execution of Project 1012: Financial Pressure

Although the zoning plan is very problematic, there is no guarantee it will ever come to fruition: it cannot be fully realized if those brothel owners who currently occupy the RLD pass their BIBOB investigations and refuse to sell. The selling price for brothels, especially those with windows, is high. In her architectural proposal to the City,

Tsaijer Cheng showed that in 2010, each window earned brothel owners roughly 20 000 Euros per month (Interview, Tsaijer Cheng: 2010). Brothel owners are hesitant to sell due to increasing property values, compounded by the significant profits earned from renting the windows. The high financial stakes have forced brothel owners to protect themselves by hiring skilled defense lawyers to keep establishments operational as they undergo “routine investigation” by the Van Traa team and the BIBOB Bureau. Many brothel owners have banded together and set prices for their properties, in an effort to halt the further advancement of Project 1012 (Interview, Kashyap: 2011). When Project 1012 was in its first stages, its partners were able to wield enough financial power to convince many brothel owners to sell. Van der Vee, a Resident’s Association member, is confident that the financial power of the growth coalition will undermine this latest wave of collective resistance:

The most clever of them [brothel owners] know that they will never win this so they sell off. I think now, at the moment, it will take another month or two months and they will, or four other big ones in the area will have sold off their whole business. They all want their money, and they all have the problem of course, that “If I wait too long the money will be gone” (Interview: 2010).

Van der Vee’s quote demonstrates the now uncertain financial backing for Project 1012, which is in part related to the involvement of housing corporations and their vulnerability to the recent recession. The role of housing corporations in Project 1012 is explained below.

The Shifting Role of Housing Corporations

Housing corporations (HCs) have played a significant role in Project 1012 and constitute a major portion of the urban growth coalition that Aalbers and Deinema first identified (2012). The financial backing from HCs enabled the original purchases of the brothels under the Project. Without the capital from HCs it is unlikely that Project 1012 would have been launched. To date, the City and HCs have committed nearly 80 million Euros to purchase real estate from window brothel owners and “low grade business operators” within Amsterdam (Bosman, Het Parool: 2010; Hindle et al., 2008).⁸⁹ In 2007, NV Stadsgoed, “a subsidiary of housing corporation Het Oosted (currently known as

⁸⁹ The city paid more than 80 million Euros to brothel owners for their properties.

Stadgenoot), bought 50 brothel windows from Charles Geerts (Aalbers and Deinema, 2012: 136). According to the City, this original purchase constituted approximately 10 percent of the windows. Following this purchase, Ymere paid 7 million Euros to Dirk Holtman for windows, 7 million to William and Schelling, and approximately 40 million to Asaf Barazani (Bosman, *Het Parool*: 2010). The incentive for HCs to be involved in Project 1012 is easy to understand. Project 1012 proposes to redevelop the most central area of Amsterdam, an area that is in high demand. If their financial contributions grant the HCs preferred access to this land, then their eagerness to contribute is based not solely on some common good, but in large part on the fact that they stand to benefit economically.

However, the role that HCs play in the property market is unique and should not be considered in isolation. Indeed, their involvement usually takes on more social meaning than does that of typical capital investors. After Dutch policy was changed to allow HCs to become active market players, HCs became increasingly involved “not only in the area of market housing, but also in the field of urban revitalization, livability, housing and care, building schools, health facilities and even social politics like job market and education programs in relation to targeted neighborhood improvement” (van der Veer et al., 2011: 7). As a result of HCs’ diverging portfolios and the fiscal constraints faced by municipalities, HCs have grown in importance within the real estate sector in almost inverse proportion to that of municipalities.

For housing, infrastructure, and other urban planning-related expenses, Dutch municipalities are financially dependent on the national government, through the “Municipal Fund (38%) and other block grants like the Investment Budget for Urban Regeneration (IUR)⁹⁰” (Korthals Atles, 2005: 292). In 2000, the national government introduced precise targets for municipalities in exchange for these funds, which were in line with market-driven rather than socially driven indicators (Vermeijden, 2001: 204, 228). However, at the same time that the national government increased pressure on municipalities to align housing policies with the market, the section of the national budget dedicated to urban regeneration dropped 1 billion Euros for the 30 main cities in 2005 (Korthals Altes, 2005: 295). Dutch municipalities are striving to improve their inner

⁹⁰ The IUR is a block grant that is administered in a decentralized manner.

cities and manage their housing stocks, but the decline in their budgets has made “them more and more financially dependent on the development of real estate markets” (Korthals Altes, 2005: 292). To develop their cities, Dutch municipal governments increasingly partner with HCs (more on this in the next section). HCs differ from municipal governments, however, in that they retain an interest in profitability. At the same time, they are not “typical” gentrifiers, in that they are heavily subsidized by the national government and thus must abide by state regulation, which aligns their activities with social objectives (Vermiejden, 2001: 204). These objectives are rather broad policy guidelines, however, such as to “invest in sustainable infrastructure.” Municipal governments tend not to monitor whether the benchmarks are achieved, but such objectives do at least temper the HCs’ focus on profits and encourage the corporations to take on diverse portfolios.

There are primarily two reasons that HCs have been able to increase the number of ventures in which they are invested beyond the more traditional provision of social housing. First, Dutch HCs received national state subsidies that allegedly allowed them to maintain an unfair competitive advantage in the private rental market (van der Veer et al., 2011: 7). However, pressure from European Union counterparts sped the decline in Dutch state subsidies for social housing. In 2008, the national government further corrected for this “unfair competitive advantage” by obliging HCs to pay corporate income tax (van der Veer et al., 2011: 7; CECODHAS Housing Europe, 2011). To recover financially, HCs were allowed, for the first time, to reinvest their profits in commercial ventures and sell off portions of their social housing stock (van der Veer et al., 2011: 8).

The other reason that HCs have been able to increase their number of ventures is that policy changes granted them the ability to earn a profit and thus compensate for their having to borrow heavily from the capital market during the 2009 recession that was triggered by the U.S mortgage default crisis (the recession) (Van der Veer et al., 2011: 9). Thus, through a series of policies intended to make the Netherlands a competitive player in the international market, the national government effectively reshaped HCs into private players. Taking advantage of this new freedom, HCs rapidly sold off their low-income properties (most of which were social housing units), diversified their investments, and

reoriented themselves towards profit-making. In the sale of their social housing stock, however, HCs were also required by law to pay a percentage of the property's value to the municipality (Ruys, Bruil and Dix, 2007: 14). In this way, the municipality also benefitted financially from the heightened role of HCs.

Van der Veer and colleagues note that as the HCs' private sector mandate grew, there was a shift in the relationship between decision-making processes and land management (2011:11). Previously, housing policy was a national responsibility determined in exemplary "polder fashion" with deliberation occurring among representatives of the national government, the City-districts, the tenants, and the social landlords. According to Van Der Veer, this group would prepare the so-called Policy Agreement on Housing. Today, however, housing policy is largely a municipal affair with Amsterdam identified "as a frontrunner with respect to policy agreements between local governments and Housing Associations" (Van der Veer 2011: 10). Guiding these affairs, however, is the understanding that market indicators and "internal supervision should substitute [for] government supervision" (Ruys, Bruil and Dix, 2007: 14). The self-regulated nature of these partnerships enables HCs to set their own objectives related to urban development, and undermines the potential for a more inclusive, deliberative mode of governance. The relationship between the City and HCs is not only defined by the government's hands-off approach, but also by unequal financial relations that undermine the state's ability to exert any kind of authority over the HCs. Following especially dramatic declines in national funding for large-scale urban renewal projects, municipalities were forced to turn to private developers to fill infrastructure gaps.⁹¹ In 2011, Amsterdam claimed it had a deficit of 700 million Euro in its land bank and stated that 225 million, or roughly 32 per cent, of this deficit had to be financed by HCs (van der Veen, 2011: 9).⁹² Thus, even if the state or the city was interested in implementing a more democratic decision-making process to determine priorities for urban development, state- and municipal-level reliance on HC funds imposes an implicit limit on the state's ability to insist on broad-based stakeholder engagement.

⁹¹ Under the Investment Budget for Urban Renewal.

⁹² In 2006, the Ministry of Housing and Spatial Planning that was previously charged with supplying the four major cities (Amsterdam, Rotterdam, Hague, and Utrecht) with financial support for their urban renewal plans changed its policy and drastically reduced its payments (Legislative Council Secretariat, FS06/07-08) (Van der Veen, 2011: 9).

HCs have come to the aid of the City because, as much as the City is reliant on HCs for capital, HCs are also reliant on the local government for the “affordable acquisition of land to build on” (Van der Veer et al. 2011: 11). In light of this relationship, the use of the BIBOB Act can be interpreted as the means by which HCs are able to increase their land bank. The City has creatively used administrative law to close down “sleazy” businesses that occupy prime real estate. It has also prohibited the rise of similar businesses via zoning and licensing. On the other hand, when the City cannot prove that the businesses are criminal, HCs back up Project 1012 by offering brothel owners large sums of money to vacate voluntarily (Interview, Van der Veen: 2010). HCs have also stepped in with the capital to make use of these vacated spaces (more on this in the chapter on Red Light Art/Fashion). HCs do so because they stand to profit from refurbishing and selling these properties. The central location of postcode 1012, coupled with its urban regeneration initiative, has caused prices for residential units within Amsterdam’s core to escalate (Kauko, 2012: 153). The HCs that had originally purchased brothels are bound to profit greatly from their investment and from the renewal of the RLD under Project 1012. Housing corporation De Key has sold at least one of the buildings it had originally purchased in 2006 and, as of 2011, a number of others were for sale (for example, two of the building on Korsjespoortsteeg were on the market in 2011 for sale) (Interview, Eric Slot: 2011). From the perspective of a deliberative democratic activist (Fung, 2005), the problem is that democratic principles and processes are trumped by market factors and mechanisms of market distribution. In partnering with HCs, particularly in the execution of Project 1012, the City of Amsterdam has welcomed with open arms the entrepreneurial drive that now defines these organizations.

The symbiotic relationship between HCs and the municipality is critical to the success of Project 1012, but the nature of this relationship has not been communicated to the people. In fact, there still appears to be a great deal of uncertainty amongst Amsterdammers as to where the financial support for Project 1012 comes from and whether it will continue. At the time of my fieldwork, many respondents believed that the financial backing of the HCs was temporarily lost due to the recession (Interview, Kashyap: 2011). It was well known that major housing corporations like NV Stadsgoed, NV Zeedijk, and De Key Principaal faced huge economic losses in 2008, which

weakened their ability to negotiate further purchases. (Van der Veer et al. 2011: 11). Nevertheless, HCs are predicted to make a full financial recovery and have initiated their own refinancing strategy by selling off even more of their social housing stock (Van der Veer et al., 2011: 11). It is likely, then, that funds will be or have already been freed up for the City to continue to negotiate its urban renewal programs with housing corporations and other relevant parties (Legislative Council Secretariat, FS06/07-08).

Underscoring the Project's momentum, Project 1012's manager, Van Rossum, publicly confirmed that the plans for 1012 are proceeding as approved "because there is indeed funding" (Just City Symposium, Van Rossum: 2010⁹³). At the same time, Van Rossum would not publicly disclose the sources of this funding. Van der Veen from the Resident's Association of 1012 claims the funding comes from the municipality not from HCs.

Interviewer: Where is all of this money coming from? Which level of government?

Interviewee: Municipal — it's all municipal.

Interviewer: I would assume that with the recession, the municipality would not have had any money for more buildings right now.

Interviewee: Yes, but this is one of the very few projects where the municipality still has money [laughter]. And they found the money for another four years.

Interviewer: So four more buildings are up for being purchased by the city?

Interviewee: Yes, and hopefully a lot more.

Interviewer: How many windows?

Interviewee: About half of the window business that you see right now.

Interviewer: So they are in negotiations?

Interviewee: Yes, I think they ended the negotiations. They are just waiting for council to agree with it.

Interviewer: That's... interesting. Because that will take it down more than the

⁹³ The head of the Central Borough and the project lead on Project 1012.

Future Strategies had predicted even, more than 40 percent of the windows. Wow.

Interviewee: But these people are not interested in the whole business of sex work — they are only interested in getting money (2010).

Van der Vee's statements illustrate not only overt discrimination toward brothel owners, but knowledge about financing that seems only to be shared amongst investment partners. According to individuals, who appear to be "in the know," there is no financial hold on Project 1012, which means that the bidding war for properties can continue. Yet in the municipal budget, there are not enough funds set aside for the City to pursue brothel properties with the same intensity as it had before (DutchAmsterdam.nl, February 8, 2010). Moreover, the majority of this funding is allocated to City marketing (City of Amsterdam, Choosing Amsterdam). While the City has championed the renewal by setting aside these marketing funds, other financial partners are responsible for achieving the investment objectives of Amsterdam's urban growth coalition. To this end, Van Der Veen, like Van Rossum, may be avoiding full disclosure of other private partners who are invested in the Project. The local government has declined to reveal the financial networks behind the Project, effectively foregoing the transparency that is expected of a democratic system. Indeed, the transparency requirement means that the state should certainly make its own transactions open and its data accessible, so that sources of information, investment, and relationships are easily ascertained and available for scrutiny (Stie, 2003). The transparency of decision-making processes, in turn, makes decision makers more accountable to the public (Stie, 2003).

The appearance of several actors within the growth coalition should not detract from its elite and exclusive character. Ideas such as the Red Glam Project, which might have compromised Project 1012's first iteration, have not been given serious consideration. The purposeful exclusion of sex business entrepreneurs and sex workers from these processes, and the intention to wipe out sexual activities from the core, indicate yet again that a strong moral discourse underpins the Project. This discourse is based on moral clarity, "purity," and control, as opposed to diversity and tolerance. These moral discourses have not been aired within a deliberative arena. Instead, the Project's proponents advance an *ex post facto* justification of citizen demand (more on this in the section, "lack of a shared understanding"), drawn from evidence that the local

government and its apparatus gathered after the Project was already underway.

Summary of the Execution of Project 1012

The imposition of stricter regulations post legalization has effectively recriminalized sex work, countering the normalizing intent of legalization. The rationale underlying these regulations and the use of these instruments are less troubling than the ways in which the regulations have been developed and used by the urban growth coalition to shrink the sex industry sector and establish the coalition's dominance within the contested space of the RLD. Understandably, then, Project 1012 and its related modes of implementation have triggered resistance and criticism.

Conflicting Interpretations of the Problem: Inconsistent Evidence, a Lack of Public Demand and Framing

This section relies on social construction theory, as outlined in Chapter 3. One of the first steps in policy-making/decision-making is to “state or frame the problem to be solved” (MacCrate, 1992: 11-12). Within the deliberative model, the ideal first step should be “recursive, beginning with the need to frame the problem in terms of the interests involved and to consider the interests in the context of the particular problem” (MacCrate, 1992: 11-12). From this step forward, policy frames are developed *with* stakeholders based on the “broadest possible range of purposes, interests, objectives, and values implicated by the situation” (MacCrate, 1992). Once defined and framed, these “problems” become embedded in the policy discourse. The unfortunate reality, as social construction theory attests, is that this very first step is vulnerable to a great number of influences, and often the problem is framed in such a way that minimizes public involvement (Walker, 2007: 2). Project 1012 is an excellent example of the exclusionary reality that MacCrate describes, the result of which is that decision-making is guided by a problem that resonates with the public and has no shared meaning.

Incongruous ‘Evidence’

The coalition's interpretation of the problem and the solution can clearly be read from Project 1012's documents. Project 1012 is grounded in the assumption that the sex

industry, particularly the portion of it that is housed in the RLD, is more susceptible to crime, including money laundering and human trafficking (Choosing Amsterdam, 2003). But this assertion has come under recent criticism by studies examining the extent of crime in the RLD. In 2010, long after Project 1012's inception, the City commissioned the Van Beke Institute to produce a report on window brothels (Van Wijk et al., 2010). The Van Beke Report suspected that postcode 1012 was infiltrated by criminality but argued that it was difficult to ascertain the extent of the criminality. To prove this point, Van Wijk, the leading criminologist, searched for evidence in a variety of sources, ultimately finding that the estimated percentage of trafficked women working within the RLD ranged from 10 to 90 percent. However, the Van Beke Institute did not investigate the phenomena of money laundering, which many local politicians allege is also a part of the sex industry in the RLD (Thomasson, 2007). Regardless, no other research is readily available that demonstrates that the relationship between the sex industry and criminals is stronger than that of the relationship between the sex industry and other business types. The central point is that the perceptions of criminal involvement are much stronger than the available evidence regarding the relationship between criminal organizations and the sex industry. The findings from the Van Beke Institute became famous in sex industry circles, as they demonstrated the lack of clear and conclusive evidence regarding the sex industry and its relationship with criminality.

The inconclusiveness of the evidence serves to undermine the Van Traa Team's conclusions that criminal networks operated behind the windows and that legalization contributed to the proliferation of human trafficking within the RLD (Aalbers and Sabat, 2012: 122). Project 1012, and more specifically the BIBOB Act, was anchored in the research of the Van Traa Team and thus had their foundations shaken by the findings of the Van Beke Institute. Regardless, Project 1012's proponents continued to draw attention only to those statistics that supported their original argument, failing to address the confusion with respect to the "real" level of criminality throughout the RLD. The contested validity of the grounds on which these policies have developed and been implemented undermines their democratic legitimacy. Indeed, as Gardiner argues, in instances where the legitimization of policies are not "thoroughly understood by all interlocutors" and premises are not established "entirely on the force of the better

argument,” they are “*prima facie* invalid” (2004: 35). Acting solely on the evidence that supports the state’s implicit agenda, without attending to contradictory findings, reveals the limited parameters of opinion formation among state agents. In this instance, the state has failed to consider alternative evidence and subject its activities to critical reflection.

Lack of Demand for the Project

Shortly after Project 1012 was launched, its partners devised an additional marketing plan to legitimize the implementation of the restructuring agenda. This new marketing plan centered on residents’ alleged “demand” for the Project. In defense of the Project, its proponents often cite the “evidence” and the “overwhelming support for it,” which “speaks for itself” (Just City Symposium, Van Rossum: 2010). By doing so, they suggest that there is no need to open the topic to democratic discussion because Project 1012 has been developed in response to clear and proven citizen demand. In the same vein, Laurens Buijs, a professor at the University of Amsterdam, argues that the very use of the term “coalition” in the Project’s policy documents is intended to try to sell the initiative as an expression of a collaborative, democratic process (Interview, Buijs: 2011). However, similar to the way in which the coalition defined the problem of the RLD, the Project’s creators failed to incorporate any democratic means to assess residential demand (citizens’ juries, referenda, petitions, etc.), and have dismissed contrary research findings.

The alleged demand was uncovered by a survey conducted with RLD residents and business owners, and was cited in the Project’s documents (Gemeente, 2007). However, the survey interviewed only a handful of residents/owners within 1012, was characterized by leading questions and was interpreted in order to reinforce the coalition’s policy preferences, thus lacking academic rigor (Interview, Buijs: 2011). As Buijs explains,

The survey set out by the Dutch Labour Party was not really a survey. It was just more a sort of a way for them to prove that the people in Amsterdam agree with what they think. And I am sure that they really believe that Amsterdam people believe them, but they designed this survey in such a way that there couldn’t really be an outcome that is any different. Or that disagrees with them... One of the questions... was, so, “if you had a say on this, what would you put in the windows now?” The options were art, shops, restaurants, but also “put sex work

back in” was also one of the answers. Thirty-eight per cent of people filled in the last answer. This was actually the largest group, but the way they translated it was that over half of the people don’t want sex work back. Because you know 62% of the people don’t want sex work back, so look, everybody agrees with us!

Democracy is weakened when policy is implemented based on misleading and erroneous arguments unchecked by a deliberative reasoning process.. In their attempts to demonstrate the need or demand for the Project, the growth coalition provides “evidence” of demand that is methodologically flawed and relies on secondary research that did not effectively demonstrate the gravity of the alleged issues at stake, at least to the extent that they would warrant expedient political action. To counter the findings of what he considered to be a methodologically faulty survey, Buijs⁹⁴ and his students launched their own instrument in the field. They found that while some 1012 residents were dissatisfied with the levels of noise in the area, calling it a “nuisance,” others were not bothered by it, considering it to be a part of living within the inner city. In further support of Buijs’ research, Amanda, a resident from Amsterdam commented to the media:

I have lived 22 years in the centre of Amsterdam with the red light area just fifteen minutes away from my home and I have never felt unsafe walking in the area. It's a vibrant, lively, busy area, with a lot of police presence and a few police stations as well. When I visit England, I cannot imagine having a safe feeling walking through a red light area there (Jackson, 2006).

The majority of those who were dissatisfied referenced the “safari/sex tourist,” describing these visitors as “drunken” and “rowdy.” At the same time, residents acknowledged that reducing the number of windows would not necessarily reduce the nuisance associated with tourism. This is because there are a number of other reasons that people visit postcode 1012 - museums, bars, shops - the sex industry is but one of the many attractions. To this end, if the red lights were to go out, tourism in the area would likely still thrive and so would at least some of the nuisance associated with it. Despite the growth coalition’s intentions to attract a different kind of visitor to Amsterdam’s inner city, the efforts under Project 1012 offer no such promise of reduced nuisance. Other

⁹⁴ It wasn’t until years later, that Buis would conduct his own survey, “Macht Op De Wallen,” with his students at the University of Amsterdam. This survey of more than 90 residents actually found support for keeping the RLD the way it was, while simultaneously increasing efforts to tackle trafficking and provide greater support for the exit out of the industry. In its analysis, Macht Op De Wallen describes the strong role that the media has had in pushing forward Project 1012 and argues for a more critical analysis of urban development plans.

residents who did not express dissatisfaction with living in postcode 1012 made no remarks about the character of the visitors and listed the busy city streets as part of the RLD's allure, even for those who live right in the middle of the district.

When the curator for Red Light Art surveyed residents as a way to introduce Red Light Art to the neighborhood (more on this in the next chapter), her findings echoed these same sentiments. Angela Serino was able to capture the following range of viewpoints:

It was very quiet. In the evenings, the offices and shops were closed and everybody went home. And not so many people were living here. But that is over. In my husband's time there were only a few family houses. Coffeeshops didn't exist in those days. The ladies were there, but didn't disturb us.

Of course when we came here, we had the red light area. Especially in the beginning, it was something you had to get used to. But I thought it was a part of life in this city. In fact they [the sex-workers] are nice women, they are our neighbors and after a while you know each other by name. You find that they look after you, and after your house, and if there is something wrong they warn you.

This activity is really under control. In the last three years I've seen the police coming here regularly to check the girls; if they had a permit, and I guess also their medical records, and stuff like that. And the police patrol the area, the normal police. Every time they were passing, they found the time to talk with the girls, to say "Hello, how are you?" It was a very good relation (2010).

The quotes above are hardly illustrative of residents who are bothered by the presence of sex workers and/or brothels. Rather the sex industry is acknowledged as part of life within the RLD, and its workers as members of the community whose presence, in fact, promotes safety. In the conclusion to her research, Serino argues that residents of 1012 have established an equilibrium with the sex industry based on the trade-off "of nuisance for location" (Serino, 2012; Aalbers and Sabat, 2012: 120). The work of Aalbers and Deinema corroborates that of Buijs and Serino. According to these scholars:

[Sex work in the RLD] does not strongly offend... because the district is well defined, its remaining residents and non sex related entrepreneurs have long accepted the sex work there and ... they consider sex work part of the neighborhood's collective memory (2011: 8).

From the points made by all three authors, it is apparent that Project 1012 does not originate from residents appealing to the not-in-my-back-yard principle (Aalbers and

Deinema, 2011: Conference). Residents understand sex work to be a part of what makes their neighborhood unique and certainly not as a function that needs to be abolished.

The claim of a collectively strong demand for Project 1012's "regeneration" initiatives, then, is not well supported. To the contrary, it appears that many residents are satisfied with the status quo.⁹⁵ The failure to incorporate deliberative democratic means is best illustrated by this large gap between resident understanding/demand and Project 1012. Indeed, the expedient and exclusionary character of the decision-making process has undermined the ability to reach collective agreement on the Project's reason, purpose, and consequences.

In the same vein, many RLD business owners interviewed by the Amsterdam Red Lights curator felt more threatened and criminalized by Project 1012 than supportive of its objectives. For example, a non-sex-industry-related interviewee feared that removing the brothels would slow foot traffic to such an extent that his business would also take a hit (Interview, *And Beyond Duo*: 2010). Sex businesses, including brothels, stand to lose the most from Project 1012, however. Because they operate on an information deficit⁹⁶, these types of businesses benefit from being visible and clustered (Aalbers and Sabat, 2012: 114-115). Project 1012 breaks apart these clusters and introduces an entirely new customer to the area. For this reason, neither the sex-related businesses, nor many of those businesses currently within the district, have seen their interests reflected in the Project. With neither the residents nor businesses owners in favour of Project 1012, the Project's society-enhancing function is more of an assertion than a reflection of lived experience.

Clearly, the drive behind Project 1012 cannot be said to come from the ranks of those most intimately connected to the district, such as its residents, business owners and the sex workers who work within it. Their general satisfaction with the status quo suggests that the impetus for the Project lies elsewhere, and that the RLD's direct stakeholders do not share the coalition's understanding of the problem that Project 1012

⁹⁵ The local government has not, however, accepted the credibility of these findings, even though its findings have been disputed. For the very reason that there is no agreement on the evidence used to frame the problem, there is no indication of an epistemic consensus during this time period (Dryzek and Niemeyer, 2006: 638). Nor is there evidence of the meta-counterpart of epistemic consensus, defined as general agreement on the effects of the policy. In fact, the consequences of the policy are widely disputed, a point I will discuss more thoroughly near the end of this chapter.

⁹⁶ Meaning that they rarely advertise in order to protect anonymity and avoid backlash.

is supposed to solve.

Media Framing

While there was undoubtedly public concern regarding issues of crime and safety, the details of the problem and the potential solutions for it were “discovered” and defined in a way that minimized the involvement of the sex industry and the general public (MacCrate, 2012). In developing the problem frame, the coalition relied heavily on media coverage regarding the discovery of two trafficking rings and used the most readily available and perhaps most sensationalized information to support its own desired ends (closure of the RLD). The local government further undermined the democratic process by running a marketing and public relations campaign in order to gain public support for its policy direction (see Chapter 6). Dryzek and Niemeyer contend that the democratic process and the “truth-tracking potential” of deliberative engagement is significantly challenged by attempts to manipulate public opinion (2006: 646). As Dryzek and Niemeyer explain, public opinion campaigns try to:

...associate [their] preferred outcomes with popular symbols (such as freedom) and undesired outcomes with unpopular symbols (for example, communism or terrorism). The effect is to privilege particular norms invoked by symbolic arguments over others, so that normative meta-consensus is manipulated...For the individuals following appealing cues, symbolic politics provides a simple and cognitively cheap solution to the problem of constructing preferences in relation to complex problems ...Premises or perspectives are invoked by elites to support particular conclusions (2006: 646).

In Chapter 6, we will see in greater detail how the deployment of a strong marketing campaign framed the RLD in direct opposition to economic growth and public safety of its residents, and associated its development with metropolitanism and modernity. Where the City once tolerated sex work as a special profession and allowed it to thrive within the City’s core, it has now been framed as a “social problem” that occupies the inner city. A number of discourses, which will be elaborated on in chapters 6 and 7, intersect with the local government’s framing of the RLD this way. The criminal and anti-trafficking discourses, supported by the Van Traa Team’s research and the discovery of human trafficking rings, were the most influential discourses. Not surprisingly, human trafficking and criminality dissuade capitalists from investing their

money in those areas where such activities are assumed to be operating. For this reason, the growth coalition wants to appear as taking these activities seriously because they prevent Amsterdam from achieving “world-class status” (Topstad, 2005).

The anti-trafficking frame appealed emotionally to the public’s more general desires of public safety and human rights, but worked to align individual preferences with a particularized set of policies that sought to dismantle the RLD’s sex industry. The dominance of the anti-trafficking frame served to exclude other policy alternatives, such as those that might have offered sex workers the greater opportunity to run and operate their own brothels. As Niemeyer argues, using strategic framing manipulates preference formation because it artificially constrains the range of alternatives available to address the “problem” (2011: 108). By emphasizing the criminal aspects of the industry and by linking the sale of sex so closely with sex trafficking, policy makers have limited the acceptable range of policy options available.

Summary

Project 1012 lacks democratic legitimacy in that its processes failed to include stakeholders, lack any grounding in democratic procedure, rely on unsubstantiated “evidence,” and remain unvalidated by a reasoning process. The growth coalition’s deliberate deployment of frames to incite support for the Project in the absence of real demand stands as a further attack on the democratic process.

Project 1012’s Consequences for Sex Workers

The whore stigma and discriminatory discourses against sex work operate in and through Project 1012 to justify the spatial, political, and economic exclusion of sex workers. Sex work is legal, but by virtue of the fact that brothels are declared more susceptible to criminal influence, those who operate within it are considered criminals or victims and thus stand apart from the above description of the modern citizen. At the very least, no distinction has been made between the brothels that are allegedly criminally operated and those sex workers that work from within them. Instead, it is implied that sex workers are entangled in these criminal webs as either victims or perpetrators and thus are not in total control of their bodies. Other common assumptions and stereotypes

associated with sex work label sex workers as depraved, vectors of disease and dependent on society for assistance (Prostitution Information Centre, 2007). Opposite the whore stigma is the reality that not all sex workers in windows are there under negative circumstances or conditions. Moreover, the majority of those in the sex industry oppose human trafficking. To presume that they are, themselves, trafficked, undermines the sex workers' identification as intelligible democratic agents and as stakeholders capable of participating in a deliberative process. As Healy argues, it remains important not to disconnect the neoliberal motivations from the "deeper cultural assumptions which give authority and legitimacy to" its actors and practices (2006: 299). Project 1012's proponents have benefited greatly from the whore stigma. The stronger the whore stigma is, the less likely the government is to incorporate sex workers into decision-making and the less likely businesses are to invest in an area where sex workers are visible.

Similar to other processes of gentrification, Project 1012 has undermined the sex workers' capacity "for autonomy and their self-determination" to shape the context in which they live (Wharton, 2008; Harvey, 2008). As explained by the Right to the City Montreal Group, democratic citizenship includes not only the ability to access space, but the ability to exert one's own authority to determine all aspects of access to urban life (2012). In other words, it is the ability to have a say in the design of one's own urban environment. As David Harvey writes:

Far more than the individual liberty to access urban resources: it is a right to change ourselves by changing the city. It is, moreover, a common rather than an individual right since this transformation inevitably depends upon the exercise of a collective power to reshape the processes of urbanization. The freedom to make and remake our cities and ourselves is, I want to argue, one of the most precious yet most neglected of our human rights (2008: 2).

Being excluded from urban development processes not only eliminates the opportunities for sex workers to determine the shape of their living and working areas, but also allows stigmas to persist within formal political realms. With no sex workers present to contest the stereotypes projected by elites and then integrated into policy, these discourses are reproduced within the policy-making process and inscribed onto the physical geography of the city.

Physical Displacement

Whether because of intense inspection from the BIBOB Bureau or because a settlement was negotiated, brothels closed. It was those closures that had the strongest impact on sex workers, because it displaced them. As efforts to track or monitor sex workers were limited, it was virtually impossible to determine where specific sex workers went after the brothels closed. More anecdotal evidence suggests that the experience of displacement does not cause sex workers to change their profession as a matter of course. These findings show that, generally, it simply forces them to adapt to new circumstances (Ross, 2010). The Van Beke Institute concluded that, except for a:

few older Dominican women who have worked in the RLD for many years and have now returned to the Dominican Republic, the women who were working behind these windows [did] not exit sex work and continue to work elsewhere, simply because they need the money and in some cases also because they are forced to (Aalbers and Sabat, 2012: 124).

The above statement exemplifies the waterbed effect previously discussed. Again, this concept captures the process whereby sex work intensifies in less restricted areas as a result of suppression in others. Although there is no evidence to determine the extent of these spatial effects or provide concrete evidence to support these claims, several front-line service workers I have spoken with argue that the industry continues to thrive on the outskirts of town, where it is more isolated, less visible, and more likely to be prone to predatory behavior (Interview, P+G 292: 2010).

Window brothels are only one segment of a much larger sector, yet due to their visibility, they receive the most scrutiny under Project 1012. As a result, it is not only sex workers that wish to escape persecution, but also the brothel owners. The renewal of the district put the spotlight on the industry and encouraged brothel owners and pimps to “voluntarily” disappear in order to avoid detection. On this basis, Hindle, Barnett, and Casavant (2003) argue that the local government is actually encouraging an intensification of insecurity, as explained below:

In practice, the attraction is in the opposite direction, encouraging those in the legal sector to engage in illegal operations in order to secure an advantage given the constant competition between the two sectors. Those involved in the business combine operations in both sectors in order to legitimize unlawful activities, relying on forged documents and fictitious marriages. Brothels have tended to migrate to areas where supervision is lax in order to avoid police inspections. Moreover, there has been an increase in recent years in the number of “escort

services” that send women to private homes or hotels on demand.

Likewise, Daalder argues that heavy sanctions, regulations and inspections in the visible, regulated sector (after legalization) compared to the:

relatively unlimited number of enforcement and investigation efforts in the unregulated sector results in a situation where involuntary prostitutes, underage prostitutes or illegal prostitutes are relocated from the regulated sector to the unregulated sector [in] forms of sex work that are difficult to monitor. [The unregulated sector] is characterized by a lack of supervision and by poor accessibility for support workers, leaving these prostitutes even more vulnerable to exploitation and making their position worse rather than better (Daalder, 2004:50).

The exodus of workers and business owners and operators, whether voluntary or mandatory, shows that “even in systems of legalization, regulations take care to separate and render sex work invisible” (Brents and Hausbeck, 2005: 308).

Understandably, crime operates more freely in secluded areas, ultimately intensifying the risk to those who work there. In support of a point made above, brothel owner Jan Broers agrees that many of the women displaced from the RLD will not leave the profession but will go to other less visible workplaces, such as escort services. Less visibility, he argues, is less safe (The Making of the Hoerengracht, 2009). When indoors in regulated spaces, sex workers have access to alarms, security, and cameras. Windows that face busy streets can also offer a sense of security. The costs of displacement, then, are magnified for sex workers because these workers benefit from the safety of a regulated and visible space.

The RLD’s community and physical space is also important to sex workers because it hosts a number of supportive services, high traffic that supplies a variety of customers, and a non-judgmental adult social network. As detailed by Macleod et al., RLD communities are rich in informal networks “and market replacing exchanges systems, as individuals innovate and find ways of coping in the absence of high formal activity” (2003: 1). To excel in the profession and sometimes to survive it, sex workers may band together to set prices, share information about bad clients, develop strategies to retain anonymity, avoid detection by law enforcement agencies, and/or deal effectively with law enforcement agencies. These networks address the challenges that characterize the profession and provide a safe haven within which the women can openly discuss the

details of their occupation without fear of judgment (Interview, Red Thread: 2010). Women also rely on these networks to ensure their own safety, as their ability to communicate with each other often determines their knowledge of the industry and/or any changing circumstances. Because of the discrete nature of the profession, sex workers often prefer to communicate face to face, and this requires that members work in close proximity to one another. Prior to Project 1012, the RLD maintained a strong sense of community (Interview, Broers: 2010). However, by relegating brothels to the periphery and concentrating the remaining ones along one street, the Project has reconstructed the RLD community and effectively undermined these organic networks. In turn, the opportunity for many sex workers to work in such a supportive and safe environment has diminished, which affects their ability to earn a living safely.

By uprooting sex workers and moving them to less visible and less safe areas, Project 1012 also makes it difficult for the sex workers to access outreach programs, and vice versa (Metje Blaak, Documentary 2009, shown at the 25 year anniversary of the Red Thread). The increased difficulty of access is problematic because, unfortunately, the Project has not been implemented in tandem with municipal efforts to address the realistic concerns about controlling, or at least ensuring, the safety of sex work outside of the core (Interview, Scharlaken Koord: 2010). The proliferation of the unregulated sector at the behest of Project 1012 is also troubling because this is the sector that is presumed to be most dominated by the vulnerable sections of the industry. The most vulnerable of sex workers are those who operate without a residence permit, those who work for pimps, and those who are drug users. For many years, immigrants with irregular status (“illegal immigrants”) and sex workers with substance abuse problems “were able to work with relative impunity” within the RLD. However, with legalization and the introduction of Project 1012, police have refocused their efforts on “clean[ing] up” the core and “catching” trafficked victims (Hindle, Barnett, and Casavant, 2003: 1). As a result of the state’s focus on immigration status, a number of migrant sex workers that had been working within RLD fled to neighboring countries because they did not have work permits or did not fit the strict criteria required to be recognized as a victim of trafficking (O’Connell Davidson, 2006: 9). Clearly, the spatial distribution of Project 1012 negatively impacts all sex workers, but there is a stronger impact on those sex workers

who were relatively more vulnerable in the first instance.

For those sex workers who were able to remain within the district, brothel closures negatively affected their earnings, their power relative to brothel owners, and their working environment. First, the decrease in the number of windows allowed brothel owners to charge higher rates to the sex workers (Aalbers and Sabat, 2012: 124). Councilor Marieke Van Doornick discussed the impact of the closures on the relationship between brothel owners and sex workers. As a result of the closures, she argues that:

...what we've seen in this area is that brothel owners actually increase the cost for the windows, they take advantage of it, so they have to pay more, or they would say, "you can only rent this window if you rent it 7 days a week." And because women are not allowed to sub rent [sublet], this means that they have to work 7 days a week for more hours, because they have to pay so much rent...What we see now and what we are afraid of is... with less windows and higher prices, you lose the [freedom to work for yourself] (Interview, 2010).⁹⁷

On this account, Project 1012 can be critiqued for indirect, as well as explicit, discrimination, and damaging associations that exacerbate power imbalances (Cooper, 2006).

Second, the replacement of brothel windows with fashion and art attracted new visitors to the area and a lot of unwanted publicity for the sex workers who still worked there. As the director for the Stedelijk's subsidiary museum, SMBA, explains:

Interviewee: [We] were putting artists into places that were actually work spaces for prostitutes, so it was very much felt that they were there to knock down the sex workers' industry there, and actually one brothel [was] left on one of the streets. I remember with the opening and all these people, city people, you know they came for the opening because it was their moment, and then we had to walk off the streets to go to the studios or to the houses and then of course when the one prostitute left she literally closed the curtains because she didn't want their people in her street because it has to be very, you know, kind of anonymous thing that means her business and she knows how it works. I mean, if you cannot walk there anonymously people won't come to what you have to sell you know, so it was definitely something that was very muchya, penetrating is not a good word.

Interviewer: Intrusive....

Interviewee: Intrusive ya for her as well. So that was also quite obvious that for the prostitutes it was not a very good transition, it was really a bad thing. There

⁹⁷ This excerpt came from a series of interviews by Nancy Kienholz, an American artist and sculptor with an exhibit depicting the RLD. The Kienholz exhibit was showing at the Amsterdam History Museum during the time I was conducting interviews.

was not, kind [of], as many people anymore on the streets (2010).

Summary

To sum up, both sex workers who have been displaced and those who remain within the RLD have been profoundly affected by the harshness of Project 1012's spatial and distributive effects. By changing the composition of the community that sex workers rely on, Project 1012 has broken apart organic networks of communication that are dependent on close proximity and which are essential to safe labour practices. In addition, by reducing the number of brothels, Project 1012 has also shifted the power dynamics between sex workers and brothel owners, increasing sex workers' vulnerability to the demands of owners as a result. Despite these impacts, sex workers were never given an opportunity to air their grievances and exercise their democratic right to contest the plans for the RLD. While a deliberative process would not necessarily have prevented such changes from taking place, it would certainly have advanced some more reasonable alternatives.

Project 1012's Impact on Race Relations

So far, the racial dimensions of Project 1012 have only been alluded to. An entire section has been saved for the discussion of racial relations because Project 1012 has had a disproportionate effect on migrant and immigrant sex workers. In fact, xenophobia has informed the growth coalition's agenda and has helped to justify the eviction of migrant sex workers from the RLD. Despite this finding, Project 1012 is rarely discussed in terms of Dutch attitudes towards foreigners. The section below focuses on the racial implications of Project 1012 and its direct effects on migrant sex workers. A detailed discussion of xenophobic discourse is saved for Chapter 7.

Targeting of Racial Minorities

Aid agencies have estimated that one out of every six women working in the RLD was born in the Netherlands and one out of eight in another western European country (Aalbers and Sabat, 2012: 123). The most recent estimates from the Dutch Ministry of Foreign Affairs are from 1999 and show that "no more than one third were Dutch nationals, the remainder representing 44 nationalities. The majority were from the

Dominican Republic, Colombia, the Czech Republic, Romania and Poland. No figures were available on illegal residents” (2012: 11). Given the variability across estimates and the merely approximate adherence between race and nationality, it is difficult to determine the exact racial composition of sex workers within the Netherlands at any one time. However, it is possible “to distinguish, according to their region of origin, various waves of migrant prostitutes arriving in Amsterdam to work in the sex industry” since the early 1970s (Marchand, Reid, and Berents, 1998: 4). These waves have not been dispersed evenly over the entire RLD. As Marchand, Reid, and Berents (2010: 4) observed:

[T]he RLD provides a spatial organization which is highly racialized and which reproduces an imperialist logic of centre periphery: the Dutch or Western prostitutes can be found in the main thoroughfares of the district with the Central and Eastern European women in adjoining streets, while the South East Asian and Latin American and West African women are working in the windows on the [other] street[s] (Marchand, Reid, and Berents, 2010: 4).

The central goal of Project 1012 is to reduce the number of brothels in and around the core and concentrate the remainder in the main thoroughfare, essentially shutting down the periphery of the RLD. Thus, those areas most populated by racialized⁹⁸ sex workers are also those areas that are targeted for reform by Project 1012. Although the Caucasian sex worker is still the object of the state’s scrutiny, by virtue of either her location within the centre or racial discourses that assume her to be less victimized (see chapter 7), she is saved from displacement. By moving all sexual activities to the one street where Caucasian sex workers are in the majority, the Project has effectively reinforced racial hierarchies within the sex industry. Indeed, white sex workers are known to experience a great deal of privilege in relation to other RLD sex workers (Interview, Red Thread: 2011).

In a more explicit maneuver, the City has partnered with the police to target the growing number of Chinese masseurs within the RLD by commissioning research on

⁹⁸ As Foster explains, “race refers to a group that is socially defined but on the basis of physical criteria” (2006: 1). Racialization refers to the process of distinguishing people based on physical characteristics. Sociologists use the term “racialized” as opposed to race to emphasize that race is not a “natural” category, it is a category constructed by people consciously or unconsciously to make sense of their world, including how to interact with people (sometimes on a discriminatory basis) (Foster, 2006: 1). The term racialization also emphasizes that people are of mixed race and the term is more appropriate than identifying people as a particular race. Racialization also replaces the term visible minority because demographics vary from one city to the next.

their activities and investigating the migration status of workers (Gemeente, 2012; Louise Janssen and Botten, 2012). The purported intention is to decipher if or how many of these women are trafficked. Yet even though some victimized women have been discovered, this has not led to the hiring of outreach workers who speak Mandarin or Cantonese (Louise Janssen and Botton, 2012). The explicit targeting of racial minorities for investigation invokes the more general xenophobic attitude that has propelled Project 1012. It is difficult to overlook the fact that the areas known to house migrant sex workers are the central subjects of the City's urban revitalization plan.

Government Assistance for Displacement

After the growth coalition's initial set of brothel purchases, sex workers were forced to vacate with no formal notification. The displaced workers received no government assessment or economic assistance and social services were not offered (Interview, Scharlaken Koord: 2010). As Councilor Van Doornick explains:

Well no, my plea at that time was first to inform sex workers of what was going to happen. Because during the first closure of brothels, sex workers were not informed at all, really from one day to the other they lose their working place....Do you know P+G 292? ...So at least the people that were doing outreach from the P+G 292, could tell the women what was going to happen and what it meant for them [and] also, to say if you want to work somewhere else in Amsterdam, these are the legal brothels, so don't turn to whatever kind of mobile numbers someone gives you (Interview, 2010).

On their own initiative, employees of P + G 292 (the branch of the City's Health Services) held a forum for sex workers to discuss relocation and to educate people about the Project. Those who came to the forum were rightfully angry, upset, and worried, but no politicians or policy-makers were in attendance (Interview, P + G 292: 2010). In her interview, a nurse at the branch shared her concern that she did not know the current status of property negotiations and worried that upon further closures she would be the government employee left responsible, or at least answerable, to the women and the business owners.

Councilor Van Doornick, who was highly critical of Project 1012's effects on sex workers, found that City Council dismissed her concerns as quickly as they did those of the sex workers:

I had very much difficulties at that time dealing with it, because on the one hand

all those women were victims of trafficking, and when I was trying to discuss it I said, “don’t you think the government has a responsibility to inform these women and finding them another place to work?” and they said “well that’s not up to us, that’s up to the brothel owner, who should inform them.” And I said, “well in one sentence you say that the brothel owner is actually a trafficker and an exploiter and then on the other hand you say that, well we don’t have anything to do with the sex worker, she has her body, so this makes it such a difficult discussion” (Interview, 2010).⁹⁹

The contradiction that van Doornick elucidates demonstrates the ulterior commercial motives of Project 1012’s proponents. City marketing has played a large role in Project 1012, masterfully re-packaging it as a way to prevent human rights abuses. Clearly, these layers of propaganda are distorting the “truth” (Dryzek and Niemeyer, 2006).

As Project 1012 unfolded, its proponents’ commitment to preventing the victimization of sex workers was shown to be lacking. As the consequences of Project 1012 became more public, many people began to question whether it was the best way to go about urban renewal. Even Kunestaars and Co., the agency hired by the City to manage Red Light Art/Fashion (see next chapter), was uneasy with the impact that Project 1012 had on the women.

In the end, maybe [the City] tried, but the result was that a lot of women had to go underground. If I had known the result for them, that it was more difficult for them, then I would have said no. Maybe it is nice for Kunestaars and Co. to go and have this big exposure and work with the city of Amsterdam and we had a great working relationship, and also with Stadelijk Museum, with Yelle, with Angela and with artists. But for business, for the prostitute herself, no, they didn’t benefit at all (Interview, Kunestaars and Co.: 2011).

Had an inclusive deliberative reasoning process guided policy development, it is more likely that the harmful effects of the Project would have been anticipated. Under more democratic circumstances sex workers could express the risks involved with such a project and demand mitigating concessions. These types of democratic discussions promote more ethical forms of capital accumulation and thus help to build confidence in the policy output.

⁹⁹ In drawing out these contradictions, Councilor Van Doornick’s efforts are laudable, but at the same time she assumes all sex workers to be trafficked, which suggests that she also believes they lack democratic agency. In this case the councilor seems to have decided that someone else should speak for sex workers, and she appears to have taken on that task.

State Responsibility for the Effects of Project 1012

At the symposium *Is Amsterdam a Just City?*, a group of University of Amsterdam urban planning students asked Van Rossum, the Project's lead, about these effects. He admitted that any political attempt to "control" a neighborhood is undeniably controversial but that it is "not the job of a city planner" to negotiate amongst these contending interests (Just City Symposium, Van Rossum: 2010). He defended the Project by arguing that it does not aim to eradicate sex work entirely from the district, but only to decrease its prevalence.¹⁰⁰ In his view, Project 1012 is just another product of the traditional urban planning process and is similar to any other political decision regarding development. It's simple, he argued: if there is demand for the land, the developer pays a price and finds a renter because "it's just the way it is" (Just City Symposium, Van Rossum: 2010). If renters cannot afford the price, they go elsewhere. He explained that this is the normal process of urban planning, but that it only looks different this time "because it is about the windows."

However, the urban planning students pressed Van Rossum to acknowledge that the plans to revitalize the RLD are unique not because of their heavy-handed nature, but because of the neighborhood's historic value as a safe space for sex workers. Van Rossum, however, equated commercial sex work with other businesses. Below is one of the most provocative exchanges between Van Rossum and a student in the audience:

Student: Yes of course, every project is political. I am studying urban planning now for five years. But you cannot deny that sex work and also how it works and how the economy function... is different than a side garage or a skate park.

Van Rossum: What's the difference?

Student: It costs a lot of money and people earn a lot of money and it is an international business...you cannot deny the [controversial nature of] the two discussions, how to organize the sex work economy and how to redevelop the part of the city. Those are the two conversations.

In response to the crowd's consternation, Van Rossum argued that the City recognizes the

¹⁰⁰ In line with Brents and Hausbeck's (2005) observations, Van Rossum admitted that the City aims to make the RLD invisible yet still "available for those who wish to indulge" (2005, 308; Cantonal and McCann, 2010: 90). While Van Rossum admitted that the Project itself is deeply political, he dismissed the accusation that the City grounded it in moral judgment. If that were the case, he argued, why would the City allow 40% of the brothels to remain? From his perspective, the ability for brothels to still exist within postcode 1012 proves that the growth coalition does not look poorly upon the sex industry, only that it wants a more balanced set of functions within the core.

specificity of the RLD, as evidenced by its work on both “redevelopment” and “human rights” in its reconstruction of the district. His comments suggest, however, that redevelopment and human rights are two separate issues when they are, in fact, deeply interconnected. Efforts to revitalize the core have further stigmatized the sex industry, displacing a number of sex workers and negatively impacting their rights. It is contradictory for the municipality, in one instance, to talk about protecting human rights and, in the next, to talk about the “purification” and “sanitization” of a place, something that is only possible because the municipality is displacing the very people whose rights it seeks to “protect” (Heart of Amsterdam Strategy Paper, 2006).

It became clear through this debate, however, that Van Rossum and his team blame any ill effects of the Project on the traditional urban planning process, which he claimed failed to anticipate these challenges. This amounts to a denial of the RLD’s deep socio-political relevance while also a shirking of responsibility for Project 1012’s consequences, blaming the negative effects on market-driven economics and an outdated planning system. Van Rossum’s attitude demonstrates what Cooper (2005) calls institutional ignorance. The term describes the functional deployment of ignorance whereby an institution’s outdated principles are pinpointed as the cause of the problem (2005: 14). But when we consider earlier arguments made by the planning department itself, that Project 1012 was not a result of a planning process but a directive of the growth coalition, Van Rossum’s arguments lose their credibility entirely.

The growth coalition has used the urban planning system and the administrative arm of the law in an instrumental fashion to restructure RLD. At the same time, however Project 1012’s proponents are caught in a contradiction in that they have claimed Project 1012 to be the result of a collaborative and integrative approach to policy making. In doing so, it is clear that they are attempting to hold no one particular politician or group responsible for its harmful effects. But who is to blame? Where it might at first appear that decentralizing urban management to the growth coalition’s private actors has handed over the entire “controlling function of the state” (Korthals Altes 2005: 296), the City still plays a role in these networks, in that it organizes these agencies under policy frameworks and strategies and develops regulations and legislation that are conducive to a shared vision. Bonal argues that private-public partnerships are part of a broad neo-

liberal political rationality used by the state to manage social conflict,

as it helps to alleviate the problem of precariousness through privileging ...the entrepreneur...[and the market] as responsible for both creating and participating in productive activity and that this activity is the basis for distribution... [T]he state seeks to reconstruct the basis of legitimation through relocating, and thus depoliticizing state power to individuals and to enterprising groups (2003: 166).

From this perspective, we can see how Amsterdam's municipal council has depoliticized the costs of urban renewal by emphasizing the leadership role of the urban planning system and the market. Thus the market, not the government, becomes responsible for driving sex workers out of the RLD.

Third wave gentrification (Uitermark, 2004), a term that describes the state's role in these private-public partnerships, necessarily implicates the state in a process whereby displacement is a recognized cost. However, there have been only a few occasions in the Netherlands when the state has accepted a degree of responsibility for the displacement effects of the gentrification projects in which it is involved. The Dutch state has done so by offering financial pay-outs to cover the costs of relocation. For example, residents displaced by the urban revitalization plans of the Dutch Western Garden Cities and Biljmer were entitled to "a suitable and affordable home in the wider area... [I]n addition, they received the standard 5,396 euro to cover the cost of relocation" (van der Veen et al., 2011: 9).

However, in the case of Project 1012, the whole stigma functions to paint sex workers as less deserving than other citizens of state protection and resources. Moreover, the effects are more difficult to discern and thus the state is under no obligation to acknowledge them. It is likely that the state did not initiate a deliberative process to determine possible consequences because it might have required the government to accept responsibility for them. Moreover, had these consequences surfaced, the development of the project would likely have faced increased opposition and been stalled as a result. The government's determination to push through the project without deliberation demonstrates the importance it places on expedient capital growth. In urban development, the notion of expediency, or "results, not rules," states that legal principles, administrative procedures, political rights, and ideological precepts all take second place to the goal of improving the material living conditions of as many people as possible, as quickly as possible. Achieving that goal may involve tolerating corruption, bending rules,

and infringing rights” (Henley, 2011: 3).

One of the central contentions of this dissertation is that since the state has actively participated in the processes leading to the displacement of sex workers, the political leadership should establish a grievance system to address the resulting negative consequences, and be held to account for their decisions. When the state facilitates these private-sector led processes, it at least owes it to the people it is displacing to have a conversation.

Summary

Amsterdam’s Project 1012 would not have been possible had the national government not downloaded the responsibility for regulating sex work to municipalities as a result of legalization. The opening of this opportunity and the neoliberal urge to compete on the international stage have driven Amsterdam to reevaluate its international image, in which its treatment of sex work plays a major role. The emergence of a strong, neoliberal urban growth coalition has played prominently in this reevaluation. Members of the growth coalition were able to forge an elite partnership with the government and were critical players in designing Amsterdam’s restructuring agenda. This chapter considered, in particular, how Project 1012, as a contemporary urban development plan, was designed to restructure and alter the constitution and character of Amsterdam’s core.

Project 1012 was a product of an exclusionary policy-making process, spear-headed by bureaucrats with limited involvement from elected politicians and the citizenry. Project 1012 thus stands in sharp contrast to the deliberative democratic character of the legalization debate from which it emerged, and it does not satisfy the deliberative democratic criteria set out in Chapter 3. To achieve the ends as set out by Project 1012, the City of Amsterdam has wielded the power of administrative law and zoning, and has instrumentalized the urban planning process. The result has been the imposition of a range of detrimental effects on the RLD’s constituents: sex workers and sex business entrepreneurs. Through the implementation of Project 1012, the state has not only failed to deliberate with stakeholders to anticipate unintended consequences, but has directly and negatively impacted their personal safety and their livelihoods.

There are also contradictions in the Project’s documents, which speak to the

underlying motivations (moral and economic) of the Project's proponents that may have caused them to sidestep the democratic process and engage in expedient policy making. The new zoning plan, for instance, is said to facilitate diversity and move the RLD away from the sexualized monoculture that now dominates it. I have argued, by contrast, that by affording no space for the sexual service economy, emphasizing geographic segregation, and actually reducing the number of functions within the RLD, the Project proposes less, not more, diversity. The chapter also discussed how the commercial roots of the growth coalition pose the risk that the alleged monoculture that Project 1012 hopes to eradicate, will simply be replaced by another homogenous model familiar to capitalist elites. This will move the RLD even further away from diversity and towards a de-sexualized (and somewhat depressing) "elite island" (Rensink, 2010).

As the chapter showed, the state continues to justify the reduction of alternative sexual activities in the core by pointing to "citizen demand," yet it relies on bodies of research that have not been tested through deliberative engagement. With a number of residents and stakeholders within the RLD supporting the status quo, there are clearly reasons other than the alleged citizen demand for why the City continues to pursue its gentrification agenda without due deliberation (Healey, 2005). The next chapter will further consider the mechanisms used to alter the dynamics of the RLD, considering, in depth, a unique program that aimed to usher in the creative class to change the consumptive character of the RLD as a way to minimize the presence of sex work.

CHAPTER 6

RED LIGHT ART AND RED LIGHT FASHION

Introduction

At precisely the moment in which it seemed that sex work might be normalized, the City of Amsterdam embarked on a campaign of gentrification and implemented new policies that had the paradoxical effect of constraining the sex industry. As part of its post legalization political strategy, Amsterdam's urban growth coalition launched two programs, Red Light Fashion (RLF) and Red Light Art (RLA), in an attempt to mobilize the creative class.¹⁰¹ The programs were made possible after the City purchased brothels within the RLD that fashion designers and artists could live and work in. The urban growth coalition described RLF and RLA as a temporary and creative solution to what is an undefined problem, and as a way to "reconnect [artists] to the center of the city," the programs created live-work space for fashion designers and artists in City-purchased brothels (Charles, 2008: 48).

This chapter explores how Amsterdam's growth coalition used the creative class to reconstruct the image of the city and fuel its gentrification objectives. In particular, the Chapter will explain how cultural strategies were used to strategically manipulate support for Project 1012 in the absence of democratic reasoning. Similar to sex industry personnel, the artists have had their agency undermined and their democratic rights compromised by the transformative process of rebranding and place marketing. The artists' resistance to the project demonstrates the need for greater political accountability within the city marketing process, and also the risk that exclusionary decision-making processes pose to the sustainability of policy-oriented arts projects. To support the claims made in this chapter, I draw on interviews with artists, curators, a representative of the private consulting firm Kunestaars and Co., and the director for Amsterdam's city marketing campaign, Topstad.¹⁰²

¹⁰¹ The creative class consists of artists, designers, musicians and anyone whose profession is a part of the creative industry. Richard Florida argues that the creative class forms the bedrock of the knowledge economy (Florida, 2000).

¹⁰² Topstad is an initiative that aims to place Amsterdam among the top five European cities with respect to cultural experiences, creativity, modernity and quality of life, by rebranding Amsterdam and clearing the way for a new type of business within the RLD. Although Project 1012 was not directly a product of Topstad, it came to fruition in the same year that Topstad was formed, and quickly became one of the projects that Topstad absorbed into its broader mandate. Topstad dedicated two directors to postcode 1012 (Interview, Topstad: 2011) and, at Topstad's request, the Central Bureau supplied a storefront specifically for Project 1012. The Project office was located in the heart of the Red Light

Project 1012 is Not an Urban Plan

In its various stages, Project 1012 has been defined by an uneasy relationship between the creative class and those who are spearheading Amsterdam's gentrification. The vision for Project 1012 originated from a partnership between Rick¹⁰³, a creative urban planner, architect and also the Deputy Director of Amsterdam's Spatial Planning Unit (Interview, 22: 2010); and Lodewijk Asscher, the Dutch Labour Party (PvDA) politician who eventually became a municipal councilor. According to Rick, he presented a vision for Amsterdam to Councilor Asscher in 2004, which Asscher was immediately keen to support. This vision was centered on green space and the creative industries, but saved room for the City's "rather traditional appetite for 'sin'" (Interview, Van der Belt: 2010). Van der Belt argued that the vision was centered on an urban plan that would include an exclusionary method of zoning whereby "specific consumptive practices" (such as sex work) were concentrated in defined areas. The plan would also provide enough flexibility to ensure that there was no street where any particular function was strictly forbidden (Hubbard, 2012; Catungal and McCann, 2010). Together Van der Belt and Asscher began to present their plan to the public. After speaking at more than 70 different venues, Van der Belt felt the duo had built enough momentum to put together a policy proposal based on the vision.

However, the momentum was halted the moment Asscher began to pursue a municipal political career. In late 2004, after becoming leader of the local Labour Party, Asscher loosened his ties with the spatial planning department. Van der Belt himself was quickly removed from what he called "the fancy group" (Interview, 22: 2011) and what Aalbers and Deniema (2012) describe as Amsterdam's "growth coalition." As noted in the previous chapter, the partners in the coalition include newly profit-oriented housing corporations, the City and its marketing agencies, the architecture firm IMBO and related, private business interests (see Urban Growth Coalition section in Chapter 5). As

Districtand in close proximity to Topstad's own offices in the Old Church on Oudekersplein. The location of Topstad's offices in postcode 1012 and within steps of the Project's office speaks to the City's emphasis on this particular district in up-marketing the entire city.

¹⁰³ Name changed to protect the identity of the interviewee.

his municipal political career took off, Asscher's partnership with the spatial planning department foundered.

In constructing a platform for the 2006 elections, Asscher presumably shared his New Amsterdam Vision with his party colleagues and other members of the growth coalition. However, the New Amsterdam Vision's reverence for functional diversity contrasted harshly with the anti-crime efforts that were being run out of the Van Traa Team. As discussed in the previous chapter, the Van Traa Team expressed a desire to completely alter the status quo within the inner city, by not only seeking to contain the "sin industries," as Van der Belt and Asscher had originally proposed, but by eliminating a large portion of them. The prevalence of the anti-crime agenda caused Asscher to revisit his vision for Amsterdam (Interview, 22: 2011). Although he still called it by the same name, Asscher concocted a new "Vision for a New Amsterdam" that differed from its earlier incarnation in that it aligned with the Van Traa Team's claim that the RLD was rife with crime and corruption. As such, Asscher no longer felt the RLD could peacefully co-exist with other areas of the city, and argued for the need to impose strict sanctions on what he called the "sin industries" by implementing inflexible zoning regulations (Klas den Tek, 2008). Only select portions of the original paper that Van der Belt had contributed to remained, but even these segments were paired with an interpretation of the RLD that neither Van der Belt nor his colleagues in the spatial planning department shared (Interview, 22: 2011). In their view, this "new" vision privileged a narrow set of interests, not at the expense of the broader public. And more concerning, the new version was translated, very effectively, into government policy. Backed by a determined growth coalition, Asscher branded himself as the face of Amsterdam's urban revitalization and framed Project 1012 as the means to execute this new vision. By linking himself to the creation of greater possibilities for Amsterdam, Asscher prepared himself and the Labour party well for the 2006 election (Klas den Tek, 2008), resulting in an increased share of seats from 15 to 20, out of 45.

Contrary to what democratic planning theory advocates (Forester, 1989; Fainstein, 2000 and Healey, 1997), the urban plan undergirding Project 1012 was constructed in the absence of a deliberative reasoning process, with civil servants and interested public stakeholders purposefully excluded. As I noted in the previous chapter,

the growth coalition refused to incorporate the urban planners' expertise in the design of the project. The growth coalition was so wedded to its capital growth strategy that it could not rationally nor fully consider the breadth of the project's costs and benefits. outside of the capital growth strategy in which it was embedded. As described by the former head of the spatial planning department, this narrow approach meant that the project really had "nothing to do with urban planning anymore" and thus should not even be called a "plan" (Interview, 22: 2012). However, City Council instructed the urban planning department to draw the final designs for Project 1012, which gave the impression that a professional urban planning team had a hand in the work. Despite the use of the urban planning process, the project had little to do with spatial and/or neighborhood revitalization and more to do with improving Amsterdam's image abroad in order to attract international investment. As elaborated in the theory chapter, interurban competition is a distinct feature of neoliberalism. Increasingly, cities like Amsterdam have lost their traditional economic base and engage in what Harvey identifies as entrepreneurial urbanism (1997).

Entrepreneurial/Global Cities Theses

Harvey's entrepreneurial cities thesis (ECT) argues that local cities promote their competitiveness through marketing their cities. What makes the cities entrepreneurial under these new arrangements is that they are "oriented towards the construction of spectacular sites or places that are hoped will stimulate further investment" (Mcann, 2003: 1912) and attract desired residents (Jessop, 1997: 31).

In the past two decades, "relocation incentives to 'cutting edge' multinationals, most of them part of the knowledge economy, have become increasingly dissatisfied with are no longer realized through tax breaks or other fiscal enticements. These firms have made it clear that they prefer to locate in areas where a good quality of life is provided to their employees and where there is a livable community in close proximity. Mercer Consulting's 2010 *Quality of Living Survey*, for example, stated that "quality of life is important for companies that send employees and their families on long term assignments abroad, especially considering the vast majority of expatriates are relocated to urban areas." Increasingly, the quality of the physical environment, including its environmental

status, has also factored into a company's decision regarding where to locate its headquarters (Van den Berg et al., 1990).

What we see as a result are large companies such as Microsoft, Google, Samsung and Amazon moving from the production precincts on the outskirts of major urban metropolises to what are known as "consumption centres" in inner city areas (Matthews, 2010). Once integrated into the urban centre the company's facility can also double as a storefront and build its brand in association with the dynamics of urban living (McCann, 2003). Some technology companies like Apple have developed an interface with the community that is more of a community hub than a storefront, but these interactions are not the norm (McCann, 2003). The central point, however, is that companies are choosing to locate in cities that have a reputation for a high quality of living. Under these arrangements, municipal governments become "place-marketers," whereby cities themselves are marketed as products. As Bennet and Savani argue:

Urban localities may be regarded as "products" in the sense that they provide labor, land, premises and industrial infrastructure to businesses; while offering housing, shopping, leisure and other amenities, and a social *milieu* to residents (2003: 1).

The global cities thesis (GCT) complements this understanding of the ECT with the insight that, by virtue of a city's power to produce space, the city is a site economic growth and the central juncture for the "organization of collective consumption" (Healey, 2005: 300; Bell and Binnie, 2004). Consequently, cities become nodes "through which global economic activities are pursued" (Marchand, Reid and Berents, 2010: 4). In the broadest sense, the mutual attraction between cities and international capital is sustained by neoliberal ideology, but more specifically by those media discourses such as the Top Cities and Best Places to Live rankings that impress upon cities the need to compete with their municipal counterparts (McCann, 2003: 1912). These discourses are so strong that they become integrated into policy as cities strive to position themselves as superior to outrank each other cities in their bids for international capital.

The discourse of livability, on the other hand, is more concerned with the urban landscape as "an object of consumption" (Lees, 1998) for the middle and upper classes. One way of improving livability is to facilitate large-scale urban gentrification projects. Indeed, gentrification has become "a crucial strategy for city governments" (Smith, 2002:

427) to attract international business interests and ensure capital accumulation.

Amsterdam's City Marketing

According to several Dutch urban geographers, Amsterdam's urban planning system exemplifies the traits outlined by the entrepreneurial/global cities thesis. As a part of the effort to strengthen Amsterdam's brand relative to other metropolises, Amsterdam's local government has become a place entrepreneur, defined as a government which "spends a great deal of time and money promoting their city, and specific places, within that city, as ripe for ...investment" (Aalbers and Deinema, 2012: 131).

In 2007, the City of Amsterdam launched an aggressive international marketing campaign to promote a positive image abroad (Gordon et al., 2012: 1659). The city sponsored marketing scheme, Topstad (Top City), was mandated to place Amsterdam in the top five of all European cities with respect to culture, standard of living, tourism and business. Topstad's staff worked in tandem with the broader I AMsterdam campaign that aimed to increase international awareness of Amsterdam for tourism but "also as business and residential destination(s)" (Bontje and Pareja, 2007: 14).

At the same time that the City of Amsterdam moved forward with an aggressive marketing agenda, it had to legitimate its approach to its residents. An analysis of these efforts provides insight into the operation of neoliberal political rationality and also the challenges to legitimation. The clearest evidence of the City's logic of legitimation is found in its marketing campaign. In *Brand, Concept and City Marketing*, the City reported that:

Amsterdam should intensify its city marketing efforts. The benchmark report comparing Barcelona, Berlin, Dublin, Rotterdam and Amsterdam from early 2003, emphasizes this. There are various reasons for this...Nobody in Amsterdam feels they have the final responsibility for the "Amsterdam" brand name. We need one view of the Amsterdam brand, based on an unequivocal vision. Other cities have benefited from this...Amsterdam is competing with many other European cities, a competition which is becoming ever fiercer due to European unification. More East- European countries are presenting themselves as attractive alternatives. They are investing intensively in city marketing to attract the desired companies, visitors and residents (2012).

Clearly there is a strong urge to develop Amsterdam's "brand," but what really is a

brand? According to Bennet and Savani (2003) a brand is an intricate product involving a:

multidimensional assortment of functional, emotional, relational and strategic elements that collectively generate a unique set of associations in the public mind...The astute branding of a locality will highlight to outsiders its meaning in terms of its “core benefits, style and culture” and (critically) will assist potential stakeholders (such as investors, residents or tourists) to identify the sources of place products relevant to their needs. Thus, the branding of an area can give it a substantial competitive edge (Bennet and Savani, 2003).

Topstad’s aim was to brand, or rather re-brand, Amsterdam as a modern hub of commercial and creative development. First, the old image of Amsterdam had to be done away with. Indeed, politicians argued that Amsterdam would need to break from its image as a sin city or a “modern Sodom and Gomorrah” (Aalbers and Deinema, 2012: 131).

Of course, image building is a normative and necessarily selective process that promotes some realities at the expense of others. Given the professional designation of Topstad as a marketing firm, not rather than an agency with policy authority, the central challenge was not to actually improve the less “desirable” elements of city life, but to “highlight to outsiders” Amsterdam’s existing strengths and downplay its perceived weaknesses, rather than to improve the less ‘desirable’ elements of city life.

As the history of sex work in Amsterdam has shown (De Vries, 1997), the most visible forms of sex work (window brothels) came to (falsely) represent all of the negative connotations associated with the industry, including disease (during the French occupation), trafficking, and crime. As a result of these associations, it is the more visible sectors of sex work that become the most immediate targets for city-rebuilding efforts. The central concern at the heart of Topstad’s branding initiative and Project 1012 is not that sex workers were vulnerable but that they stood as both visual and conceptual impediments to the image of a modern, urban city. With the recognition that sex work exercised the largest impact on reputation and image, the primary target for Amsterdam’s revitalization project became postcode 1012, the area that houses the RLD. However, when the local government became involved, setting the RLD’s gentrification in motion, rebranding became less about image building and transformed into material realization. The last chapter spoke to the governmental instruments used to restructure the RLD. This

chapter, on the other hand, focuses on the growth coalition's efforts to entice the creative class to live and work within the inner city, re-branding it in the process.

The Inner City as the Focus of Neoliberal Reform and Rebranding

While local governments have long been concerned with the hollowing out of inner cities, it is only within the past few years that large-scale redevelopment projects like Project 1012 have taken on the inner city as their primary object (Healey, 2005: 311). The inner city has gained more attention amongst urban planners and property developers because, addition to the acknowledgement of limited space within cities and the economic and environmental inefficiencies of urban sprawl, it has become viewed as the generator of the new creative class. The creative class is attracted to the inner city for a number of reasons, including but not limited to its centrality, affordable rent, and a host of derelict spaces. Those spaces are particularly inviting, as they allow members of the creative class to apply their skills affordably and breathe life into the inner city's revival.

Of course, there are drawbacks for those artists who become involved in a city's renewal, many of which will be discussed in this chapter, but these consequences do not necessarily make the inner city less attractive to artists. Of particular interest to artists are historic inner cities, such as Amsterdam's. As Aalbers and Deinema elaborate:

...a new spatial economic paradigm has therefore shifted the [potential] of Amsterdam's city centre. Its narrow alleys, canals and quaint cramped houses are now seen as the preferred hotbed of [the] postindustrial urban knowledge economy and potential nursery for creative enterprise (2012: 138).

The generative potential of the inner city has drawn the attention of city marketers and policy officials who now note that the "strength of the metropolis derives from the competitive advantage of the inner city" (Roulac, 2003: 365). For these reasons, Amsterdam's inner city has acquired strategic significance in Amsterdam's image building initiatives.

Previously, the municipal government was hesitant to redevelop the core because of "ambiguities related to its embeddedness in Amsterdam's global economy of desire" (Marchand, Reid and Berents, 2010: 4). In the 1960s and 1970s, the visibility of sex work was taken as a marker of sexual freedom and cosmopolitanism (Bell and Binnie, 2004: 1811). And, as mentioned in the last chapter, the international attraction to the RLD

generated substantial profit for the whole of Amsterdam's tourist industry. However, the emphasis on the reutilization of inner cities by and for the creative class has motivated Amsterdam's government to reconsider the core and its functions (including sex work). Richard Florida's "index of the creative class" factored heavily in this evaluation (Interview, Topstad: 2011; Bell and Binnie, 2004). In his original book, *The Rise of the Creative Class*, Florida demonstrates a strong correlation between culture and economic development. His central argument is that people consume space, and although they have choices as to where to locate, they tend to gravitate to areas with a high "creativity index." Florida's creativity index is based on four equally weighted factors: "the concentration of creative class workers in the area, a 'High Tech' index measuring a region's share of national tech industry output as well as the concentration of tech industries within the region, the number of patents filed per capita, and the concentration of same-sex domestic partners within the region" (2000). Florida's work became popular amongst city developers because it laid out a simple investment strategy: develop the arts and gain a greater return on your investment. Similarly, his indices supported interurban competition in that they allowed cities to rank themselves for potential investors.

City Marketing and the Creative Class

Understanding the potential value added by artists, governments across the world began instituting "policy and programming that includes the arts for its ability to drive public consumption, naturalize capital investment" and attract multinationals (Matthews, 2010: 662). Indeed, many urban management models now prioritize the integration of the creative class in their urban designs (Macleod et al., 2003: 1665) and have dubbed cultural intermediary institutions as "critical infrastructure" (Resnik, 2010: 1852). Taking note of the role that the creative sector can play in regeneration, Amsterdam's own municipal branding efforts have deliberately included artists as promoters of regeneration within the RLA/F. Below, I draw on cultural theorists to discuss the debated role of artists in gentrification before moving on, more specifically, to exploring the growth coalition's incorporation of the creative class to re-brand the RLD.

Art and Neighbourhood Gentrification

Drawing culture into theories of gentrification is what Matthews claims led to a “break between production-led and consumption-led” explanations of gentrification (2010: 2). The former emphasized the cycle of disinvestment and investment in the property market where the onus is on the revanchist city discourse and the role of capital (and profitability) in urban development (Matthews, 2010: 661). The latter approach locates the origins of gentrification within the desire and preferences of citizens. Although earlier works on gentrification generally understood these two approaches to be distinct, Matthews links the two impetuses in what he calls the “artistic mode of production” (2010).

The artistic mode of production connects production and consumption-led theories because creating art is considered a catalyst for the change in consumptive practices (Matthews, 2010). Although there is little room here to explore how consumptive practices are constructed, it is necessary to point out that there is a strong link between the production of art and the private consumption of art, especially by the wealthy. Indeed, it is this very relationship that fuels the creative economy. Matthews’ central claim is that fostering an artistic mode of production in a neighborhood would change its consumptive character. The alteration of consumptive practices triggers a unique kind of economic growth that, in turn, interests capital and attracts further investment. But what is the first step in developing these cultural districts/neighbourhoods?

The process by which these arts communities have emerged has been extensively theorized (Florida, 2000; Ley, 2001; 2003; 2006; Rensink, 2001; Matthews, 2010). According to the cultural explanation, as exemplified by Matthews, the first stage commences when artists and musicians, living in low-income housing establish themselves in affordable areas of cities. Through the migration of artists to neighbourhoods in areas that are otherwise considered less desirable, artists’ sweat equity can turn dilapidated inner cities and other people’s “junk” into aesthetic beauty and/or art. One need only look to the gardens, murals and public art pieces that spring up in inner city neighborhoods, where artists are heavily concentrated, as evidence of the consistent attempt by artists to transform and make the conventionally unappealing beautiful.

Indeed, to some, creating liveable cities is an art form based on an understanding of the “city as artefact, where designed and accidental environments of streets, buildings, landmarks and open spaces are brought to life with human activity” (Landry et al., 1996: 7). As Landry puts it, the art of city-making turns “ugly into beautiful” and “weakness into strength” (1996:7).¹⁰⁴ This “redemptive practice” and the associated reconfiguration of space contribute to what Ley calls the “mystery of revaluing” (Ley, 2003: 2529).

By aestheticizing space, artists improve the appeal of the neighborhood and, consequently, initiate gentrification (Ley, 2003: 2532). This transformative process is not as straightforward as it seems, however. It relies heavily on the communication and mediation of other actors, “such as journalists, curators, writers and so forth,” who popularize these spaces and thus contribute to a “change in tastes” as expressed within the urban space (Lecces, 2011: 3). These new sites of cultural production and consumption are quickly appropriated by economic interests who are “not the direct cause of this cultural production, but manage to profit from it” (Lecce, 2011: 3).

In a way, both “artists and consumerism are concerned with the promotion of value” but the value they seek can differ dramatically (Ley, 2003: 2532). For example, many artists are interested in art for the sake of expression or the connection to community, whereas commercial capital interests are concerned with reaping profit from a piece of land’s association with cultural industry. These two groups also differ in the means through which they produce value. Artists are direct producers and commercial interests produce value by capitalizing on the generative powers of the creative class as well as the artists’ networks.

Over time, areas heavily habituated by artists become known for their “scene,” triggering a growing number of artistic venues, a service industry, and an entire cultural industry (Matthews, 2010: 665). These communities often attain formal acknowledgment by acquiring the title of the “arts district.” Florida (2002) was one of the first urban planning theorists to notice that the creative class consists not only of cultural pioneers, but of many of the very people who supply the growing cultural industry with its labour. Artists generally have very low incomes and sustain themselves through precarious work

¹⁰⁴ Some of the most well-known examples include Yorkville, in Toronto,; Granville Island, in Vancouver,; Covent Garden and Brick Lane in London,; and Greenwich Village and Brooklyn in New York.

(Throsby and Hollister, 2003). Thus, the budding service sector and the cultural intermediary institutions that are catalysed by this influx of young “scenesters” has a willing labour force. The creative class, in turn, is retained by the desirable characteristics of the community’s environment – an environment that it helped create. However, the arts district often proves so alluring that consumers of art, and not producers, - of art begin to migrate in. Almost as if by osmosis, higher concentrations of artists attract middle class professionals who possess an “aesthetic disposition” by way of their desire to ascribe more meaning to their urban lives (Ley, 2003: 2540).¹⁰⁵ Thus, gentrification is set in motion, as those with less inclination or aptitude for cultural production, but who command high economic and cultural capital, flock to these areas for the “bohemian and off beat fair,” to consume its “authentic experiences” and cultural offerings (Matthews, 2010: 665). According to Ley, this attraction “produces a stage model of gentrification that describes the successive cohorts of professionals who enter inner-city neighborhoods in a typical but by no means inevitable sequence” (2003: 2541).

As the demand for space in the inner city grows, so too do property values. Ley refers to one study that “showed a six- to ten-fold inflation of prices in deeply devalued sections of inner Chicago in the decade following the settlement of artists and their followers (Cole, 1990)” (2003: 2540). To accommodate the growing demand, property investors work closely with local authorities to rezone and convert abandoned lots and/or industrial spaces to residential units. These renovations are often done with an eye to modern design and cultural flair, although the price increase eventually displaces artists to lower-rent districts (Ley, 2003: 2540). Thus the artists who entrepreneurially toiled to produce art that “donated a salable neighborhood ‘personality,’” (Smith, 1996: 17) and who proved the area to be safe to visit and desirable enough to live in, unconsciously “packaged the area as a real estate commodity” and thus provided a free service to the real estate speculators. In turn, they often have the ground sold out from underneath them.

¹⁰⁵ Bourdieu (1993) suggests that the “aesthetic disposition” (the desire and appreciation for cultural capital) is most prevalent amongst disenfranchised bourgeoisie such as women and young men, who attach themselves to culture as a form of resistance.

The Local Government's Incorporation of the Creative Class into its Processes of State-led Gentrification

As mentioned earlier, it was Florida's theoretical insights that persuaded policy-makers and urban planners of the creative class' role in producing "high-end urban quality" (Resnik, 2010: 1856). Amsterdam's government, in particular, has highlighted creative and innovative industries that could help the City "regain its prominent position in Europe" (Musterd et al., 2007: 4; Gemeente Amsterdam, 2006b). Amsterdam Mayor Job Cohen (2001-2010) declared the creative sector to be so important that he earmarked it as one of five pillars critical to establishing Amsterdam's international competitive edge (Topstad, 2012). The belief in the transformative power of art has resulted in the creative class being valorized by the state as both the producers and consumers of Amsterdam's image. More specifically, armed with Florida's vision of a competitive inner city, Topstad enlisted the creative class to restructure the RLD and revamp Amsterdam's image. The local authorities' move to introduce the arts into the RLD via RLA/F stood as a strong example of state intervention in an effort to gentrify and attract global capital.

Interestingly, most cultural gentrification theories do not adequately capture the process whereby the state deliberately places artists in areas it is seeking to re-value. These theories tend to assume that artistic people freely congregate and a community organically takes shape that appeals to a wider populous. My research questions these assumptions and offers a contribution to that gap in the literature.

Both Red Light Art and Red Light Fashion are discussed below, with a critical eye towards the subservient role that the creative class ended up playing in them and the implications that role has of these gentrification initiatives on democracy, more generally. What becomes clear is that RLA/F were driven less by the desire to regenerate a disadvantaged neighborhood or make it livable for a wider breadth of people than making the area more desirable for Dutch natives, particularly those with the financial capital to consume retail and other more socially accepted commercial activities.

Red Light Art/Red Light Fashion

In 2005, the City and the Housing Corporations (HCs) purchased the first set of Amsterdam's RLD brothels. Surprisingly, however, the properties subsequently stood vacant for nearly a year. The primary reason for their dormancy was that many of the properties needed significant renovation and the Dutch HCs' plans for the buildings had been stalled by a need to exercise fiscal restraint. Little known at the time, the City had agreed to pay the mortgage interest and the operating costs for the properties (Interview, 2011: Topstad). This arrangement enabled the HCs to effectively sit on the properties for an extended period of time until they were ready to sell. At the same time, the buildings were under constant threat of being squatted and, facing its own fiscal pressures, the City was anxious to devise an interim plan to cover its own costs.

It is unclear how exactly the City's challenge of having vacant buildings was communicated, but the director for the fashion consultancy firm HTNK almost immediately proposed a creative solution. Together with the executives behind the fashion design competition Turning Talent into Business, HTNK proposed that the vacated brothels be used as studios for the winning fashion designers. In exchange, the artists would cover the overhead operating costs for the spaces for one year (Interview, Kunestaars and Co.: 2010). In her proposal, Mariette cited the generative potential of the arts and the need to revitalize an area that she argued was both run down and "out of control" (Interview, Oudshoorn: 2010).

Topstad supported the idea because it had long been insisting that the growth coalition explore new "creative opportunities and cultural risks," which it was eager to oversee (Interview, Topstad: 2011). The fashion competition had already gained positive national media attention and the City's move to locate its cutting-edge designers in the vacated brothels would presumably have positive spill over effects on Project 1012 (Interview, Topstad: 2011). If Project 1012 could incorporate the arts sector as it established its new legal and regulatory regime, City agencies and Topstad assumed that it might lend some positive press to the project (Interview, Topstad: 2011). The insertion of artists, therefore, was not for art's sake, but because it would offer a "good use" for the space and represent the City as a generous benefactor of the arts community. Moreover, according to Topstad, the growth coalition hoped that the RLA/F programs might quell

criticism of the project by demonstrating to the public a government ready to act on its priorities. By taking immediate action to close the brothels, the City responded to the sense of urgency it had itself created around the need for urban revitalization. Ironically, however, the City left many of the properties underutilized. It was for these reasons that the City informally agreed to the plan (Radio Netherlands, 2008) and, under the name Red Light Fashion, HTNK shepherded sixteen Dutch designers into the former brothels (Interview, 2010: And Beyond Duo).

RLF was a catalyst. Shortly after it became a reality, the City began to integrate the arts sector more purposefully into its strategic policy. In 2008, the City and Topstad approached the Stedelijk Museum's director to establish an "artistic partnership" (Interview, Topstad: 2011). Stedelijk is a modern and contemporary art museum in Amsterdam but was, at the time, closed for nearly six years due to renovations. As suggested by one of its then directors, its eagerness to partner with the City to develop a program for the brothels was largely spurred by concerns about its own displacement and potential closure (Interview, SMBA: 2010). Stedelijk drew in its local subsidiary, SMBA, to manage its participation in the project. SMBA's participation was matched with that of Kunestaars and Co., a private consulting firm hired to represent the artists, at least in the eyes of the coalition partners. Although it is not uncommon for an artist to hire an agent, being assigned an agent is quite a different situation, and does not constitute adequate representation within a deliberative reasoning process. In this case, the agent communicated with the decision-making authorities on behalf of the artists, further separating the artists from any formal, deliberative interaction with decision-makers. SMBA's director felt that the decision to distance the policy-makers from the artists showed that the City did not trust the prospects of creative regeneration entirely to the non-profit arts sector (Interview, 2010). It appeared that by hiring Kunestaars and Co., the City was instilling some kind of private sector oversight to keep its partnership from straying too far from the goal of commercial revitalization (Interview, SMBA: 2010). This system of representation is indicative of a closed policy system, where policy officials are asserting their authority rather than engaging in a deliberative dialogue that would set the intention and direction for the projects.

SMBA's recommendation that the City hire a curator and grant small stipends to artists for their residency was accepted. SMBA was given the lead on hiring the curator. However, Kunestaars and Co. exercised a great deal of discretionary power over the process. For example, Kunestaars and Co provided the list of artists from which SMBA had to choose. This list was narrowed to a particular type of candidate, even though the project elicited a great deal of interest amongst those in the arts community and could have easily included a few hundred people (Interview, Kunestaars and Co.: 2010). As the Kunestaars and Co. employee responsible for the Red Light Art Project explained:

For visual artists, this is a very intriguing topic. An intriguing city within a city. An opportunity to look at their own work in a different way, because it is exhibited in a different way (Interview, Kunestaars and Co.: 2010).

Interest in the program spread as fast as word about its conception. The "buzz" was compounded by the increasing media attention given to RLF. Yet despite what appeared to be a wide pool of available and willing artistic participants, Kunestaar and Co. recruited and selected artists primarily through their own networks, demonstrating a degree of nepotism not entirely unheard of in the art world, but one that faces scrutiny when linked to a publically funded project with such strong links to the more controversial Project 1012. Kunestaars and Co. defended their hiring process, acknowledging that it was not done according to merit but through its careful matching of the concept of the program and its realities to those strong enough to handle it. As the director explained:

We wanted young people. Young people can seize the opportunity and are still in [a] very experimental phase and want to sleep in a sleeping bag if necessary. More flexible, more desperate or a combination of both...I wrote a profile for what the task would be. But the task would be for a curator in a very strange situation, dealing with partners like Stedilijk Museum, us, Topstad, De Key, the community, the city, the press, the prostitutes. That was almost an impossible task and [then] Angela [Serino] came.

According to Kunestaars and Co., candidates were selected on the basis of their willingness to adapt to difficult circumstances. A large part of this included the ability to undertake the physical labour that would be required to transform the brothel spaces. The work included, for example, removing the concrete beds, covering but not totally demolishing the toilets, and extensively cleaning buildings that had been hastily

abandoned (Interview, Oudshoorn: 2010). Under these circumstances, Kunestaars sought “young,” “desperate,” and “flexible” artists to fill the space and invest the energy required to transform them. The deliberate selection of the most “desperate” and “flexible” artists was, presumably, based on the assumption that these individuals would not expect to be a part of the decisions regarding the project and would “just be grateful of the opportunity” while refraining from criticising major aspects of the program (Interview, 29: 2010).¹⁰⁶ The curator, on the other hand, needed to be a tough enough character that he/she could juggle the demands of multiple partners.¹⁰⁷

Initially, both RLF and RLA had been packaged and sold to the “creative” as a good opportunity by Topstad and Kunestaars and Co. At the outset, the young designers considered the projects a welcome opportunity. As one of the owners of the And Beyond Label explained, “we’re getting the space to do what we want in [a] stimulating and creative surroundings” (Radio Netherlands, 2008). Others, however, were less pleased with the way in which designers and artists were rushed into brothels and made to clean and re-create the spaces, largely at their own expense. Topstad admitted that while it may have been more affordable than renting a studio outright, the artists “still paid for the heat, the electricity, so it was cheaper but it was not the cheapest” (Interview, Topstad: 2011). The director of SMBA explained the difficult situation in more detail:

I mean...the artists didn’t get anything so they had to arrange their own internet connections, pay for gas and light and even some surface costs. They were really entering a pile of shit, even the original beds were still in the houses.

A shoe designer with RLF, upon seeing her building for the first time, was appalled at its condition, although she conceded she was happy with the nearly free space (Interview, 29: 2011). When she arrived at her new studio on the Ouderkersplein, condoms lay strewn about, as did high heels and dirty sheets. The scene was so disturbing that she invited a photographer friend to do an exposé before she began to clean the premises.

¹⁰⁶ Name removed to protect the identity of the interviewee.

¹⁰⁷ Contrary to this understanding, Topstad’s international marketing director insisted that the RLA programs supported a set of entrepreneurs who were “a good combination,” working together to seize an opportunity (Interview, Topstad: 2011). This interpretation is more fitting for the RLF, however, because fashion designers who had won a merit-based competition were allocated space. In the case of RLA, on the other hand, artists were selected by a private company based on the probability that they would be able to transform and utilize the spaces in the least costly way for the partners. Despite their different selection processes, both RLF and RLA ran simultaneously and were smaller elements of the much broader Project 1012. As a result, they are discussed jointly here, and the term artist is used to reference both artists and fashion designers.

In addition expecting that the artists transform these run-down spaces into temporary homes/studies, Topstad and the City demanded that the artists produce work for public viewing/consumption within two weeks of the program's start date (Interview, Serino: 2010). It was at this time that the doors would be opened to the public and the media and programs would officially be launched. The pressure to produce something visible for sponsors within such a short time frame was overwhelming for many of the artists, especially since they were not given the financial means to do so. As an artist with RLA explains:

In the very beginning, when the sponsor was organizing this kind of fake opening for us, we were completely lost because we just started like two weeks before. For us it was clear that the project needs time to grow. Also, we didn't have any funds from them. Just the space. So, Angela had to collect money to produce the work, first of all (Interview, 28: 2011).¹⁰⁸

The lack of adequate funding for the projects frustrated the artists immensely, especially since the opening was a luxurious event with high-end catering and lavish decorations (Interview, 31: 2011). At the same time that their own projects were starved financially, the artists were made to produce something in a short time frame for a costly event. The event emphasized the clear divide between "cultural producers with high cultural capital and low economic capital," and those with high economic capital and an aesthetic disposition (Leys, 2003: 2530). Project 1012 and Topstad exploited this gap in order to provide the illusion of inner city revitalization.

The opening drew international media attention, with journalists expounding on the controversial image of the sex worker being replaced by the artist. In many respects, however, sensationalism superseded critical journalism during this time. As Buijs points out, there was little critical discussion about the details of RLA/F and the wider project to which it was connected (2007: 5). And where there was criticism, it was often launched at the artists who were participants (Interview, Buijs: 2011). While positive media attention boded well for artists who were keen on building international reputations, the artists were not prepared to become the public face of a project about which they knew very little. Yet as the most visible participants of the program, the artists received at least five to ten interview requests per week in which they were forced to explore the various

¹⁰⁸ Name removed to protect the identity of the interviewee.

dimensions of the program and respond to its criticisms (Interview, 31: 2010).

Interviewee: I had a lot of interviews. The artists too. There was a lot of media going on. Too much. Very tiring and confusing.

Interviewer: Because you are put into a position where you have to respond to these people?

Interviewee: My answer as curator and through art then was clear to me, but that was the field that I felt comfortable with. But, all the rest...I [only] know a little bit because I can speak a bit of Dutch. But still...I'm still far away from fluent use of the language, so I do not understand everything. I do not read everything. So that also gives a filter to you, which doesn't make it very comfortable in giving an opinion. I'm not an opinionated person, but having been out in there as speaking the truth for everybody — that's really uncomfortable because there isn't one truth. I have a clear mind in my point of view, but the truth, the right answer. Because that is the risk, I didn't want to. That took a lot of energy to keep the point of balance and not taking the side of the one[s] who were supposedly hurt, because I am not a sex worker. I don't have experience in that. I haven't studied these things. I just don't.

As the media attention towards the programs grew, the partners responsible for Project 1012 and the association RLA/F programs stepped behind the curtain and accepted little to no responsibility for the outcomes, particularly the displacement of sex workers and the uncomfortable situation in which they had placed the artists (Interview, Kunestaars and Co.: 2010). Instead, artists were blamed for replacing the sex workers, despite the fact that they were not the originators of the programs (Blake, Amsterdam History Museum: 2011). For this reason, many of the artists began to feel used by the partners, not only as “social lubricants” to ease the gentrification process or a way to cover the operating costs of the vacant buildings, but also as scapegoats for the project's unintended consequences (Blake, Amsterdam History Museum: 2011).¹⁰⁹ The flagrant

¹⁰⁹ In a participatory art project that is now housed at the history museum, Alexis challenges herself to place the spheres of power, interest and influence in the RLD in relation to one another and then to explain her own views. She says,

Now, you could also make more shapes for all the other parties involved: such as Stichting Kunstenaar en Co; the SMBA, the prostitutes, the neighbors, the tourists, etc.[.]. but you get the idea. Each shape encompasses the agent's set of beliefs. As you can see there is no point where all the belief sets overlap each other, and that is because there is no common denominator.

The artist then places a sheet with a function on it depicting incompatible beliefs. She follows with a remark: “In this function, and knowing incompatibilities, I have to choose what my preferences are, what I feel is fair, what I am able to compromise and what I can actually produce-given the circumstances in this game...” (Alexis Blake, 2009 Scriptings: In/Out, Neither/Either. Amsterdam History Museum). Alexis then describes the position of the artists in such projects: “My decision to choose choice derived from the inaccessibility I found once confronted by a situation where I had to

disregard for the artists' concerns shows that the growth coalition was eager to strategically manipulate support for the project, rather than deliberately and collectively build legitimacy for its urban renewal project. Theorists have coined the term "soft techniques of power" to describe the deployment of marketing to soften the blow of gentrification (Fox, 2001: 442; Lecce, 2011). In this case, the use of the RLA/F was a sophisticated technique aimed at distracting observers from the real commercial motivation of Project 1012 and its harsh consequences for sex workers.

The Unravelling of Red Light Art

The duration of the placements provides telling insight into the commercial motivations behind the programs. Only those artists who lived on the premises or who routinely updated their windows had their term extended past the initial one-year contract (Interview, 29: 2011). On several occasions, artists who had kept their windows closed for privacy were asked to open them and put something on display (Interview, 29: 2011). These expectations were never outlined prior to the commencement of the program. However, the growth coalition's expectations later became apparent when those artists who abided by the demands to display their art were given permission to extend their stay and those who did not were asked to leave. The differential treatment of the artists spoke to the program's purpose of commercial revitalization. And when artists realized they were put in this position, as a means to an end, resistance to the programs began to form. As SMBA explains:

[The partners expectations] became very problematic really because of course the artists[,] when they saw the spaces[,] they didn't feel like really living there or even working there, only people who didn't have any living space outside, they kind of lived there but I think in the end it was only one who really lived there and maybe there were two who worked there, and the rest didn't really show up. Maybe once in a moon or when there was some kind of activity, they were there. And I remember meeting with city marketing and the guy was directing it, with his fist on the table, [saying] *I want those curtains opened!* Sometimes I had to threaten that the [SMBA] would withdraw from the whole project if they put all these obligations on the artists[:] you know all these things that they had to do (Interview, SMBA: 2010).

deal with the polemics of being instrumentalized. I felt extremely limited in the choices I could make as an artist, caught in a catch 22" (Scriptings, In/Out, Either/Neither, 2009).

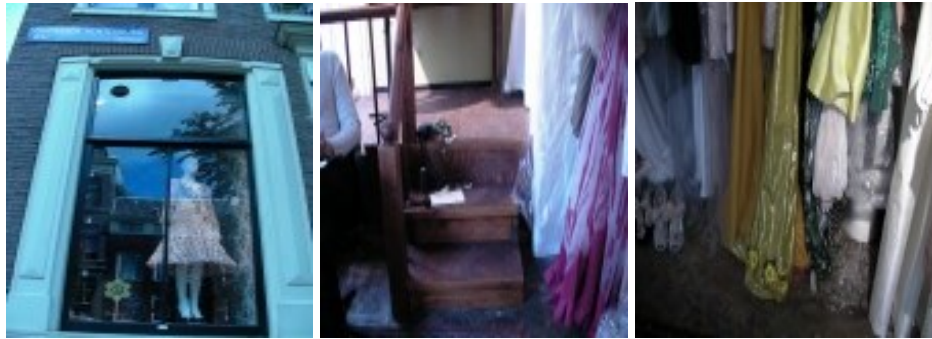
In his own interviews, Leys found that artists who were offered affordable art/work spaces in downtown Vancouver refused to live on site because they felt the spaces were inauthentic. Artists told Leys that they like authenticity (not live art spaces), diversity, and cheapness, and that “commodified work-live spaces” were not desirable (Leys, 2003: 2534). Despite these hesitations, the fashion designers where? were directed to open their windows to show the process of fashion design. As Kunestaars and Co. explained:

And, that was the plan of the city. I said from the beginning, no. This can work maybe for a jewelry designer who is there, and not even all of them, who can work in a studio and are creating stuff there. Not for a fashion designer. Fashion design is not the same thing. The city wanted them to show the process of designing. There is no copyright on fashion design. That’s why it is all so hidden until it is shown on the catwalk. That is an exception. You can’t put a camera on an artist working in a studio... Also, artists work at night, or on vacation. You can have the best ideas at night, when you are awake. It is not that practical, not that visible, as the city of Amsterdam hoped. They thought, the idea was more like a craftsmanship, or something (Interview, Kunestaars and Co: 2010).

The City’s expectations of the artists took the concept of window dressing to the extreme. They demanded that the artists work full time, for little stipend, in a space that was both unliveable and unappealing and that they open their windows to reveal a form of constant cultural production. The output of these processes would be shown in highly stylized and public events.

That said, some fashion designers took advantage of the space to produce items for consumption and used the windows to showcase their elaborate designs. Edwin Oudshoorn, for example, magically transformed his brothel into a beautiful store/design studio complete with a stage built to cover the toilet, a spinning mannequin in the window and elaborate carpentry and curtains. Below, from left to right, are pictures showing Edwin’s storefront, the stage he built to cover the bed and the toilet tucked behind his clothing.

Figure 10: Edwin Oudshoorn's Studio Space, Red Light Fashion



Oudshoorn could not remove the toilet due to the HC's requirement that the properties be easily returned to brothels if necessary. The reason for this clause in the "rental agreement" was that Oudshoorn's space was on Oudezijds Achterburgwal, the street onto which Project 1012 planned on corralling all remaining brothels. Many of the first set of brothel purchases were located on this street, which resulted in their temporary vacancy (map provided by Tsaijer Cheng, 2012). Presumably, the vacant brothel that Oudshoorn occupied might have served as an enticement to brothel owners with properties on adjacent streets to move to Oudezijds Achterburgwal, in accordance with Project 1012's zoning plan. In the interim, Oudshoorn's display helped to spread the message that change was happening within the RLD.

Another troubling part of Oudshoorn's placement was that he could not sell clothes out of his studio because the building was zoned for prostitution, not retail. Further, the temporary nature of his placement precluded a rezone of the building. Getting free studio space to make his designs might have been helpful, but Oudshoorn was often distracted by the press attention to the project and he felt he was pushed to justify his involvement. He was frustrated, he explained, because the fashion designers were there to make fashion not "engage in some kind of dialogue" (Interview, Oudshoorn: 2011).

For the conceptual artists involved in RLA, the expectations were even more difficult to meet; unlike the fashion designers, the conceptual artists did not always produce something tangible that could be kept in a window as evidence of neighbourhood change. In general, conceptual artists produce provocative installations and/or active displays that cannot be adequately captured within a window frame or the idea of an open

workshop.¹¹⁰ The partners' strong "suggestions" that the programs' participants have up-to-date window displays clearly did not mesh well with artists who had no intention of attracting people to their space on a regular basis to sell products. From their view, the window was not a storefront and the studio was not a factory. Below, an artist (not a fashion designer) elaborates on the clash between her own vision of her task and the expectations of the partners and the wider Project 1012 strategy:

I think the main expectation of them [the Partners and the Coalition] was to renovate this area, to sell the building [at a] more expensive [price]. What they did in the past was just to invite [a] professional designer or just [a] designer to put something nice in the window. But of course with a contemporary artist, it's not like this (Interview, 28: 2010).

The different relationships that artists and fashion designers have with production and consumption in turn affected the groups' relationships with the partners and, ultimately, the terms of their programs. At the time of my interviews, five of the sixteen original fashion designers still had studios, exceeding their initial tenure of one year, whereas all of the artists had been asked to leave when their terms expired. In fact, one of the artists was asked to leave earlier by the HC De Key, which cited the need to renovate. She claimed, however, that:

...after a few months, we were just passing by the same buildings, they didn't renovate anything. They just put someone else, like a student, anti-crak¹¹¹ student. So, they really wanted us out. (Interview, 28: 2010)

The fashion designers were the preferred choice by the partners because their efforts aided the transition of the space from one that was based on the sale of sex to one that was based on the sale of "cultural products." However, despite their seemingly "good fit" with the aims of the project, the fashion designers also faced intense pressure from the City and they felt it was difficult to meet the demand to open the windows to a constant form of production. Much of the tension between the artists and the city rests in the fact

¹¹⁰ The curator for RLARed Light Art had asked the conceptual artists to tease out the relationship between sexuality and "consumption" (Interview, Serino: 2010). The result was a series of jarring images and productions. Interview 31, for instance, hosted a one-night library in a former brothel, where men and women unfamiliar to each other sat in a bedroom and read passages out of romantic novels. The piece was intended as a play on the kind of intimacy achieved through random connection. Not all of the art attended to the peculiarities of the program itself, most notably their location within a former brothel, but three of the 10 artists whose work that did, were highly critical of it, incorporating the themes of displacement and abandonment in their productions (Interview, Serino: 2010).

¹¹¹ Anti-crak refers to the method by which HCs Housing Corporations and the municipalities would keep squatters out of empty buildings. Squatting was legal until 2011, but under the anti-crak system, students were offered given cheap rents to fill the vacated properties until renovations were completed or the property was sold.

that those within the project had competing visions and understandings of the purpose of the program. The artists saw art for “art’s sake” rather than focusing on its ability to attract a particular kind of capital and motivate a form of regeneration wholly rooted in commercialism.

A Lack of a Shared Understanding: a Different Understanding of Art

Although the art sector is not new to public gentrification projects, and certainly some artists take pride in their transformative roles, tensions nonetheless arise as result of the confrontation of these different views. The curator for RLA was deeply offended by what she described as the partners’ under-appreciation or lack of understanding for what art can give back to the community:

The art sector is in it. It seems to me that more and more, we continue in these formal public art projects...When they bring together all these institutions, sometimes you have the feeling that these people are good together, but they don’t share a vision...It also means that you don’t want what art is, what art can give you...They see art, they take art, they include art into this discourse of economical discourse, which is all about merchandising emotions and all the rest...They take some qualities of art, like the capacity of artists reacting genuinely to a place, but also of making it attractive, or just because cool people might start going to these places. And then they think that is it, art. Art is able to connect, kind of like a catalyst, but no, art is also, as the qualities to be connected to, like silence, like a period of non-production. So, maybe even, to present something disturbing to something, that [is], some performances [were]... kind of strong (Interview, Serino: 2010).

To Serino, art’s value lies in its ability to be disruptive, not only in its ability to transform. Similarly, Ley argues that even though artists may sometimes be a part of the middle class, the artist’s role is to “stretch its imagination, its desires, even its practices, beyond its norms and conventions” (2003: 2530). In the case of RLA/F, however, the disruptive value of art was stunted by a prioritization of “commerce and convention” (Ley, 2003: 2530). Many of the artists felt that their critical creative capacity was stripped as they “automatically absorbed [them into the] all-inclusive brand of I Amsterdam” (Serino, 2012: 173). Many of the artists claimed that their work almost immediately lost its critical composition, potential, and meaning the moment they became “physically present” in the former brothels (Serino, 2012: 173). But what upset them the most was

that they felt that their participation in the program partly legitimized the displacement of the sex workers and that they were given no space within which to voice their objections (Interview, Serino: 2010).

As the programs developed, so too did the artists' discovery of their role as mere aids in the "transition of the RLD to a gentrified neighbourhood" and they became increasingly eager to express their concerns (Interview, 29: 2010). However, the City reined in the artists who either began to question the program, "side with the sex workers" (Interview, 29: 2010), and/or cast doubt on the revitalization initiatives. These participants were bluntly told that their opposition to the program would result in their being excluded from the next round (Interview, Serino: 2011). Similarly, the corporate partners such as SMBA had to mute their criticism of the program and the wider project, in order to retain public funding. It became clear to many of the artists that RLA/F were only a part of the City's much wider strategic plan. Again, Serino described her sense of isolation and loss in a scheme she described as much larger than herself:

So, my voice is lost into these tentacles of these big institutions, which are supposed to be representing you. It doesn't make any sense. Maybe that to me is the scariest or the saddest thing. I realized during this project that it's really like when the common people are responsible for taking care of the common voice and the common life, the common, are speaking and using the same logic of the private sector...There is no space for any other voice because both the sides speak the same [language] (Interview, Serino: 2010).

Jelle, the SMBA director, echoed this view and emphasized the exclusionary nature of the programs:

I had all these meetings all the time. All these meetings always with the four institutions that became involved in this. So we had the city marketing [Topstad], then we had the De Key Principal, we had SMBA and Kunestaars but it was never with Angela (Interview, SMBA: 2010).

Despite the stated importance of the creative class, it was, unfortunately, little more to the growth coalition than a means to an end, a public face to cover over the sex industry and then promptly ousted after it failed to neutralize criticism of the project. Essentially, Project 1012 expelled one group of citizens by replacing it with another, with the processes of displacement denying agency to both groups.

Whether artists have agency in the process of gentrification is a question that has elicited a great deal of debate (Matthews, 2010: 666). The creative class and the role of art in gentrification and neoliberal urbanism is well theorized. However, the structural economic position of the artist has received relatively less attention (Hubbard, 2012: 196; Matthews, 2010: 664). While we may understand the initial attraction of incorporating art into gentrification projects, the experience of doing so raises questions about why art continues to be held in such high regard by gentrifiers, who then disavow artists' desires to contribute to the growth coalition's agenda/direction and undermine democratic citizenship in the process.

Resistance to RLA/F

In the absence of any kind of democratic dialogue and sufficient funding, artists resisted the terms of the project and the "social lubricant" function that was ascribed to them by refusing to live in the buildings, update their windows and mute their objections. By not allowing themselves to be co-opted by "the gentrification cause" (Lecce, 2012: 4), artists effectively slowed the process of commercial transformation. Their resistance is thus demonstrative of a radical expression of direct democracy, meant to communicate their dissatisfaction with the exclusionary processes and intended to deconstruct the "'superstructure' meant to hide the determinant role of the economic structure" (Lecce, 2011).

Their resistance, in part, precluded the transformation of space. But where their ability to add-value to the area may have not been realized, their stories offer an important lesson to policy-makers: turning stakeholders into instruments and simultaneously excluding them from policy-making results in policy failure. Although it is unclear whether this set of political strategies for gentrification will ever achieve their desired outcomes, the effects of their hapless implementation processes are clear enough. The pressures on, and expectations of, the artists stripped the programs of the organic process required for thorough-going, artistic neighborhood transformation, and also precluded any ownership over the program's outcomes. In other words, artists cared little about the success of the program because they did not feel that it was really about their aims and artistic ambitions. Ultimately, excluding artistic producers from decision-

making processes would be the program's undoing. Presumably, had both artists and sex industry stakeholders been included in a deliberative discussion regarding these programs and/or policies, policy-makers would have better anticipated the challenges and produced more robust (and arguably less harmful) policy outcomes.

The artists' failure to satisfy the demands of the growth coalition can also be understood in terms of a disconnect between the growth coalition's fantasies about what art could do, and the processes through which art services gentrification. The top-down insertion of artists into the district signaled the concerted appreciation for cultural theories by the City and the growth coalition, at least in a limited sense, but sped up a process that must occur organically in order to succeed. Add to this the fact that the artists felt no attachment to the community whose space they were expected to transform (Serino, 2012), and it becomes clear why artists were unable to mobilize residents or Amsterdammers in a critical response to gentrification. The artists' presence did not realize any substantive transformative effect.

Beginning in 2008 the creatives (Florida, 2002) who had been reeled in to promote Project 1012 were slowly notified there was no longer a need for them. As artists and fashion designers' brothel contracts expired, they were asked to vacate the brothels, these spaces just as the sex workers had been. Eventually Topstad itself was disbanded. Below are excerpts from Topstad's international marketing director, regarding the outcomes of the program:

Interviewer: So when did Topstad end?

Interviewee: Well, the program ended in about 2008. At this time we were not in charge with running Red Light Art, but many of these places have not yet been converted.

Interviewer: Why is that?

Interviewee: They don't have the money. They simply don't have the money. So they sit, and fill them how they can and wait for the money and then they will change things.

Interviewer: How are they going to change them? The existing ones?

Interviewee: I don't know that, I know that I am pushing hard for more creative class here in Amsterdam. A lot of people write for this. A lot of people want this.

Interviewer: Are they being heard by the city?

Interviewee: No, they are not, not necessarily. I don't think so. The city is the same people, but they are tired of this area I think. I don't work with them much anymore. I am a consultant outside...I know in the end they want to own or rent it as housing. It definitely won't be brothels anymore.
(Interview, Topstad: 2011).

Despite the unraveling of the programs and the unsettled fate of the creative class in Amsterdam's core, Angela Serino declared that many of the artists nonetheless found the initiatives to be a valuable experience. The artists learned that being defined as creative entrepreneurs did not coincide with how they "perceived themselves and their role in the world" (Serino, 2012: 174). This point of contention brought the artists closer together and stimulated a number of fascinating intellectual and political conversations. The stronger political lesson, however, is for policy-makers. Urban regeneration projects and rebranding processes that afford no room for discussion and artistic ownership are inherently undemocratic and produce unsustainable outcomes. Conceivably, the coalition partners could have used more democratic methods to pursue their goals of eliciting investment and combating disorder (Duyvendak et al., 2006). A public engagement process and deliberative dialogue amongst stakeholders could have helped to build a shared future vision for the RLD that artists would have presumably been more interested in helping to create and sustain.

Summary

As cultural theories of gentrification illustrate, artists and art have played a unique role in gentrification, positively improving the image, liveability, and economy of an area. Taking note of the transformative power of art in the processes of gentrification, Amsterdam's growth coalition harnessed a unique opportunity to insert artists into vacated brothels. The Red Light Art and Red Light Fashion programs (RLA/F) were employed as cultural strategies by the growth coalition to mitigate the costs of vacancy, and "sanitize" and alter the consumption patterns of the Red Light District (RLD).

Artists were pulled in because they were said to be able to transform not only the aesthetic of the neighborhood but its consumptive character. In the case of Amsterdam, this meant shifting the RLD from an area defined by the sale of sex, to a bohemian enclave specializing in the sale of artistic goods. A deep contradiction imbued the case described above, however. While state-led gentrification ascribes value to art, it does not necessarily value artists. The fact that the vision for Amsterdam was created in the absence of artists who were the principal agents in the city's image transformation attests to the commercial motivations behind the project and the growth coalition's desire to instrumentalize, rather than deliberate with, stakeholders. Like the other stakeholders mentioned - sex workers, brothel owners, police and urban planners - artists did not qualify as equal partners in the growth coalition's gentrification process by way of their socio-economic position and were thus excluded from the decision-making processes in which they should have had at least some creative control.

The exclusion of artists was even more troubling because the creative class was positioned as the public face of the project, which forced them to answer for the costs of sex worker displacement. In doing so, the growth coalition craftily shifted the public's attention away from the impacts of the project to the positive dimensions of artistic programs. The state's use of these cultural strategies precluded an inclusive, deliberative examination of both the roots of the program and its disastrous outcome.

The next chapter attends to the second central objective of the dissertation, which is to identify and explore those factors and social, political, and moral discourses that caused the City of Amsterdam to re-orient itself with regard to the practice of sex work. To meet this objective, I continue to rely on deliberative democratic theory, but the analysis moves beyond the descriptive, historical, comparative lens as I mobilize a number of other concepts to explain these shifting policy cultures such as xenophobia, corporatism, and depillarization. These concepts span several fields of inquiry, yet a consideration of democratic participation remains constant.

CHAPTER 7

THE ALIGNMENT OF DISCOURSES AND THE CLOSURE OF THE POLICY-MAKING PROCESS

Introduction

A number of discourses intersected in the formulation of Project 1012, discourses that led Project 1012 to be exclusionary in its development and discriminatory in its implementation. As the Project unfolded, those involved in the sex industry lost their right to participate in democratic discussions pertaining to their livelihood, with sex workers being the most negatively affected. As such, their previous status as independent democratic agents was undermined. As Wagenaar argues,

...these recent policy developments demonstrate that the previous use of deliberative implementation strategies in the process of legalization did not preclude the emergence of negative unintended consequences, most notably the apparent reversal of the use of deliberative democratic techniques, especially as they relate to sex work (2007: 198).

The preceding chapters illustrated this shift, contrasting the satisfaction of a number of criteria leading to the revocation of the *Brothel Ban* with the absence of those criteria in the post-legalization period. However, I have not yet critically assessed what compelled the City of Amsterdam to diverge from the process of normalization and re-orient its approach to the governance of sex work. This chapter, then, attends to the second objective of the dissertation, which is to account for those political, economic, and social factors that caused this shift in the character of sex-work policy-making. In particular, the chapter seeks to answer the following research questions: what has compelled the City of Amsterdam to diverge from the process of normalization and re-orient itself with regard to the practice of sex work within its boundaries? What are the discourses that have most strongly impacted these shifting policy cultures?

The discussion is framed by an understanding of policy as socially constructed, where policy reflects existing political discourses that emphasize differences in nationality and morality. The first section of the chapter, “Electoral Context,” describes shifts in national electoral politics that elucidate the political and social tides within the

Netherlands around the time of Project 1012's creation. It shows that all parties disavowed the social tolerance that characterized the period immediately preceding legalization and advanced perspectives that were less favourable to sex work in the post legalization period. Moreover, political parties such as the Christian Democrats (CDs) increasingly argued that legalization was a failure. The CDs faced little opposition, since neither representatives of the sex industry nor a unified front of sex workers were able to speak back to these claims. The section, "dissolution of the policy network," discusses the lack of a single, cohesive network of feminists advocating for the rights of sex workers in the post legalization period. Indeed, the emergence of deep divides within the sex worker community post legalization undermined sex worker representation and the ability for sex work related issues to make it onto the public agenda.

The democratic citizenship of sex workers has been further hampered by the rescinding of national legislation that required municipalities to use and report on public participation methods. In the absence of a government commitment to public participation in policy-making, I explore whether bureaucratic actors have adequate incentive to engage stakeholders in deliberative democratic dialogue in what is an intensely neoliberal environment. The consideration of the neoliberal context leads to a discussion on neoliberal restructuring and the depillarization of Dutch socio-cultural relations in "National Neoliberal Context and the Decline of Corporatism." This section demonstrates how neoliberal changes have undermined the corporatist political culture, which is intent on compromise and negotiation, and contributed to the rise of populist parties that exaggerate divisiveness and adversarial relations.

The reordering of Dutch society from socio-cultural groupings to party lines, and the absence of a political party with an explicit commitment to anti-racist politics, has resulted in a political structure that foments racial tensions. The last half of the chapter considers racial discourses in detail, and argues that Project 1012 is itself a manifestation of racist and xenophobic discourses. These discourses framed sex work, particularly migrant sex workers, as a risk to the traditional Dutch nation and prohibited deliberative discussion on sex work related issues.

The anti-trafficking discourse also plays into Project 1012 as a source of its legitimization. Increased attention paid to sex trafficking and the influence that

international bodies such as the European Union have on the Netherlands have created an opportunity for Amsterdam's growth coalition to co-opt the anti-trafficking initiative to justify its own urban revitalization plans. In doing so, the growth coalition has exacerbated the victimizing tendencies of the anti-trafficking movement, first by wrongly assuming all sex workers are victims, and second, by excluding all sex workers from formal political discussions on the assumption that they have no agency. The gentrification-related displacement of sex workers has, in fact, produced victims, yet Project 1012 has failed to provide assistance to displaced sex workers. This is particularly ironic given that Project 1012 proponents have espoused concern for sex-workers' well-being. Also undergirding the use of the victim narrative are assumed differences between migrant¹¹² and native sex workers and between Dutch brothel owners and non-native Dutch brothel owners. Alleged cultural differences are mobilized to justify Project 1012's efforts to close those areas dominated by migrant sex workers and eject the majority of Turkish owned business from the RLD. As the last section explains, Dutch xenophobia¹¹³ has played itself out in the creation of Project 1012 and is evidenced in the Project's exacerbation of many existing racial hierarchies within the sex industry. Now let us turn to the electoral context, which can help to better situate our understanding of Project 1012's racial and xenophobic elements.

Electoral Context

National Context

This section outlines the national and local electoral context from 2002-2012. As the timeline in Appendix A shows, a number of racial discourses, triggered by dramatic political episodes, led to the creation, implementation and legitimation of Project 1012 in the absence of deliberative democratic engagement. The intention here, however, is to give a better sense of how changes in the electoral context reflect these wider shifts in discourses and public opinion.

¹¹² Migrants are those not born in the country where they have come to work. According to international aid agencies and the United Nations, most of the sex workers in Europe are migrants. In the Netherlands, people from more than 60 countries of origin have been identified as working within the sex industry, with the top three countries of origin being Romania, Russia and Bulgaria (Aalbers and Sabat, 2012: 118).

¹¹³ Xenophobia is defined as the "the expression of mistrust, fear, and hatred of foreigners" (Master and Roy, 2000: 433).

The 2002 national elections saw the Christian Democratic Appeal (CDA) and the populist party of List Pim Fortuyn (LPF) form a governing coalition and destroy the so-called Purple Coalition¹¹⁴ that had lifted the *Brothel Ban* and was known for its socially tolerant and liberal approach to governing (Jones, 2002: 63). As Cuperus argues, the 2002 Dutch election rated “fourth in terms of ‘volatility’: the extent to which voters transferred their allegiance from one party to another” (2003: 2). While losers and winners came from all sides of the political spectrum, the ruling coalition that formed in the second election of 2002 is described as both fiscally and socially conservative, attributed in large part to the return of the CDAs to a central position of power (Uitermark, 2004: 511). Contributing to this shift was the 2002 assassination of Pim Fortuyn, the radical political leader of List Pim Fortuyn (LPF), who openly espoused anti-Islamic and anti-migration views. His assassination occurring, as it did, nine days before the election, was a major contributing factor in helping the LPF to gain 17 percent of the seats in House of Representatives in 2002 (Uitermark, 2004: 511).

The LPF did not last long without its famous leader, however. Internal strife within the party caused the coalition to collapse a mere five months later. In what is referred to as the “second election,” in 2003, the CDAs, the Dutch Labour Party (PvdA), and the People’s Party for Freedom and Democracy (VVD) won the largest number of votes. However, in cabinet negotiations, the PvdA was ousted due to ideological and personal differences between newly minted PvdA leader Wouter Bos and the CDA’s Jan Peter Balkenende (CNN World, April 11, 2003). Both parties blamed the other for unnecessarily complicating the consultations and prohibiting the development of a common policy program (CNN World, April 11, 2003). In the second round of cabinet negotiations, advisors pressed for a majority cabinet of the CDA-VVD-and the Democrats 66 (D66). The resulting coalition was led by the CDA’s Jan Peter Balkenende, and governed until 2006 (Pierek, 2008: 3).

In the 2006 elections, cabinet negotiations led to an equally conservative coalition comprised of the CDA, PvdA and the Christian Union. The CDA’s ability to

¹¹⁴ The purple coalition governed from 1994-2002. The coalition consisted of social democrats and liberals and excluded the Christian Democrats for the first time since 1918. The Purple government was best known for its liberal ethical approach as gay marriage and euthanasia became legal during their reign.

attain a majority while espousing a socially conservative and anti-immigration position, demonstrates the lasting effect of Pim Fortuyn's rise to power. Fortuyn's outspokenness made contentious debates on culture permissible and helped to enable the emergence of extremist views with respect to immigration and European integration (Jones, 2002: 61). After his assassination, his anti-immigration views were sustained by Geert Wilders of the Freedom Party (PVV), which was, and continues to be, the leading "Dutch anti-immigration and anti-establishment party" (van Gent et al., 2012: 263). As van Gent recounts, "the PVV obtained 5.9 percent of the vote in the 2006 national parliamentary elections, and 15.5 percent in the 2010 national parliamentary elections" (2012: 263). Increasingly, Dutch political parties saw potential to increase their support by adopting an anti-immigration stance.

At the same time that anti-immigrant sentiment gained ground, so too did the "morality offensive," by way of the CDA's return to power (Jones, 2002: 61; Buijs, 2011). The CDA's return to power meant the revival of "Christian perfectionism," which supports the notion that sexual activity outside of monogamous marriage contradicts the "Christian truth and thus [is] deemed not deserving of tolerance" (Cees, 2013: 1). These moral and religious leanings undergird the CDA's strong abolitionist position on sex work, and have led many in the party to denounce the policy of legalization after the *Brothel Ban* was lifted. But the CDA was not the only party that was dismissive of demands for sexual freedoms (Buijs and Mepschen, 2011: 2-3). Surprisingly, even Pim Fortuyn aligned himself with the moral imperatives of the CDA. Pim Fortuyn often proudly, publicly boasted of his random, sexual encounters. But according to Buijs and Mepschen, Fortuyn used his liberal sexuality instrumentally to advance a sexual nationalism that contrasted Dutch progressive values with what he claimed were backward Islamic values (2011: 2). Moreover, Fortuyn's public support for queers did not translate into support for the freedom of all sexualities: indeed he never spoke publicly in support of sex workers. Fortuyn's hesitancy to speak on behalf of sexual freedom for sex workers even in his efforts to counter Islamic culture, is likely because he signed a "non-aggression pact" with the CDAs (Vossen, 2007). The CDAs, as previously mentioned, are staunch abolitionists (Vossen, 2007: 7). Fortuyn's pact with them would likely have secured his silence on issues that undermined sexual freedoms

(the requirement that sex workers carry ID cards, for instance) and would have prevented him from bringing sexual issues into mainstream discussion (Pierek, 2008: 3). Of course the CDA's positions on issues of sexual equality and sexual freedom were and are not supported by all parties, let alone all Dutch people, but their return to political power signals support for the retrenchment of the rights of sexual freedom and the continued stigmatization of the sex industry.

Local Context

The electoral shifts that have marked national electoral politics have not characterized party contestation at the local level. In Amsterdam in particular, the past three coalitions have excluded populist parties like Geert Wilders' VVD and the late Pim Fortuyn's LPF. The CDA has been excluded since 2006. From 1998 to 2010, Amsterdam's municipal elections have produced left-wing coalition governments that have limited the presence of social conservative parties such as the CDA (Jones, 2002: 61). As Alexander explains:

Amsterdam's city council has long been dominated by the PvdA (the Labour Party) which formed broad coalitions that left out the extreme Left and extreme Right. In fact, until the mid-1990s Amsterdam's council had no representatives of the extreme right. In 2002, while Amsterdammers followed the siren call of Fortuyn in the national elections, they did not swing to the right in the municipal elections. Thus, PvdA retained its 15 seats in the new city council, and there was little change in other parties (although one extreme-Right list did gain a seat in 2002)¹¹⁵ (2007: 173).

Taking the ideological traditions of Amsterdam's governing coalitions into account, it is surprising that the municipal restructuring plans that fall under Project 1012 were advanced at all. In fact, in the year Project 1012 was launched (2005), the Council was composed of a coalition between Labour and the Green Left, a section of the political spectrum that supports sexual equality and multiculturalism. So, then, what explains the alignment between the seemingly abolitionist and anti-immigration positions of Amsterdam's local government with those of the national government?

Firstly, when we consider that eighty per cent of the funding for Dutch municipalities comes from the national government and nearly half of the funding

¹¹⁵ One reason that the right-wing parties did not emerge more strongly on the local level was that "Fortuyn did not field any candidates in Amsterdam's local elections" (Alexander, 2007: 173).

dedicated to urban regeneration is earmarked to address “large city problems” that are defined by the national government, we can see how the national government exerts some influence on the local government’s plans (Association of Netherlands Municipalities, 2012; Boerboom and Huigsloot, 2009: 17). The fiscal incentive helps to explain, then, why the moralism of the CDA and nationalist sentiments of the PVV and VVD manifest themselves within the policies of Amsterdam’s governing coalition. Simply put, there is a strong fiscal incentive to produce policies that complement those of the national government.

Secondly, conservative sentiments boldly expressed at the national level have bled through to the local level because national and local parties remain closely connected (Boogers and Voermen, 2010: 75). As Boogers and Voermen elaborate:

In most cases, parties at the local level combine both functions: they not only operate as political players in the local arena, but also as local representatives of their national mother parties. In Dutch political party circles – especially those of the Labour Party (PvdA) and the Green Party (GroenLinks) – some do occasionally argue in favour of allowing national party branches to take part in local council elections by another name. However, this is only allowed in exceptional cases (2010: 75-76).

Local political parties are clearly influenced and constrained by the agendas and platforms of their national counterparts. This influence helps to explain the impetus behind Project 1012 because at the time of its creation, national political parties were openly expressing dissatisfaction with the regime of tolerance towards sex work. As Uitermark explains:

There is at present a conservative momentum. The Conservative party now holds roughly one third of the seats in the Second Chamber and is self-confidently pursuing its agenda. ... In the political climate that has taken shape after the assassination of Pim Fortuyn, there seems to be little support remaining for the policy of gedogen. This distaste for gedogen is no longer only prevalent amongst Conservative party members but is shared by almost all political parties. In fact, the youth departments of all political parties made a public statement that they disapproved of the policy of gedogen (2004: 511).

When we turn our attention to the national level, we see that the Green Left and Labour Party not only failed to articulate support for sexual freedom but in fact supported the BIBOB Act. But when we consider the pressure that international bodies such as the European Union (EU) exert on the Dutch government to tackle international criminal

networks, it not surprising that there was widespread support for the BIBOB Act. The BIBOB stands as a core piece of national legislation that demonstrates to the EU a strong, Dutch approach to crime and human-trafficking. To further the goal of European integration, widely accepted by most Dutch political parties, and thus to increase their chances of building a coalition with other parties, national political parties have supported the BIBOB and a tough-on-crime approach. In turn, local political coalitions have not criticized the BIBOB, because this would undermine national policy and would make it difficult for their national counterparts to become part of the national governing coalition. The troubling reality is that national policies like the BIBOB, devised under international pressure, become the central focus for the local public administration, which is required to implement them.

The impact of the EU on local politics does not stop there, however, as EU directives are very influential in the Netherlands. Indeed, the EU initiates over half of the Netherlands' legislation (Dutch House of Representatives, *The Impact of the EU on the Netherlands*). More particularly, Dutch national representatives have ceded authority to the EU for the majority of legislation pertaining to transnational crime (Dutch House of Representatives, *The Impact of the EU on the Netherlands*). Because of the local support for, and alignment with, national parties that are trying to negotiate a role for themselves in a socially conservative ruling coalition, local policy is also shaped by EU initiatives on sex trafficking and international attitudes towards sex work. Disconcertingly, the majority of EU initiatives related to sex work are dominated by abolitionist perspectives advanced by the proponents of international anti-trafficking discourse (O'Connell Davidson, 2006). As such, the EU's influence has, in part, caused local governments to attempt to dismantle their sex industries. Because of the relationship of power between local and national political parties and national party dynamics, local political parties have refrained from speaking to the problems associated with the implementation of these policies. In doing so, local parties have implicitly contributed to the retrenchment of citizenship rights in so far as the sex industry is concerned.

Dissolution of the Sex Workers' Rights Policy Network and Lack of Organized Resistance

Another major factor contributing to the shift in the character of the sex work policy-making process is the dissolution of a once-strong policy network (Outshoorn, 2004). Shortly after the *Brothel Ban* was lifted, the national collaborative network that had formed around legalization dissolved. This occurred primarily for four reasons. First, there was no longer a specific policy problem around which to mobilize. As a result, sex workers' rights groups like the Red Thread felt they had achieved their policy goal and turned their attention elsewhere (Interview, Red Thread: 2010). Similarly, the organization Mr. A. d Graaf Stichting, a major player in the legalization debates, struggled to secure funding following legalization and demobilized altogether (Interview, De Vries and Red Thread Union: 2010). In later years, the Red Thread also had its subsidies cut by the state (Outshoorn, 2004b: 195).¹¹⁶ Although Platform 1012 – the community's response to Project 1012 – included a number of diverse stakeholders and made its voice heard through protest, for reasons unbeknownst to my interviewees, it was also disbanded. Its leader, William Boef, has not been heard from since 2009 (Interview, Broers: 2010).

A second reason for the demise of the sex-work policy network, and the resulting lack of organized resistance to the changes in the RLD, is that Project 1012 is understood as a localized urban reform initiative rather than an initiative with broad implications for sex work and democracy in general. Project 1012 has raised some concerns amongst sex rights' activists, but there seems to be no commitment by groups like the Red Thread to fight it because they are, by their own admission, "focused at the national level" (Interview, Red Thread: 2010). Given that Project 1012 is a local issue, national agencies may feel that it would be inappropriate to devote disproportionate resources to it at the expense of issues concerning members in other Dutch cities. Many of these national stakeholder groups have turned their attention to proposed legislation that would require sex workers to register centrally and that would increase the minimum age of sex workers from 19 to 21 (Outshoorn, 2012: 242-243).

¹¹⁶ The retrenchment of funding for these two groups reflects the overall decline of subsidies for women's organizations altogether, as part of an effort by the bureaucracy to merge "movement organizations into one conglomerate" which began in 1996 but was not fully executed until 2003 (Outshoorn, 2004: 194).

Third, and perhaps most perniciously, Project 1012 may not have inspired the continuation of an oppositional policy network because it does not explicitly target sex workers and, moreover, it is justified, in part, as an anti-trafficking initiative. Indeed, Project 1012 is packaged as a policy that could, in fact, help sex workers, therefore making it a difficult initiative to oppose.

Fourth, while the network's participants were able to set aside their deep philosophical divides in the pursuit of the shared goal of legalization, after the *Brothel Ban* was lifted, disagreements reemerged amidst a fading sense of political urgency. In the years following legalization, groups that held contrary views on the topic of sex work emphasized their differences as they fought for limited federal funding and university grant money (Interview, Red Thread: 2010).¹¹⁷ On some occasions, these groups have developed such strong stances that they have refused to communicate with one another. This outcome is sadly ironic, given that they are all fundamentally committed to improving the lives of sex workers. The lack of reciprocity and discussion amongst these groups, as well as amongst other stakeholders, has resulted in what Dutch crime journalist Mark Middleburg refers to as a “stalemate” in Dutch sex work politics. This stalemate is defined by sex workers' rights groups versus religious groups, abolitionists vs. regulationists, the escort industry versus independent escort work, and brothels vs. escort agencies, among others (Dutch News, December 2009). This divisiveness could be well addressed within the deliberative democratic framework.

However, in this oppositional environment, taking sides has become more compelling to municipal politicians than setting the stage for further deliberation. As previously discussed, local governments were made responsible for regulating sex work but were under increasing pressure from various interests including anti-trafficking activists, urban renewal advocates, and investment hungry housing corporations (Daaldler, 2007). In light of these pressures, Amsterdam's local government may have hesitated to open policy processes because the intense conflict that exists among the respective players could potentially cause the process to founder or because the time required for a deliberative democratic process was not thought to be available (Pierre and

¹¹⁷ Contradictory viewpoints emerge most often between those agencies that primarily offer services for sex workers to exit the industry and those agencies that offer services to improve the working lives of sex workers who stay in the occupation (Weitzer, 2007). Often the former take an abolitionist stance, albeit a humanistic one, towards sex work.

Peters, 2000).

Deliberative democracy theories tell us little about why governments actually “become active players within these often dichotomous arrangements consciously or unconsciously taking sides and/or utilizing them to their advantage” (Newman, 2010: 5). Fung asserts that this is because deliberative democratic theory is often caught up in normative ideals that:

offer little guidance regarding the responsibilities of deliberative democrats in the decidedly non-ideal circumstances that characterize contemporary politics. Furthermore, they lack an account of how existing institutions and practices might become more deliberative (2003: 3, 4).

Adversarial human relations and moral disagreements are the focus of deliberative democratic scholars who argue that deliberative democratic dialogue can help to build consensus across differences, but for the most part there is little agreement as to who should be responsible for moving us from a non- deliberative democratic system to one that is. The question remains, who is responsible for initiating the deliberative democratic reform of existing political institutions within adversarial settings and how is it possible? A more elaborate discussion of these points is saved for the next chapter, where I discuss how government officials are responsible for sharing the benefits of citizen participation as a way to deepen democracy and lend more legitimacy to their political approach. Beyond providing a persuasive case for deliberative democracy and some examples of how it would look in practice, I largely leave unanswered the question of what barriers policy entrepreneurs might face in trying to incentivize the incorporation of, and commitment to, deliberative democratic mechanisms in policy-making. In the same vein, I only explain in specific terms, what might have prevented Amsterdam’s local government’s from considering deliberative democratic methods altogether. Broader studies that take into account several cases might shed more light on those factors that prevent governments from expanding citizen participation and might offer policy practitioners and government officials more practical advice as to how they could advance deliberative democracy. For now, however, I return to the more specific case of policy making that is the focus of this study.

Reversal of Legislative Obligation for Democracy at the Local Level

Underlying the local government's failure to open the deliberative process are amendments made to the Dutch Municipality Law in 2006. These amendments removed the obligation for municipalities to publish an annual report in which they list the institutional measures taken to encourage citizen participation and makes the mayor responsible for the quality of citizen participation (Gemeentewet, 2009). The last annual report in which this kind of accountability was required was in 2007, two years after the implementation of Project 1012. Despite the rhetorical commitment of the local government to democratic innovation and reform, Amsterdam has proven that in the absence of legislative compulsion, citizen engagement may be a quixotic undertaking.

Some deliberative democrats argue that the local level offers more optimal opportunities for deliberative democratic engagement (Van Montfor, 1992; Hendriks, 2006). Local policy processes are said to be more responsive to citizens than other levels of government because they are literally closer to the people and have less complex bureaucracies (Oliver, 2001). The ease of navigating institutional processes and the proximity to individuals presumably better enables citizens to challenge the development and implementation of policies that negatively affect them. In fact, it is for these reasons that decentralization has traditionally been used as a tool to better link the government and the citizenry within the Netherlands (Ministerie van Binnenlandse Zaken En Koninkrijksrelaties, 2006). Project 1012's processes call these theories into question, however, because as the local government gained more regulatory power the policy-making process became more susceptible to powerful private sector interests and less open to citizens.

Bardhan and Mookherjee's (1999) elaborate model helps to explain this paradox. Their research indicates that Dutch local governments exercise significant political discretion and, relative to other comparable cities, they are less accountable to their citizenry, enabling their ease of capture by economic interests. From Bardhan and Mookherjee's perspective, people tend to trust local governments, allowing local governments to operate relatively unchecked by corporatist or other democratic power-sharing arrangements. The result is that citizens have a lower level of social awareness of local operations (Bardhan and Mookherjee 1999: 37) and local governments are able to

develop urban policies with relatively little scrutiny, conducting their affairs in the interests of the privileged few. When the decisions of elite, ruling coalitions are contested, as Amsterdam's growth coalition's decisions have been, the question remains as to why these groups do not open the decision-making process to deliberation when deliberative processes are better at creating compromise and developing a shared understanding of the issues.

The Private Sector's Disinclination to Incorporate Deliberative Democratic Mechanisms

Despite the fact that the rhetoric of citizen engagement and transparency is increasingly popular among Western governments, there remains a gap between the state's desire to initiate meaningful inclusion of stakeholders and actual participation in these political processes (Conrad et al., 2011). The business literature is rich with assumptions about public participation that might have dissuaded the growth coalition from employing deliberative democratic mechanisms. Instead of seeing the potential of deliberative democratic engagement to produce more long-lasting policy, business scholars have emphasized its inefficiency and its idealism in seeking to hear all interests and produce consensus (Hunold, 2001: 11).

Less explicitly stated critiques of deliberative democracy focus on its redistribution of power (Guttman and Thompson, 2009). A substantive participatory process politically "compresses" the discretionary power of the administration and elites" (Ciancaglini, 2008: 6; Lewanski, 2011: 12). From this lens, the gap between the rhetoric of citizen engagement and actual meaningful engagement reflects the tension between the socially desirable notion of participation and the compulsion of those who govern to retain control (Young 2001: 679). Arnstein describes this position eloquently:

The idea of citizen participation is a little like eating spinach: No one is against it in principle because it is good for you. Participation of the governed in their government is, in theory, the cornerstone of democracy - a revered idea that is vigorously applauded by virtually everyone. But when they have not defined participation as the redistribution of power, the...consensus on the fundamental principle explodes into many shades of outright radical, ethnic, ideological and political opposition (The Action Guide for Advocacy and Citizen Participation, The American Institute of Planners 1969: 35: 4).

The logic follows that the more inclusive policy processes are, the greater the potential for redistributing influence and decision-making power, and the more threatened the “haves” feel. To mitigate this threat, elites function in a way that will sustain “their power and further their collective interests” (Young, 2001: 677). As the case of Amsterdam demonstrates, elites have acted in coordinated fashion to tightly control political environments, manage information, and prevent transparency (Young, 2001: 677). This closed model of decision-making offers less opportunity for intervention and opposition and is thus more conducive to the creation of private-public sector growth partnerships. Behind closed doors, politicians trade political power for the investment that is deemed necessary to improve jurisdictions’ economies and thus to retain the popular vote.¹¹⁸ Project 1012 is the by-product of one of these partnerships and can thus be interpreted as an attempt to extend economic growth and sustain political control.

However, the advancement of deliberative democracy does not necessarily compromise commercial development. Economic growth and deliberative democracy are not necessarily mutually exclusive. Like most democratic scholars, a deliberative democrat may recognize the benefits of healthy markets, but simultaneously “want to embed [markets] in politics, and particularly in democratic politics” (Chambers, 2003: 313). If the local government were to bring these large-scale projects into the realm of democratic discussion prior to launching them, it is likely that the designs would face some modification, but it is unlikely that economic growth in a more general sense would be rejected. Instead, the consequences of these projects could be anticipated and capital interests/state actors could be held to account for “the[ir] occasional failures” (Rensink, 2010: 5). What I am arguing here is for growth partnerships to legitimate their policies through deliberation, rather than first seeking political approval and later using marketing campaigns in attempts to legitimate their schemes to the public. Private sector groups stand to benefit from engaging citizens early on in the design of their projects. If they adjust the projects in accordance with stakeholder input, then they build relationships of trust with the community and may face less opposition and criticism of their projects

¹¹⁸ As far as incumbents are concerned, their chances of re-election increase concurrently with rising economic growth, the corollary argument being that political power is derived from one’s access to and availability of capital (Sides and Vavreck, 2012: 2).

during their implementation. Since it is difficult to conduct business in an environment of strong opposition, there is incentive for developers to engage in deliberation.

Bureaucrats and politicians may not be persuaded by the supposed benefits of inclusion, however, and it is at this point that some “activist scholars” advocate for the mandated inclusion of deliberative democratic mechanisms (Fung, 2005). This point will be discussed further in the next chapter. Ultimately, however, deliberative democrats feel that it is the democratic state’s responsibility to promote a mode of governance that privileges its relationship with the people over that of private interests. While it is important to acknowledge an underlying neoliberal logic and the effects that market dependency have on the general relationship between the state and the citizen (Aalbers and Deinema, 2010: 6), it is equally important not to rid the city council and local government of agency. While their power may be constrained by the need for capital and influenced by international networks:

[the] arena of the metropolitan district remains important, both in terms of the articulation of formal politics and the organization of policy and administration...the continuing strength of city councils ... lies in part on the range of functions they still perform and in part on their well-established legitimacy and authority (Healey, 2005: 315).

Local governments may be influenced by a neoliberal global order, but they can, nonetheless, affect how these discourses are received and mediated.

National Neoliberal Context: The Emergence of Populism and the Decline of Corporatism and Consensus Building

This section explores how structural changes and political realignments, exacerbated by the arrival of populist parties, worked to undermine the deliberative democratic style of governance that corporatism fostered. Up to this point we have discussed how neoliberal ideology has impacted the way in which the City competes on the international stage, but have yet to discuss how the Dutch nation-state has fared under neoliberalism. Like the City, the Dutch state is strategically adopting neoliberal policies to signal to the rest of Europe that the country is safe for investment (Demmers, 2010). In fact, around the time of Project 1012’s creation, the Dutch national government had decentralized, privatized, and reduced social expenditure to such an extent that it was in

the bottom ranks of all European spenders (Oorschot, 2006: 61). Dutch fiscal austerity measures were so extreme that they intensified class relations in the Netherlands, causing a breakdown of the “traditional Dutch relations of solidarity.” These relations were organized into religious subcultures known as pillars (Daalder, 1995: 11). In place of these traditional groups, a multitude of new associations and organizational networks have developed and lobbied or attached themselves to the bureaucracy (Oorschot, 1995: 11).

Beginning in the early 1990s, a flurry of interests, many of them class or capital based, sought out additional opportunities to gain power and/or influence politics. Under these circumstances, political parties emerged as the bodies that would accommodate contemporary social dynamics. The advance of partisan electoral politics, due to changes in political orientations, has drastically altered the character of governance in the Netherlands (Oorschot, 2006: 63; Michels, 2003: 323). In recent years, some scholars have claimed that competitive interest group politics have overtaken the “corporatist representation and accommodation” that characterized the pillar model (Reinarm, 2010). Under more traditional Dutch arrangements, elite representatives would act as brokers amongst sub cultures, seeking accommodation and compromise. The policy making system at the center of the pillars was called the polder model. It was this “well-regulated framework of interaction” that ensured that “neither the state nor interest groups [would] lose sight of public interest considerations” (Hunold, 2001: 17; Oorschot, 2006: 63). In the past decade, however, Dutch political parties have become increasingly less respectful and more suspicious of “group accommodation processes” and have even begun to “question their legitimacy” (Oorschot, 2006: 63).

List Pim Fortuyn is a case in point. Fortuyn’s party exemplifies populist ideology, style, and political behaviour, based on an anti-establishment and an “us versus the elite” mentality (Zoheirty, 2003: 51). Fortuyn criticized the corporatist, polder model of Dutch politics as elitist, based on what he claimed to be closed door bargaining among government, employers, and trade unions (Pierik, 2008: 6). He also claimed that there had been a shift in the character of elites that made them more difficult to identify. No longer were they comprised of bankers and international financiers but “the progressive and politically correct” (Zoheirty, 2003: 51). Fortuyn’s opinion was that the Dutch elite

“had become an almost inaccessible caste of professional politicians and *apparatsjiks* without any vision or real ambition, apart from retaining their own position” (Vossen, 2010: 7). By contrast, Fortuyn’s critics claimed he was a conspiracy theorist, but no one could deny that his outlandish opinions had a strong effect on public opinion, evidenced primarily by the way in which his critiques became embedded within the Dutch vernacular (Hunold, 2001).¹¹⁹ Fortuyn’s populist style spoke to those who felt alienated or mystified by the political world and, by exacerbating existing social tensions and cleavages through emotional rhetoric, Fortuyn was able to trigger an onset of populism (Zoheirty, 2012: 53; Hunold, 2001: 17).

In the past decade, populist sentiments have been on the rise and the trust in the government has been on the decline in the Netherlands (Zoheirt, 2012). In the years preceding Project 1012 (2002-2004), trust in government declined by 30 percent (Zoheirty, 2012: 54). While this decline suggests that the anti-establishment rhetoric of populist parties has taken root, it also reflects increasing political instability, contestation in and between governments and political parties and economic decline (Zoheirty, 2012: 53).

The populism triggered by Fortuyn has thus further polarized the political system and has induced fear, hatred, and distrust. The result is that the cooperative and consensus-driven political behavior that was integral to the success of the corporatist/polder systems has faded. Some scholars have gone so far as to claim that the polder model has all but died (Reinarm, 2012). Zoheirty, for instance, argues that “at present, Dutch democracy is a fusion between the polder model’s pragmatic mode of political organization on the one hand and populism (to an extent personified by Geert Wilders) as a substitute for the redemptive face of democracy, on the other” (2012: 53). While Outshoorn argues that the structural transformation of Dutch society has not “permanently damaged the culture of consensus and compromise in the [Dutch] political

¹¹⁹ He called the elites:

...Our Kind of People (Ons Soort Mensen) and the Church of the Left-Wing (Linkse Kerk). Whereas the first nickname hinted at an alleged tendency of the Dutch political and administrative elite to share the spoils among “our kind of people” (by appointing only members of the right parties in important offices), the term Church of the Left Wing was meant to describe the alleged monopolisation of the Dutch public opinion by a leftist *intelligentsia*, who did not tolerate any criticizing of their sacred cows, such as the welfare state, multiculturalism, development aid, and a “progressive” education” (Vossen, 2010: 7).

system” (2004b), the analysis of sex-work policy-making shows that the democratic attributes of corporatism are not guaranteed, despite their tenure in Dutch governing practice. The disinclination towards deliberative discussion on matters of sex work policy could be at least partially attributed to greater alignment with political parties and a growing distaste for accommodation and consensus building.

Project 1012 as a Manifestation of Xenophobia

The aforementioned processes of depillarization and the decline of the Dutch welfare state occurred alongside increasing levels of in-migration to the Netherlands. Migration is an important contextual factor because, as discussed in Chapter 5, Project 1012 aims to restructure an area where not only sexually marginal activities predominate (Aalbers and Deinema, 2012), but where the majority of workers are of foreign nationality. The impulse to gentrify the core has put the spotlight on those who currently occupy it, many of whom are not of Dutch origin or have irregular immigration status. This section addresses how the racial and cultural dimensions of Project 1012 are best understood in light of xenophobic and nationalist sentiments. To be clear, xenophobia is a disposition that expresses hatred, mistrust or anger towards those perceived to be of foreign nationality. Unfortunately, it is an attitude exemplified by an increasing number of Dutch., and it has, at least indirectly, motivated Project 1012 and its associated policies.¹²⁰ Project 1012 is thus one effort amongst many that can be understood in relation to xenophobic sentiments that try to rid the Netherlands of foreigners by making it less hospitable for them (O’Connel Davidson, 2006). Amidst a sense of growing cultural insecurity, political parties have sought to shore up the Dutch nation by preventing in-migration and dismantling political architecture aimed at cultural integration. At the same time that Project 1012 can be interpreted as a product of xenophobia, the fears the underlie it have been sustained by politicians who emphasize

¹²⁰ As mentioned in the introductory chapter, a number of surveys around the time of Project 1012’s creation demonstrate the widespread anxieties of Dutch ‘natives’ towards foreigners. One of the most cited of these surveys was carried out by a private company called Motivaction in 2006. The survey included 1,020 responses and indicated “that ‘native’ Dutch people have a fundamental dislike of ethnic minorities in their country. For instance, “58 percent of the respondents believe a neighbourhood will go downhill if too many ethnic minorities live there, while 42percent want ‘native’ Dutch teachers for their children” (Strijbosch, 2006). When you couple these findings with evidence collected by the European Union Agency for Fundamental Human rights in 2007, which showed a rise in hate crimes and discriminatory employment practices towards Muslims, it is clear that the Netherlands was not a hospitable country to immigrants or other migrants during the time that Project 1012 was created, nor is it now.

the citizenship status of those within the RLD in their attempts to legitimize the RLD's overhaul.

According to Reinarm, the onset of neoliberal fiscal austerity caused concern that the "state's capacity to underwrite a decent quality of life for everyone in the country" was being undermined by heightened immigration levels (2012: 82). In addition, several scholars warned that Dutch society "had been too lax in recognizing and dealing with the *problems* of integrating larger numbers of migrants into society and the labour market" (Oorschot, 2006: 73, emphasis my own). These pressures were added to those of European integration, which triggered a sense of cultural loss or even the "illusion of the national economy" (Demmers and Menhendel, 2010: 63). As Long elaborates:

In the last two decades, when national boundaries were said to be dissolving, in practice, Europe became "Fortress Europe" tightening and securitizing its borders against immigrants and asylum seekers, and has witnessed a re-inscription of national borders, and the rise of conservative political trends and Islamophobia. Unsurprisingly, citizenship rights in liberal democracies and the more subjective question of national belonging have shifted. In the Netherlands, as in other European countries, "culture" has emerged as a euphemism to distinguish "us," meaning white, Christian Europeans, from "them" (2011: 2).

Increasingly, the Dutch perceived their national culture and job prospects to be threatened by European integration and greater migration and, as they struggled to recalibrate their social identities (Gonzalez, Verkuyten, Weesie, and Poppe, 2008: 667), it became ever more important to define and protect "whatever it was that was Dutch" (Demmers and Menhendel, 2010: 63). In the face of an uncertain "Dutch identity," the "cultural field rose as the main battleground for political constituency" and citizenship building (Demmers and Menhendel, 2010: 64). In what has been identified as a "restorative response," new citizens were labelled as the source of economic instability and a threat to national identity (Gonzalez, Verkuyten, Weesie and Poppe, 2008: 671). The cultural majority of the Netherlands thus began to define Dutch culture against what it was allegedly not, and cultural differences were routinely invoked in an effort to secure a national identity.

Robinson argues that the tendency to contrast cultures in order to establish national identity is nothing new. In fact, she argues that xenophilic and xenophobic

depictions of the new citizen as both reinvigorator and corruptor of society's first principles (whether capitalist, communal, familial, or liberal [74]) are inextricably linked" (2004: 237). Similarly Honig emphasizes the importance of the "foreigner" to reinforcing the political identity of a nation and people. Honig sees the foreigner as an instrumental and "necessary political fiction" (2004: 67) in nation building. From this perspective, the nation gains its own identity by drawing explicit comparisons with those it 'hosts.'

Within the Netherlands, many people began openly identifying themselves as "culturalists," an orientation they described as distinct from racism, since the object of their abhorrence was particular cultures rather than particular people (Demmers and Mehendel, 2010: 64). Culturalists 'forgive' the individual for behaving in certain ways because they believe that the culture is all that the individual knows. The imperialist arrogance and racism that underlies these culturalist tendencies is not obvious, which prevents people exhibiting them from being called racist as such. Indeed, the culturalist excuse has made it safer for individuals to engage in acts of discrimination as they claim to be limiting their critiques merely to the social customs and cultural traditions of the groups they disdain, rather than specific individuals as human beings. The explicit contrast of cultures and the assumed superiority of the Dutch nation with respect to 'progressive' values feeds into the claim that immigration, at its current levels, is a threat to both the Dutch culture and nation. It was not long before local political parties began to play upon these culturalist sentiments in efforts to build support for their own agendas (Master and Roy, 2000: 433).

At the same time that jingoism was on the rise at the national level, Amsterdam's politicians ironically aspired to re-brand Amsterdam as a "global metropolis" (Choosing Amsterdam, 2006) and looked outward for investment to develop the city. National policy efforts to close Dutch borders deeply contrasted with local politicians' desire to emphasize the city's global character. In aspiring to call Amsterdam a global city, the City imagines its borders as open and superfluous. Some scholars have argued that, ironically, this local trend exacerbates defensive and xenophobic reactions to "foreigners" (Pierik, 2008: 10), and the Netherlands more generally. Xenophobic behaviour is evidenced most clearly by the "NO" vote to European integration in 2005 and the

growing instances of reported racism towards non-white Dutch (Demmers and Mehendale, 2010: 64; Master and Roy, 2000: 433).¹²¹ By attempting to open the city to the world, local politicians magnified the threat of ‘foreign invasion’ felt by some Dutch and further supported the efforts of nationalist political parties who advocated for the further closure of Dutch borders.

In attacking what he claimed was the dominant view of “left of center politicians that the multicultural society was faring reasonably well,” Pim Fortuyn¹²² stated: “I think 16 million Dutchmen is enough. It’s a full country” (Pierek, 2008: 8).¹²³ Fortuyn’s catch phrase, “Holland is Full,” gained popularity as Fortuyn rose to “almost celebrity status in Dutch politics” (Pierek, 2008, Demeester, 2010: 1). Fortuyn’s public personality and dramatic flair caught the attention of many and enabled the spread of his nationalist and xenophobic views. As Demmer and Menhendel argued, Fortuyn could be credited with making the “targeting of minorities ... politically functional” (Demmers and Menhendel, 2010: 63). Indeed, his ascendancy in politics “sped up a process of ‘toughening’ in which ethnic minorities are approached with increased suspicion” (Uitermark, Roussi and Houtum, 2004: 3). The strongest political proponents of the “Holland is Full” concept were obviously those “parties with widely acknowledged nationalist agendas, such as the Centre Party, Fortuyn’s ‘Livable Netherlands’ (LPF), Verdonk’s ‘Proud of the Netherlands’ (TON) and Wilder’s ‘Party for Freedom’ (PVV), and later the VVD” (van Bruggen, 2012). Yet other political parties less known for their racist opinions publicly shared the same views in the early 2000s. Indeed, “the PvdA’s (Labour Party) wish for a ‘decent form of nationalism’ and the Christian Democratic Party’s desire to address the lost public awareness of Dutch culture, history, and ancestry” (van Bruggen, 2012) are

¹²¹ The installation of a conservative coalition in Parliament where a few members “openly espoused intolerance toward Islamic immigrants” (Reinarm, 2012: 82) showed that xenophobic attitudes were most visibly targeted towards those of Islamic faith. A few particularly violent episodes helped to bolster xenophobia and give it an anti-Islamic inflection (Deemester, 2006: 1).¹²¹ Disturbingly, the increased salience of the international anti-trafficking campaign coincided with surges in both xenophobia and Islamaphobia. In 2005, the Pew Global Project found that 51percent of the Dutch participants had unfavorable opinions about Muslims. This was the highest percentage of all the [European] countries examined (Gonzalez, Verkuyten, Weesie and Poppe, 2008: 667). While it is tempting to use the two terms interchangeably, anti-Islam is only one component of the larger phenomenon of Dutch xenophobia. However, Islamophobia gained significant momentum from 2002 onwards, and has contributed to the rise in Dutch xenophobia (Demmers and Menhendel, 2010: 56; Gonzalez et al.2008: 667).

¹²² On May 6, 2002, Pim Fortuyn was assassinated by an animal rights activist not known to be of Islamic faith, who was angered about the position Fortuyn took on the fur trade (Deemester, 2010).

¹²³ When Fortuyn was reminded about the limits to free speech by both journalists and members of his own party, he shrugged the warnings off, broke off from Livable Netherlands, started his own party and went further in depth explaining his perspectives in a book (Pierek, 2008: 8).

also demonstrative of this nationalist bent in Dutch political discourse.

Responding to public opinion polls, populist parties and the rising “Christian secular right” (Goldberg, 2009: 162), the VVD, CDA and Christian Union hardened their stances on immigration and asylum seekers following the 2004 murder of controversial film maker and cartoonist, Theo Van Gogh¹²⁴ (BBC News, April 18 2012). Subsequent coalition governments led by the Christian Democrats enacted a number of policies to make the Dutch welfare state more “migration proof” (Entzinger and Van Der Meer, 2004). Methods that make a state “migration proof” are those that ensure that “adequate services and benefits [are offered] to mainstream citizens,” at the same time that the state is “made less attractive for new migrants” (Oorschot, 2006: 73).¹²⁵ While many have criticized the right-wing parties, such as the VVD and the late LPF, for being too extremist and “fringe,” there has been a disconcerting lack of attention paid to the fact that deeply racist policies are being advanced even by mainstream parties (Demmers and Menhendel, 2010: 54). As Goldberg points out, racism is interpreted as “an expression solely of the ‘far right’ loony extremists,” which blinds us to, and reinforces, the “status quo of exonerated, guiltless institutional forms and the responsible individual more silently and invisibly structuring European societies at large” (Goldberg, 2009: 181). While the extremist parties are being blamed for racism, their electoral support indicates significant popular sympathy. Indeed, as we can see through an evaluation of these policies, all national parties have, in some way, become a voice for racism.

Racially based policies are not limited to the national sphere. In 2003, for example, the City of Amsterdam officially abolished minority advisory councils, which were created to establish some ethnic corporatism at the local level (Uitermark, Roussi and Houtum, 2004: 623). These Councils were dissolved on the grounds that minority policy stigmatized its participatory groups and that the City would, as a result, replace minority policy with diversity policy (Uitermark, Roussi and Houtum, 2004 623). These

¹²⁴ Van Gogh, an admirer of Fortuyn, routinely launched racial and vulgar insults at Muslims, on the worst occasion describing Muslims as “goat fuckers” (Demeester, 2010: 1). His apologists claimed he was a “soldier of free speech” and that he did not hate Muslims inasmuch as he hated “Islam” (Demeester, 2010: 1). Van Gogh was shot dead by a Dutch-born Muslim man. The murder enflamed racial tensions.

¹²⁵ As Demmers and Menhendel argue, “the Netherlands, once considered so progressive and open minded is now among the most restrictive and punitive in the European Union when it comes to asylum, integration, family reunification and deportation policies.”

changes to integration policy reflect the greater emphasis put on the individual's *choice* to integrate rather than the state's responsibility to accept or incorporate group differences (Schinkel, 2008: 2). A lack of full citizenship, therefore, implies fault on behalf of the individual as opposed to systemic cultural or racial barriers that prohibit social or political inclusion and participation. Instead, when someone is excluded from full citizenship it is assumed that it is because they do not "live up to the ideals associated with Dutch identity" (Long, 2011: 2).

Uitermark et al. argue that Amsterdam was not alone in changing its minority policy. Their research exposed a trend in which local governments have consistently moved away from the democratic representation of minorities and commitment to deliberation, towards the municipal funding of one-time projects dedicated to diversity (2004: 623; see also Kraal, 2001). As funding for the self-representation of minority groups has fallen, the demand for them to contribute instead to "diversity" — as defined by the municipality — has risen (Uitermark, Roussi, and Houtum, 2004: 628). The abolition of these councils has created an "institutional void" in the area of cultural relations. The disintegration of these councils has dramatically undermined the corporatist climate of compromise and cooperation that strongly supports deliberative democracy and was once so instrumental to the successful management of difference at the local level (Demeester, 2010: 1).

Deliberative democratically oriented councils were removed as mechanisms of governance just when the social environment of the early 21st century became extremely heated and contentious. The irony of course is that, this was the moment when those mechanisms were most needed. While deliberative democracy is not intended as an umpiring mechanism (Bohman, 2011), it does not shy away from social conflict. Rather, deliberative democratic mechanisms have, in fact, been argued to be the most apt at promoting peaceful interactions across cultural and social differences (Lewanski, 2011: 4). In the absence of these permanent structures encouraging intercultural dialogue, there were fewer opportunities to address the Netherlands' growing racial, cultural and religious divides. As such, Dutch culturists and the populist parties began to strategically manipulate social and cultural cleavages for political gain, emphasizing difference and providing a negative frame of reference around which people could orient themselves

(Gonzalez, Verkuyten, Weesie and Poppe, 2008: 667). Political leaders began to capitalize on xenophobic causes and racist motivations to support their policy agendas, bringing the Netherlands to a defining moment. As Leon de Winter, a columnist for the *New York Times* eloquently observed:

For centuries the Netherlands has been considered the most tolerant and liberal nation in the world. This attitude is a byproduct of a disciplined civic society, confident enough to provide space for those with different ideas. ... That Netherlands no longer exists.

Project 1012 and the Anti-Trafficking Narrative

Anti-trafficking discourse has also been a central feature in Amsterdam's contemporary orientation towards sex work. The anti-trafficking discourse is rooted in international human rights regimes, particularly European Union Protocols around sex trafficking. This section will first discuss how the anti-trafficking narrative is normatively secured at the international level, exerting pressure on national governments to prioritize the issue on their own policy agendas.

The International Anti-trafficking Movement

Human trafficking¹²⁶ is alleged to be a “multi-billion dollar form of international organised crime [that] severely violates basic human rights and completely destroys its victims’ lives” (Bharos, 2009: 5). Spreading across Europe in the late 1990s and spearheaded by the International Labour Organization and the United Nations, the modern, international anti-trafficking initiative placed the issue of human sex trafficking on the political agenda of many nations (UNDOC, 2009, Global Report on Trafficking in Persons: 6). Because sexual exploitation (also called sex trafficking) “is the most commonly identified form of human trafficking (79percent), followed by forced labour

¹²⁶ The internationally accepted definition of trafficking in human beings is provided by Article 3, paragraph (a) of the 2000 United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons:

Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

(18percent)” (UNDOC, 2009, Global Report on Trafficking in Persons: 6) it remains the central focus of human trafficking efforts.

The problem of sex trafficking has increased in political salience over the past 10 years, primarily for two related reasons. First, the sensationalism of the topic has led to the development of a strong narrative. As Bakker argues,

the campaign against trafficking has exploited one of the most powerful symbols in the pantheon of Western imagery, the innocent, young girl dragged off against her will to distant lands to satisfy the insatiable sexual cravings of wanton men. The problem is raised as a moral panic, [evocative] remembering of the ‘White Slavery’ panic of the past” (2013: 69).

The narrative resonates because it has a simple narrative structure, with a protagonist and antagonist and because it contains both a sense of urgency and threat. As Bakker elaborates, the anti-trafficking narrative imposes the notion of “loose sexual mores threatening communities, with the possibility to coerce or lure one’s own daughter, sister, or wife into the industry” (Bakker, 2013: 68).

Second, the issue of sex trafficking is normatively secured across European Union member states (2006: 634). A normative consensus describes the situation whereby decision-making processes are driven by an agreement on values. This agreement on values can be read from a multitude of European Union policy documents and agreements that cite both the harms of trafficking and the need to protect the rights of human beings (Bakker, 2013). The normative consensus has spurred a number of international networks and partnerships, which demonstrates that trafficking is a topic that has the ability to forge alliances. It is these very partnerships that are crucial to facilitating other exchanges across the European Union, particularly market exchanges, and thus the movement exercises a political purchase far in excess of the extent of the trafficking phenomenon.

Project 1012’s Linkage with the Anti-trafficking Narrative

As previously discussed, the anti-trafficking initiative is part of a wider European Union effort to eradicate organized, transnational crime. Human trafficking, drug smuggling, fraud and money laundering are the most well-known of these crimes. All levels of government are encouraged to cooperate and demonstrate their commitment to eliminating transnational crime. With the international focus now on the criminal

underbellies of the drug and sex industries, the spotlight shines on Amsterdam because of its liberal policies towards drugs and sex.

Historically, Amsterdam played a significant role in the internationalization of commercial sex and the “growing global political economy of desire” (Marchand, Reid, and Berents, 2000: 2). For many years, Amsterdam promoted the liberal atmosphere of the RLD and encouraged the sex tourism industry. Yet paradoxically, it is this very involvement that may have also prompted the City to initiate efforts to eliminate sex tourism under pressure from the European Union (EU). Due to the decline of national women’s policy agencies in the Netherlands in the post-legalization period and the EU’s seemingly increasing budget for promoting gender, the European Union has become the voice for gender policy (Outshoorn, 2007: 144). The problem with this arrangement, as Wadley describes, is that the EU commonly confuses the sex industry with human trafficking and promotes anti-trafficking policy as gender policy (2009).

While greater efforts to prevent and punish trafficking are by no means a bad thing, what is troubling is that it has become impossible to distinguish between sex work policy and policy aimed at preventing sex trafficking. The lifting of the *Brothel Ban* made human trafficking a much more serious offence and distinguished between voluntary and involuntary prostitution, yet the anti-trafficking camp’s assumption of abuse within the sex industry has caused subsequent policies to overlook voluntary prostitution (Weitzer, 2007). In failing to acknowledge the possibility of voluntary sex work, resulting political efforts target not only oppressive sex relations but all commercialized sex. The City of Amsterdam outwardly states that it wants to move from being a “leader in the commercialization of sex” to a leader in the “prevention and punishment of human trafficking” (City of Amsterdam, Choosing Amsterdam, 2012). Policies like the BIBOB Act and Project 1012 have been constructed in the service of this motivation. The irony, however, is that these policies target the “most visible, well regulated and spatially concentrated windows” of the RLD (Aalbers and Deinema 2012: 135). In doing so, the City fails to acknowledge the operations of escort services, which is the least regulated and fastest growing sector of the sex industry.

This is not merely an oversight, it demonstrates either the careless response to the anti-trafficking narrative or the deliberate instrumentalization of it to advance a political

and economic agenda that has nothing to do with protecting human rights. To justify its premises, the growth coalition has framed Project 1012 as a way to disrupt sex-trafficking, yet despite its purported concern, the Project offers no promise of safety and security to victims of sex trafficking (O’Connell Davidson, 2006: 14). The failure to match the rhetorical concern for trafficked victims with real efforts to empower them demonstrates the deliberate use of the anti-trafficking discourse to justify a set of policies that are not committed to helping victims.¹²⁷

Despite these contradictions, the anti-trafficking discourse is the dominant frame of reference in considerations of sex work. Project 1012, for instance, relies on statistics derived from the anti-trafficking camp, and the anecdotal evidence derived from two highly publicized discoveries of sex trafficking, and the works of the now infamous Karina Schaapman.

Schaapman was a former sex worker and then city council member¹²⁸ who partnered with Amma Asante, also a local councilor for the left-wing PvdA, to write *Het Onzichtbaar Zichtbaar Gemaakt* (Making the Invisible Visible). Schaapman was publicly linked to Lodewijk Asscher, the manager for Project 1012, and, evidently, the book’s content helped to frame Project 1012.¹²⁹ Marieke Van Doornick (a member of

¹²⁷ The definition of trafficking victim within national policies makes it difficult to provide assistance to victims. As O’Connell Davidson explains, when confronted with the authorities or when seeking assistance to escape abusive situations, sex workers with immigration status must satisfy a set of peculiar criteria and prove they are the victims of abuse to escape deportation (O’Connell Davidson, 2006: 14). The effect, she claims, is that migrants with irregular immigration status are excluded from state protection otherwise granted to those with regular citizenship status, which further exaggerates the vulnerability of these women “where it exists” (O’Connell Davidson, 2006: 18). In addition, the Netherlands does not, grant “humanitarian asylum for those migrant women who have been trafficked and testified against their traffickers” (Outshoorn, 2012: 233). From this angle, it is quite clear that the European anti-trafficking initiative is not about “helping victims” but about detecting, catching and deporting the vast majority of sex workers who do not qualify as such.

At the same time that politicians justify Project 1012 by citing the atrocities of trafficking (Van Rossum: 2010), the City pays little attention to the question of how to actually put an end to human trafficking. Rather, the majority of Project 1012’s policy documents deals “with strategies to buy out building owners and with the question of what to replace them with” (Aalbers and Deinema, 2012: 137). In fact, “The 14 page implementation decision document of December 2007 lacks a single line on human trafficking or the working conditions of prostitutes” (Aalbers and Deinema, 2012: 137). What we see instead, are efforts to eliminate those areas most dominated by migrant sex workers via zoning and other administrative tools. The unfortunate irony here is that these efforts stand in contrast to the Project’s proponents’ alleged motivation to protect the most vulnerable of sex workers, which in and of itself is an expression of cultural racism.

¹²⁸ In Schaapman’s second book, *Zonder Moeder* (Without Mother), she detailed her negative experiences in childhood and her early entry into sex work. She contested the public image of the strong, independent and consenting adult sex worker and, in horrifying detail, described her traumatic experiences as a sex worker. Interweaving her story with those of other women, and especially trafficked women, she called for further restrictions to be placed on the sex industry in order to prevent the harm done to women through sex work. The international press and many non-governmental agencies picked up Schaapman’s story, as did local politicians.

¹²⁹ In the book the two authors argue that, following legalization, the number of women trafficked or abused in sex work has increased. Their book fueled the victim narrative and placed increased pressure on the City of Amsterdam to

Groenlinks, the Green Party) further illustrates this dynamic:

I think Karolina Schaapman was someone that woke up a lot of people about abuses in the sex industry and I had several debates with her...And this took a long time before that was accepted in my discussions with Karolina Schaapman. And I think Lodewijk Asscher learned a lot from her....I wouldn't say [he had a personal relationship with her], but I think it is something that he is involved in, with a true feeling that he wants to stop trafficking, but I do not always agree with the solutions that he suggests (Interview, Van Doornick: 2010).

From Van Doornick's point of view, Lodewijk Asscher's (appointed Mayor of Amsterdam in 2006) relationship with Schaapman caused him to become personally involved in the anti-trafficking movement. The personal friendship of two well-known and vocal politicians was a critical turning point in Amsterdam's sex work politics, as it intensified the pressure on city councilors to adopt the European anti-trafficking perspective. Additional, notorious discoveries of human trafficking within Amsterdam sparked further international outrage and ensured a stronger commitment amongst politicians to investigate and prevent trafficking in Amsterdam's RLD.¹³⁰

Problems with the Prominence of the Anti-Trafficking Narrative

No one denies that trafficking and coercion exist and that both are immensely harmful. However, it is not clear whether trafficking itself is increasingly common, or whether the increasing numbers of trafficked women *may* instead be a result of economic migration or a greater awareness of the problem, which increases people's tendency to report incidents of trafficking. Ronald Weitzer, in particular, has argued that the statistics used by the anti-trafficking movement are "unsubstantiated or demonstrably false" (2007: 447) and that the majority of the policies advanced from the initiative come from within the "oppression paradigm" that understands the sale of sex to be inherently oppressive (Weitzer, 2012: 1337). He claims that testimonies from victims of trafficking may be exaggerated by the media and sustained by what has been described as a "trafficking hype" (2007).

The dominance of the anti-trafficking narrative can be challenged, however. If the anti-trafficking initiative's arguments and evidence were brought into a deliberative,

change its image as a trafficking hub to an active combatant against human trafficking and other "related crimes" (Castle, 2006: 1).

¹³⁰ IN 2007, two trafficking rings were discovered by Dutch police in Amsterdam. The trafficking rings were said to include more than 120 sex workers.

discursive arena, then perhaps they would be given more well-deserved scrutiny, as would their usage within mainstream policy. Indeed, deliberative democracy's rigorous reasoning process demands that a closer relationship be forged between passionate commitments (and sensational exaggerations) to human rights and objective evidence and policy (Weitzer, 2007). Deliberation enables people to demand justifications for political action and evidence to back up assertions (Knops, 2006: 606). At this stage, however, the inconclusiveness of the research has not prevented the government from developing policies based on what is largely unverified data. By way of "normatively securing" the anti-trafficking plight at the international level, policies oriented towards abolition have become understood as the only righteous path for sex-work policy-making (May, 1993: 5). Normativity, in this sense, has taken precedence over a deliberative reasoning process wherein evidence is scrutinized and the force of the better argument becomes the route through which to determine policy.

But notorious cases like Schaapman have made questioning the trafficking hype more difficult and have stunted any kind of deliberative democratic discussion to determine the validity of such claims. Asscher publicly claimed that those who labeled the anti-trafficking discourse "prudish" and sex work a part of the national fabric were distanced from reality (Dutch News, January 29 2013). Again, Van Doornick explains:

Interviewer: What was it like to be a sex workers' rights activist during this time?

Interviewee: Well [I was] not discriminated against but I noticed that the idea of sex work, and especially in the discussion of trafficking, which is very much in the project of 1012. The main focus was on trafficking and my plea for sex workers' rights and my plea that you can stop trafficking if you start giving rights to the people that work there, which we have in the agriculture and construction. It is about the lack of rights, how people get abused and exploited and why people get abused and exploited. Even within the inside trafficking world, it is a known opinion on how to deal with sex work and trafficking. But, in politics, it was not. It was really difficult in the beginning for me to talk about sex work because I was very much alone in my views

.... The problem is if you have an opinion that the sex industry is not abus[ive], people tend to say that you don't acknowledge or that you ignore the abuses that take place in the sex industry. My reply was I wouldn't be a sex workers' rights activist if I had a feeling that everything was good and well in the sex industry. I became an activist because there is so much wrong. There is a lot of abuse and

violence and wrong in the sex industry, so I do not ignore the problems, it's just that I have different solutions (Interview, Van Doornick: 2010).

Critics of the anti-trafficking initiative were accused of ignoring the harms of the industry and dismissing the gravity of the crimes being committed, when in fact they may have only questioned its extent. During the time in which Project 1012 was created it became even more difficult to articulate support for normalizing sex work. Once the anti-trafficking discourse was legitimized by outspoken victims and adopted by popular politicians, critics were silenced and the sex industry was politically alienated. In effect, the anti-trafficking discourse has deeply distorted political communication. The sensationalism that the issue attracts, the fervid assumptions it elicits, and the challenges involved in articulating opposing views limit deliberative discussion on the subject of sex work. The result is that the range of policy options available to deal with problems regarding the sex industry has shrunk significantly (Outshoorn, 2004). The notion of labour and occupational rights has been superseded by the question of how best to prevent sex work and sex-related migration, points which will be discussed in the section below (O'Connell Davidson, 2006). Indeed, as sex work becomes more commonly associated with its harms (not that they are inherent), the trajectory of sex-work policy-making splits from one that was directed to normalization to one that has shifted substantially towards abolition.

Racist Assumptions

The rhetoric of the sex worker as victim has also undermined the incentive to deliberate on issues of sex work because it generalizes conditions for all sex workers, particularly migrant sex workers, as needing assistance, rather than as being able and willing to represent themselves and advance their own needs as democratic agents. While discoveries of abuse are gruesome and should trigger action, the media has given them disproportionate weight (Weitzer, 2007), thus confusing partial facts as the whole truth and exaggerating deeply embedded stereotypes and underlying assumptions about the sex worker, particularly the migrant sex worker.

Outshoorn, for instance, found that between 2004 and 2006, the parliamentary debates on trafficking were framed in such a way that all migrant sex workers were

assumed to be victims who were haplessly caught up in criminal webs. This framing, she argues, was “tied into a discourse about the divide between the rich and poor countries: female prostitutes from the ‘Third World’ were driven by poverty” (2012: 240). The image of the migrant sex worker is deeply embedded in the politics and economies of the region, leading people to assume that migrant sex workers are in positions of powerlessness that mirror the place of their home country in the international hierarchy. The migrant sex worker does not only fare poorly economically, but is also thought to have to depend on “rights treaties and international politics” in order to exit the industry if she so needs to (Marchand, Reid and Berents, 1998: 8).

The “Dutch” sex worker, on the other hand, is native to the country and by virtue of her integration within the economy and the “liberal” modern Dutch society, is assumed to be someone who operates with choice and agency, at least more so than migrant sex workers (Marchand, Reid, and Berents, 1998:1). This deep contradiction illustrates cultural racism, which functions both paternalistically as well as dogmatically to limit access to the RLD (Ahmed, 2007: 150). The RLD is historically oriented around white bodies, having taken shape in a time before the arrival of non-white sex workers (Bossenbroek and Kompagnie, 1998). The result is that the arrival of non-white bodies attracted a considerable degree of attention. Policies that specifically target migrant sex workers for removal are thus not only based on presumptions of their lack of agency, but are linked to assumptions about which values are allegedly out of reach for various groups (2007: 154). In this case, independence and autonomy are assumed to be out of reach for the migrant sex worker. These assumed differences allow for the white Dutch sex worker to stay within the RLD, while the migrant is zoned for eviction. Project 1012 has thus effectively emphasized the politics of “who gets to inhabit spaces” (Ahmed, 2007: 162).

Of course, a migrant sex worker is not always trafficked and many migrants are, in fact, independent (Visser, 2011). However, an understanding of the migrant sex worker as independent impedes gentrification plans for the RLD as it would make it more difficult for Project 1012’s proponents to frame the project as closing down brothels to save trafficked women. Project 1012’s proponents have thus benefited from the impression of the migrant sex worker as a victim because the move to claim her

workspace has the potential to be interpreted as a move to emancipate her. Although the displacement of sex workers never registered as a concern for the City, the City continues to promote Project 1012 as an effort to protect sex workers.

If the Netherlands were to return to deliberative democratic processes, then these culturalist and racist discourses might be challenged. In their absence, the anti-trafficking discourse continues to advance a very conservative, anti-immigration agenda that stereotypes foreigners with the aim of closing the doors to immigrants, while linking it publicly to the desire to save these women. The racial implications of Project 1012 are not restricted to sex workers, however. As briefly alluded to in Chapter 5, snack bar business within the RLD-the majority of which are Turkish owned- have also been marked for removal by Project 1012.

The Anti-trafficking Discourse and Race

The anti-trafficking discourse gained further momentum when Operation SNEEP¹³¹ discovered two sex trafficking rings in 2007. These rings were found operating out of Amsterdam's RLD and were linked to 120 sex workers, representing approximately 2-5percent of the RLD's sex worker population¹³² (Scheppers, 2011: 2; 2007).¹³³ In these cases, the trafficked women were mostly from the Netherlands and Germany, which runs contrary to underlying assumptions about trafficked victims. Their victimization consisted of intimidation, threats, and extortion (Scheppers, 2011: 2). The horrifying details of their circumstances shocked people around the globe and prompted public concern regarding the activities behind brothel windows (Bosman, Het Parool: 2010). Amsterdammers expressed further outrage when one of the leaders of the trafficking ring was released under special conditions, and then fled to Turkey (Scheppers, 2011: 4).

In making sense of how such activity was possible, commentators frequently noted the national origins of the ring leaders (Bosman, Het Parool: 2010). Although the

¹³¹ Operation SNEEP is the criminal investigation component of the joint administrative approach to crime. It is spearheaded by the Public Prosecution Office of the Netherlands (Scheppers, 2011: 2)

¹³² These figures are derived from data cited by the Dutch Ministry of Foreign Affairs and the Prostitution Information Center.

¹³³ These bodies note, however, that the most recent data was collected in 1999 and "the number of illegal prostitutes is assumed to have declined over the past few years, as a result of frequent inspections of licensed brothels by the police and tax authorities" (Dutch Ministry of Foreign Affairs, 2012: 11).

two owners had German citizenship, they were originally from Turkey and, since 98.9 percent of Turks are Muslims (CIA Factbook, 2009), the media deduced that so too were these individuals. This extrapolation is, of course, problematic. The brothers had been living in Germany for some time and by associating them with their “geographic origins,” commentators were either unconsciously or consciously linking them to “the cultural characteristic considered to be associated with those geographic identities” (Goldberg, 2009: 7). These racial stereotypes and negative attitudes towards Muslims have gravely impacted Muslims in the Netherlands¹³⁴, and overlap with concerns related to anti-trafficking. The criminal involvement of Turkish men in trafficking rings propagated the stereotype that Muslims do not respect women and accentuated the anxieties related to the sexual moralities of immigrants. As Heckma elaborates, “there is great fear that ‘new Dutch,’ and especially Muslim citizens, reject some Dutch norms, including the principle of equality for men and women” (2005: 1). Dutch nationalist and populist parties widely adopted these claims, as Outshoorn highlights:

The integration of Muslim immigrants was and is problematized in relation to traditional right wing issues such as law and order, but also in relation to progressive issues like sexual equality....The LPF discourses on these issues have largely been adopted by main stream right wing parties that stress the need to maintain traditional Dutch values and for migrants to adapt to the national culture (2007: 185).

As was briefly mentioned in the theory chapter, Dutch cultural racism most specifically targets Islamic culture, and associates it with the propagation of gender inequality. This unjust association has led to claims that Muslim men do not hold the same “respectful” relationship with the sex industry as do or as have the Dutch. Gender equality and tolerance are thought to be out of reach for those of Islamic faith. As a result, Muslims become subject to protectionist, anti-immigration measures meant to save Dutch culture, based on the belief that Dutch and Muslim cultures are fundamentally mismatched and that Muslims are not the appropriate caretakers of the Netherlands’ progressive tolerance.

¹³⁴ From 1960 to 1973 the Dutch government recruited “large numbers of immigrant workers, chiefly from Turkey and Morocco, and migration has continued by way of family reunification and asylum seekers. Others came from former Dutch colonies after they gained independence, like Indonesia and Suriname...The most recent data from 2009 show that the Netherlands is home to an estimated 825,000 Muslims, accounting for 6percent of the country’s population. Most live in the four major cities: Amsterdam, Rotterdam, The Hague, and Utrecht.

These underlying racial currents have framed sex-trafficking as a non-Dutch issue, despite the fact that in the majority of cases, both victims and traffickers within the Netherlands are of Dutch origin (National Rapporteur, 2002: 16). In routinely drawing our attention to the international character of human trafficking crimes in policy documents, the national government has effectively blamed outsiders for the ills of the industry and the offense to sexual equality on which the RLD's survival is based. It follows that the RLD must be saved from those without Dutch values, essentially those who are described as foreigners. The assumed attitudes of Muslims towards women presumably run contrary to the smooth functioning of the sex industry, which, at its core, requires the protection of women's equality to enable sex worker independence. In this way, Muslims are presumed to be undeserving of tolerance because they are unable to live up to the expectations related to the active side of citizenship¹³⁵ and are thus excluded from access to space and the political processes determining it.

Project 1012 as a Way to 'Protect' Dutch Culture

The efforts behind Project 1012 have been supported by those who feel that the traditional RLD community has been undermined by the arrival of "outsiders." One interviewee, for example, spoke of a lost sense of community in the RLD, and waxed nostalgic for the days when everyone apparently knew one another by name. The same interviewee explained that, now, "things are different" in the RLD because many of the women speak limited Dutch and/or English and the majority are no longer Dutch or, at least, not visibly so (Interview, Joep: 2010). The problem, from this person's perspective, is that language barriers make it more challenging to form a community and also make outreach workers' and police officers' jobs more difficult. Understandably it is more difficult for the Red Thread Union or other support agencies to develop a bond with and support Eastern European women or Chinese women who do not speak Dutch or English, but challenges of access are nothing new to these organizations. What is curious is that

¹³⁵ In her analysis of the encounter between the liberal discourse of tolerance and Islam, Wendy Brown argues that people of Muslim faith, or more generally Arabic peoples, are considered to be less deserving of tolerance because they are considered to be intolerant themselves (2012). The "tolerant west," then, finds justification for its imperial efforts to expel foreigners because such expulsions are not regarded as acts of imperialism, but as efforts to exterminate intolerance and retain democratic culture (Brown, 2012).

these very same agencies, who are supposed to represent all sex workers regardless of origin, have argued that migrant sex workers are known to undercut the standard price set by sex workers because they “don’t know the rules of the district” (Interview, Red Thread: 2010). Allegedly, the undercutting makes it more difficult for Dutch sex workers to ask a fair price for their own work. If even those agencies that are supposed to serve all sex workers are considering migrants a threat to the community, it is apparent that migrant sex workers have few allies, save for the anti-traffickers. Through this lens, we see how the social acceptance and tolerance once extended to sex workers, when the RLD was predominantly white, is retracted as migrant sex workers began to occupy the majority of its buildings.

The white sex worker is also viewed as more traditional. Nostalgic sentiments regarding the period when the RLD was occupied primarily by “Dutch unwed mothers from the outskirts of town” emerged often during my interviews (Interview, Joep de Groet: 2010). These interviewees reminisced about days when the majority of the RLD’s sex workers were Dutch, and suggested that sex work performed by a Dutch sex worker represented an understandable response to unfavorable circumstances. Social acceptance was deemed almost a form of social charity. The nostalgic views of the RLD that invoke a “tradition” around the white Dutch sex worker have developed in parallel, or as part of, a growing racism towards those with a non-Dutch heritage. This nostalgia expresses the search for a Dutch national identity. When we consider that “foreigners” have always been a part of the RLD, as noted in my discussion of the pre-legalization period, it becomes clear that this nostalgia for a white Dutch RLD is misplaced, and that these sentiments have instead grown out of a heightened xenophobia. As described in Chapter 2, Bossenbroek and Kompagnie (1995) show that as far back as the 1800s the Dutch government sought to restrict the number of brothels after a mass influx of German sex workers came to work within the district. German sex workers were targeted in the same way as migrant sex workers have been by Project 1012, again proving that Dutch tolerance is limited to Dutch sex workers. In the continual re-articulation of national identity, the Dutch majority has taken tolerance as a defining feature of its nation, yet paradoxically it has imagined an exclusive history of the RLD and limited its ‘tolerance’ to Dutch sex workers. The modern “occupation” of the RLD by those of a foreign

nationality (Marchand, Reid and Berents, 1998: 4) has led to a withdrawal of this tolerance, if it ever did exist. Based on “exclusive understandings of Dutch belonging” (Long, 2011), migrant sex workers are thought to undermine the nation, showing that Project 1012 is less about stopping trafficking than it is about diverting the endless “stream of foreign prostitutes” (Outshoorn, 2012: 236) who are thought to compromise the nation-state.

Summary

This chapter analyzed the political, social, and economic forces that influenced the City of Amsterdam’s choice of approach and instruments under Project 1012. The anti-trafficking discourse has wielded significant influence, which has only been compounded by the discovery of international trafficking rings in the RLD. The result is that the RLD has been identified as a hotbed of international crime, and brothels are regarded as the venues that house it. In the absence of any democratic deliberation, the quality of the arguments put forth by the anti-trafficking camp are never assessed and, more problematic, are potentially exaggerated. Consequently, erroneous claims may continue to be mobilized in the political process.

The latter half of the chapter described how efforts to oust the RLD’s current occupants and create more safe spaces for investment are justified within a xenophobic frame of reference. Project 1012 arose from rising racial tensions and changing attitudes about the sex industry are, in part, reflective of growing xenophobic attitudes. Those who want to shrink the RLD often emphasize that its problems are not Dutch problems, but are “international” in nature. These people associate the RLD’s problems with cultures that they assert hold little respect for women’s rights. Such culturalist and racist assertions affect the migrant sex worker who is thought to lack agency, but also act upon those who are perceived as existing outside of Dutch cultural norms, such as Dutch Muslims and/or citizens that are not of Dutch ancestry. These discourses are troubling, therefore, because they are fundamentally racist and contribute to the political and social exclusion of sex workers and non-Dutch business owners within the RLD.

CHAPTER 8

IMPLICATIONS FOR DELIBERATIVE DEMOCRATIC THEORY

Introduction

This chapter examines what the experience of sex-work policy-making in the Netherlands from 1990 to 2012 reveals about the value of deliberative democratic models of policy-making, both at a general theoretical level and specifically in relation to sex workers. In particular, the chapter attends to one of the central assumptions of deliberative democratic theory - that when employed, it produces more long-lasting and efficacious policy. Rather than blame the deliberative process that informed the legalization debate for failing to produce effective policy, in that it did not stop sex-trafficking or necessarily reduce criminality, I build on the arguments I made in Chapter 4 that the policy did not include any evaluation mechanisms or clear goals and that there was no established political structure within which to debate its effectiveness or continued relevancy. Had these deliberative policy processes been institutionalized, then presumably the policy could have been adjusted as a result of a deliberative discussion about its consequences. If deliberative democratic procedures were permanent features of both policy-making and public administration, the type of dialogue and reflexivity that is necessary for continual policy improvement would be encouraged. The need to institutionalize the deliberative process within policy-making and implementation is critical in order to harness the theory's full potential. Following a discussion of this need, I elaborate on the obstacles that arise when attempts to include sex workers in policy-making are made. The chapter considers sex workers separately from the sex industry to draw attention to the unique obstacles that sex workers face and to propose more targeted procedural enhancements to overcome the obstacles. If not adequately addressed, these obstacles function in collaboration with the racial and economic discourses mentioned in the previous chapter to limit the applicability of deliberative democracy, in that they prevent sex workers from full engaging with the political system.

Efficacy of Deliberative Democracy:

While it is the emancipatory elements of deliberative democracy that I find particularly persuasive, other researchers may be more attracted to the argument that deliberative democracy can help to create more effective policy (Bohman, 1996; Fishkin, 2000; Mansbridge, 1992; Luskin, 2001; Larsen, 1990: 1; Schindlmayr, Huber, and Zelenev, 2007: 10; Young, Guttman, and Thompson 2004; Dryzek 2000; Chambers 2003). From the policy efficacy perspective, not only do inclusive policy processes give people the chance to speak on their own behalf, but they ensure that policy decisions are better informed through exposure to relevant, experiential knowledge. Deliberative processes are also assumed to produce more meaningful outcomes because they give stakeholders the formal space within which to express their views. By collaborating in the early stages of policy design, these processes can create a greater sense of investment in and ownership of the outcome, securing the successful implementation of the policy (Larsen, 1990: 1). Schindlmayr, Huber, and Zelenev's research shows that participating in policy discussions "enhances people's stake in societal outcomes and undoubtedly their interest in the development process" (2007: 10). Thus, inclusive efforts offer the promise of positive results not only for those who are included, but also for those who govern.

The two political processes that I examine in this dissertation call into question the assumed relationship between policy efficacy and deliberative democracy. While I argue that lifting the *Brothel Ban* resulted from the government's inclusive and deliberative approach, it did not necessarily produce more long lasting and efficacious policy. As argued in Chapter 2, no more than five years after lifting the *Brothel Ban*, politicians and the Public Prosecution Office (Schepers, 2011) claimed that because of the persistence of criminal activity, legalization failed to meet their expectations. Their disappointment in the policy could not be countered with evidence showing it to have succeeded, however, because no standard criteria were developed within which to evaluate the success of legalization over time. Moreover, there was a multitude of competing interpretations of the policy's intended effects. Where sex workers' rights activists hoped that sex work would be normalized as a result of legalization, anti-traffickers hoped that lifting the *Brothel Ban* would open the door to more stringent

regulations and that greater surveillance would eliminate all coercive types of sex work. The problem is that policy-makers failed to distinguish between these objectives and instead claimed that legalization would be able to achieve them all. The objectives, as stated by policy documents, were as follows:

1. Control and regulate sex work
2. Improve the fight against exploitation and involuntary prostitution
3. Protect minors from sexual abuse
4. Protect sex workers
5. Separate sex work and peripheral criminal phenomena
6. Reduce the scale of prostitution by illegal migrants

(Modified from the National Rapporteur's Report, 2002: 16)

Clearly, legalization was portrayed as a catch-all solution to the problems associated with the industry. It is difficult to measure the success of the policy against these high-level societal objectives because no single policy can reasonably be expected to achieve one, let alone all of the objectives. Regardless, comments pertaining to the policy's failure refer to its inability to attain the full breadth of outcomes. This is not to say, however, that the policy has not failed in some respects. Indeed, the policy was imperfect to the extent that it did not anticipate the extensive migration of sex workers to Amsterdam's RLD following legalization (TAMPEP, 2012) and the flight of sex workers to unregulated sectors to avoid detection and punishment under new, municipal regulations.

Unfortunately, however, there has been no commitment on behalf of the government to continue the deliberative democratic discussions on sex work. No inclusive deliberative democratic forum exists within which to discuss these consequences or evaluate the policy's multiple successes and failures. Instead, governments have assumed the policy to be a failure or have at least discussed it as such, which has justified expedient political responses instead of well-reasoned alternatives. As a result, the benefits gained by deliberation in the pre-legalization period slowly disappeared as previously included stakeholders were shut out from decision-making processes and were consulted only on rare occasions. The exclusionary approach to policy-making, exemplified by both national and local levels of government, on sex work related matters, has elicited feelings of distrust and marginalization across the sex industry and has undermined sex workers' (broadly defined) commitment to seeing the

policy succeed. For instance, during the legalization debates, brothel owners had agreed to be more vigilant in checking the identification of sex workers and investigating their origins, but the adversarial atmosphere that developed as a result of the BIBOB Act lead the brothel owners to adopt only half-heartedly efforts to honor these commitments in the post legalization period. Brothel owners I interviewed satisfied the minimum legal requirement of maintaining log books, but beyond that, no further CCTV cameras were installed and no additional measures were taken to ensure that sex workers were working independently. Instead, brothel owners now take a hands-off approach, insisting that they only rent rooms to sex workers. Had state officials continued to interact with the brothel owners as as deliberative partners post legalization, rather than as criminals, the situation might have been different.

The move towards more exclusionary policy practices thus has broad implications for deliberative democratic theory, particularly with regard to sustaining the policies produced via the use of deliberative democratic discussions. If the benefits of policy ownership and sustainability are to be realized for those who govern, then those who govern need to make a commitment to using deliberative democratic mechanisms. The waning commitment to democratic methods of government, however, suggests a desperate need for a “facilitative legislative framework” (Cooper, 2005: 9). According to Hunold, integrating deliberative democracy into the local policy-making process by way of a statute would force powerful government bureaucrats to provide reasons for their decisions and engage in debate (2001: 11). Hunold uses the term “force” very deliberately, to address the concern that these public servants may lack the civic attitude necessary to commit to implementing mechanisms that might hold them more accountable. As Fung explains:

Sometimes, forces more compelling than the better argument are necessary to establish fair and inclusive deliberation or the conditions that support such deliberation. When circumstances justify the use of such force for deliberative democrats, they become deliberative activists (2005: 401-402).

Force, in the form of legislative requirements for citizen participation, is justified in the post- legalization period because of the lack of public debate regarding substantial policy decisions and the unjust consequences of these decisions. It is interesting that during the same time, the Dutch national government, when given the political opportunity, failed to

encourage the provisions for greater democratic governance. After the *Brothel Ban* was lifted, the national government obliged municipalities under the General Local Act to draw up regulations related to the layouts of brothels as well as to stipulate health and hygiene policies (Leek and Montfort, 2004). At this time, it would have been relatively straightforward for the national government to incorporate a requirement for municipalities to include stakeholders in the design of their regulations. Doing so would have helped to provide some guidance and fill the “institutional void” described by Wagenaar as the inability of the local rules, routines, and practices of municipalities to deal with such large and complex issues as sex work (2007). In the absence of any such commitment to deliberative democratic governance, municipal brothel policy grew out of gentrification strategies rather than the reasoned arguments of directly affected stakeholders.

Encouragement by upper levels of government could ensure the engagement of citizens, but commitments to democratic reform at all levels of government can fall prey to political exigencies. The enforcement of deliberative democracy by law provides no real security to deliberative democratic activists or practitioners because laws themselves can be revoked or not renewed under fiscal or political stress. For instance, in 2006, the Dutch government reneged on its commitment to deliberation by revoking sections of the Municipality Law that required cities to open their urban planning processes to stakeholders. This happened at the same time as a rise in racial tensions and when moral issues were increasingly prominent on the political agenda.

Forcibly implementing deliberative democratic mechanisms by legal institutional re-design is not the “exclusive source of democratic solutions” (Dryzek, 2004). One of the key challenges for deliberative democratic activists is to figure out how best to appeal to key policy-makers at all levels of government and persuade them to incorporate deliberative democratic methods in policy creation and implementation (Fung, 2005: 397). For civic participation to become important to policy makers, a deliberative democratic activist (Fung, 2005) must first demonstrate how deliberative democracy benefits policy making and offer ways to mitigate the practical challenges to its incorporation.

In doing so, it is important to remember that policy efficacy is not the only goal of

institutionalizing deliberative democracy. If we take the feminist view or a perspective otherwise concerned with inequality, as this dissertation does, we are drawn towards deliberative democracy primarily because of its emancipatory potential. While I acknowledge the benefits of efficacious policy, I prefer to shed the utilitarian perspective of a policy practitioner and appreciate the process in itself, for the sake of advancing deliberative democracy and, primarily, the full sexual citizenship of all individuals. The next section turns to a discussion of how deliberative democratic institutions can benefit marginalized individuals. The majority of the discussion focuses on how we can make deliberative democratic models even more equitable and inclusive.

Challenges to Deliberative Democracy when considering Marginalized Populations

As discussed in the theory chapter, one of the central benefits of deliberative democracy is its ability to challenge the dominance of particular groups within the political system by allowing for a wider breadth of voices in the creation and implementation of policy. This ability is referred to as deliberative democracy's 'emancipatory potential' (Stie, 2003). Belief in the potential for deliberative democracy to deepen the democratic system rests on an understanding of the political system as closed to marginalized groups. In their research, sex work scholars have highlighted a number of systemic barriers that make it necessary to evaluate the democratic legitimacy of formal political processes and analyze the causes behind their exclusionary nature. A discussion of concepts including heteronormativity and the whore stigma shows that the lack of participation of sex workers in formal policy making processes does not indicate the sex workers' choice to withdraw, but rather the further discrimination against sex workers who are judged to be incapable or undeserving of political participation. The study of the Dutch local policy-making system provides us with only one small glimpse into broader state-society relations, but it makes it possible to identify those systemic and social barriers that may affect the applicability of deliberative democratic theory as it relates to marginalized populations.

As Chambers explains, deliberative democrats are intent on "making institutions, elites and governments accountable to a plurality of voices" (Chambers, 2003: 315), but

have not in any specific way or form, been “compelled to look at how groups and specific identities fare within the model” (Chambers, 2003: 321). For the most part, this is because deliberative democratic theory assumes that people join deliberations as individuals, after collective processes that identify and give shape to their identities and interests have occurred. For this reason, deliberative democracy largely overlooks how the deliberative process can reinforce pre-existing divisions or differences amongst groups (Hendriks, 2002: 64). Indeed, group identities, the inter-relationships among them and their unequal relationships with the state are not the core focus of deliberative democrats (Chambers, 2003).

In recognizing the failure of many deliberative democratic models to take group identities and inequalities into account, some scholars (Dryzek, 2005: 234) have developed modifications that address the challenges that particular groups may face when attempting to construct and confidently present logical arguments within formal, deliberative democratic parameters. Sex workers, for the most part, communicate differently than do policy makers and face systemic bias and discrimination, both of which undermine their legitimacy as democratic agents within a deliberative process. The careful design and inclusion of deliberative democratic methods can help to overcome these challenges and promote the conditions for fair and equal deliberation (Hendriks, 2002: 64).

Before we endorse measures to mitigate these challenges, Fung asserts that we must first “reject the fiction of equality” (2005: 407). Doing so acknowledges that meaningful inclusion is not achieved simply by connecting formal decision-making processes to the citizenry, but by installing procedural enhancements that are intended to level political influence and welcome the knowledge that comes with experience. These enhancements first try to remove barriers to participation and then acknowledge the uneven ground upon which sex workers enter the deliberative process. The point here is not to list the types of tools and techniques that can be used to create respectful deliberative conditions, but to draw attention to some of the concerns regarding the implementation of deliberative democracy and to inspire reflection on the challenges that prevent sex workers from harnessing its full potential. Sex workers require a set of unique considerations in the implementation and/or institutionalization of deliberative

democratic procedures. Indeed, the emancipatory potential of deliberative democracy is only reached when systemic barriers and discourses are confronted and accounted for by those who design deliberative democratic engagement.

Challenge: Thresholds

In the process of establishing methods for sex-worker engagement, governments must consider the concept of thresholds. There should be a clear idea regarding who to include and when. In practice, serious difficulties arise when considering who should be included and these difficulties have deep implications for the deliberative democratic movement as a whole. Robert A Dahl has called this the “democratic paradox of size.” His point is as follows:

In very small systems a citizen may be able to participate in decisions that do not matter much but cannot participate much in decisions that really matter a great deal; whereas very large systems may be able to cope with problems that matter more to a citizen, the opportunities for the citizen to participate in and greatly influence decisions are vastly reduced (Dahl, 1994: 28).

The paradox pushes democratic scholars to question whether they are demanding that a particular segment of the population be included in all policy matters, or just in those discussions that directly affect them. Other questions revolve around representativeness and who can represent the particular interests of a group and under what circumstances. Yet another concern arises when we consider that targeting some specific groups for inclusion might have unintended consequences, such as undermining the political influence of groups who are not invited to partake. If the policy process opens itself only to select political representatives, there is a risk of demonstrating an institutionalized selection bias towards a particular group, which may come as a result of an interest groups’ historical relationship with the state.

For these reasons, it would be both inappropriate and insufficient (although a step forward) to propose that from here on, governments should assess the democratic legitimacy of all policy discussions that address sex work on the basis of including a given number of sex work representatives. Including those who claim to be representatives of sex workers might risk reifying power differentials within the sex industry. Moreover, by only extending an invitation to sex workers, we ignore the fact

that the boundaries of sex work may change. Strict definitional criteria could remove policy processes from the evolving context to which they are supposed to respond (Benhabib, 1996). The sex industry is dynamic; what qualifies as sex work varies over time. Demanding a static and somewhat random number of sex workers for the purposes of inclusion does little to ensure that the views of all those affected by the policy are represented and ignores the politics that shape the field, including the sex industry's own internal politics of representation. Sex workers still face the challenge of collective organizing on behalf of their own interests because the profession is so severely stigmatized. The Red Thread, for instance, has faced declining membership, despite its being one of the profession's only representative bodies and the fact that it assists many more sex workers than it has members (Interview, De Vries: 2011). For this reason, it is better to open the door to direct stakeholders, rather than political representatives.

At the same time that an invitation should be extended to sex workers, sex workers should not have to identify themselves as such in order to participate. Identifying themselves as direct stakeholders should suffice. In no way should a deliberative process put pressure on those who work within a stigmatized profession to out themselves in order to participate in democratic discussions. Direct stakeholders can articulate their arguments face to face or, in some cases, could anonymously provide their responses and discussion after declaring their relationship to an issue. Anonymity can be offered through the use of online tools, which are becoming increasingly popular amongst deliberative democrats as a way to engage hard-to-access communities in deliberative dialogue. Beyond promising anonymity in face-to-face meetings, the state could create on-line political space where sex workers can contest proposed or implemented policies anonymously and without prosecution.

Although I have focused primarily on engaging sex workers, the central argument underpinning the above discussion is that thresholds depend on circumstance and that participation should not require formal political representation. Changing political contexts and issues requires "new arrangements of stakeholders" on a case-by-case basis (Stychin, 2004: 964). Practically speaking, accepting sex-work industry professionals as direct stakeholders in the deliberative process requires a great deal of trust on the part of practitioners. It also requires a great deal of practical and political maneuvering to ensure

that all interests of direct stakeholders are represented, particularly if hundreds if not thousands of people express an interest and demonstrate that they are directly impacted by the issues at stake. While a thorough discussion of this point is not possible here, suffice it to say that including sex workers should be done cautiously, discretely, and in response to the immediate political context that identifies them as direct stakeholders. Static identity numbers should only be used as normative baselines.

Challenge to Recruiting Sex Workers to the Deliberative Democratic Process

Even with these procedural enhancements, long-standing trust issues may discourage sex workers from participating in state-organized deliberative sessions. Amongst sex workers, there is widespread distrust of the state (Larsen, 1996: 248) and, in particular, of law enforcement agencies. Due to several recorded instances of sex worker victimization by police, sex workers are reluctant to engage with the state (Lewis, 2000: 445; Lowman, 2000; Interview, Red Thread: 2011). In post legalization Amsterdam, sex workers not only mistrust the government, but express an overall distaste for the harsh, discriminatory regulatory environment to which they are subject. Sex workers are under constant threat and supervision, and are unlikely to want to share their perspectives on their profession or collaboratively solve problems with the government. Building trust with the sex worker community will take time. It begins with their involvement and is nurtured by managing their expectations related to the policy process and informing them of how decisions are ultimately made.

Prior to their involvement, however, the state may face further difficulty trying to recruit sex workers for political participation. This challenge is particularly strong for the Netherlands, which now lacks political bodies, such as unions, that represent sex workers and can help the state actors to connect with them. Since the Red Thread's financial support was cut in 2006, sex workers have been left with no formally recognized political representation. In the absence of formal political representation and collective bodies that are main points of contact for a wide breadth of sex workers, it may be difficult for the deliberative democratic policy practitioner to recruit sex workers. This difficulty should not preclude attempts, however. Deliberative democratic practitioners can, like

field researchers, work to build a network of participants by integrating themselves in the community, talking to social service agencies, and offering honorariums.

Challenge to the Deliberative Process: Systemic Bias

Some of the most severe distortions in the deliberative process (Knops, 2006: 599) occur in the context of systemic issues. Systemic bias works to ensure that a fully libertarian approach to sex work is precluded as a policy option (Dryzek and Neimeyer, 2006: 641). Despite the legality of sex work in the Netherlands, sex work is still a rather taboo subject that can pose a challenge to people's lifestyles and moral codes. Treating sex work as a profession and taking legal and regulatory steps to normalize sex work requires that policy-makers and citizens step outside the common assumptions and stereotypes that guide their views on sex work, and which cause many to categorically oppose the sex industry. The most influential of these assumptions concern the alleged inherent risks and dangers of sex work - that sex work is necessarily abusive, forced, deprived, drug-ridden, violent and non-discretionary. Countless other discourses shape the frames within which sex work is understood. When these stereotypes and stigmas are combined and organized into "frames," they limit autonomous individual reasoning within the policy making process. Although the deliberative democratic practitioners truly have no control over the shape of these discourses, and the output of deliberative processes will always be somewhat "reflective of the dominant discourses" within which they are embedded (Colebatch, 2006: 313), it is important to drag these discourses into the public discursive domain so that they can be challenged or at least considered as having an impact.

At the level of process design, Calvert and Warren have argued that minipublics might mitigate the anti-deliberative influence of problematic frames. Minipublics include cross-sections of the public, which they argue have the potential to multiply frames and dilute opportunities for frame-based coalitions to form (Calvert and Warren, 2005: 407). In other words, the wider the range of the participants, the less likely they are to share the same frame. In addition to recruiting a diversity of participants it is necessary to introduce deliberators to an array of diverse information in attempts to dilute the dominance of particular frames. At times, however, dominant ways of thinking are not so obvious. Thus, another way to counter dominant frames is to allow marginalized individuals to set the agenda for discussion, which aligns with what Fung calls

“deliberative affirmative action” (2005: 407). Doing so may allow for sex workers to draw attention to the more positive and less understood aspects of the industry, such as the sexual and job satisfaction some women attain or the high earnings potential. But even if sex workers are put in charge of the agenda, posing the issues to be addressed, people may continue to fall back on familiar ways of thinking that restrict policy alternatives. Calvert and Warren argue that, in this case, a good way to undermine dominant frames is to introduce a specific practical problem that needs a solution. Much like a legal jury, tasking deliberators with developing a specific recommendation in response to a particular issue leads them to see the necessity of collaboration in order to come to a solution, which may, in turn, cause them to adjust their previous position or even attempt to alter their way of thinking about the subject.

Challenge to Meaningful Inclusion and Fair Deliberation: Sex Worker Discrimination

Discriminatory discourses and prevailing xenophobic attitudes towards the migrant sex worker create an atmosphere in which respect and trust are limited and thus it becomes difficult to include sex workers in a meaningful way (Lewanski, 2011). Given the stigmatization of the profession and the attitudes towards migrants, meaningful participation requires that deliberative democratic mechanisms not only be connected to decision-making processes, but also that all participants are respected and recognized as having valid contributions to the deliberative democratic process (Stie, 2003: 9).

The latter of these two requirements is the most demanding because it requires that deliberative democratic participants adopt a non-discriminatory civic attitude. In her article, “No Body There: Habermas and Feminism,” Joan Always explains the limits of deliberative democracy with respect to what she claims is an assumption about a hypothetical (and to some extent unachievable) attitude of participants (1999: 138). Always calls upon scholars to recognize that the ability for individuals to harness the deliberative democratic experience is hampered by how other deliberators may perceive him/her as an “other.” This is an important observation as far as the sex worker is concerned because she embodies a number of stereotypes and stigmas - victimized, hyper-sexualized, stupid, diseased, abused, naïve, greedy, and the list goes on. These assumptions operate invisibly and work to ostracize sex workers and their views as well

as to limit the fair assessment of a sex worker's insights and undermine the force of her argument within the deliberative process. No deliberative process can be called fair or emancipatory if "deliberation over policy alternatives leaves unchallenged background assumptions that undermine the equal standing of all participants" (Peters, 2007: 30).

Critics of deliberative democracy, like Warren Montag, argue that as a result of assumptions about the sex worker, it is nearly impossible to achieve "genuinely neutral or impersonal dialogue between powerful and marginalized groups," since between these groups are ideas and "relations of force...that render some dominant and others subordinate, usually in inverse proportion to their validity or truth and certainly in inverse proportion to their degree of 'criticality'" (1999: 142). The dominant discourses that sustain these assumptions can be partially mitigated through process design, but process design does very little to affect the attitudes of participants or cause them to question their own assumptions. A facilitator, on the other hand, can trigger this type of critical thinking and encourage participants to engage in discussions with empathy, respect and trust. Indeed in many deliberative democratic settings, the facilitator generally has the responsibility for setting the tone, establishing the ground rules and ensuring that everyone has an equal opportunity to participate.

A facilitator¹³⁶ can set ground rules prior to the onset of deliberation that make clear the need for mutual respect, confidentiality and collaboration. Ground rules can be as simple as "observe confidentiality of any disclosure," "open your mind to new alternatives," "respect the views of your peers," and "build upon one another's ideas." In each of these cases, a written document detailing expectations of the deliberators should be read and signed to encourage accountability. In the processes leading to legalization, for instance, the facilitator established the goals for the deliberations (recommendations to parliament) and equated under-appreciated forms of knowledge with more traditional expert knowledge by explaining how sex workers had street smarts. Deliberative democracy benefits from this kind of strong leadership that is anchored in egalitarian principles. Procedural design alone is not enough to encourage collaborative, respectful behavior amongst participants. A facilitator, on the other hand, can help to foster a

¹³⁶ Within deliberative settings, the facilitator can also be referred to as a moderator, mediator, or deliberative democratic practitioner.

commitment to egalitarian democratic principles, not just to a set of processes or mechanisms.

Given sex workers' marginal positions, they should also be given the chance to draw attention to the harmful impacts of discriminatory discourses on their health and mental well-being by sharing their stories. In turn, these stories should be integrated into the deliberation as evidence. One way to do so is to format these stories like "victim impact statements," although these stories need not always speak to "victimhood" as it is commonly understood. These statements do not assume the general victimhood of sex workers, but locate the origins of the harms and pinpoint the particular actions or behaviors of perpetrators that can be prevented or stopped altogether. If sex workers were to share their stories of discrimination and harassment prior to deliberation, two things might happen: those invisible forces that work to undermine sex workers as full, democratic agents could be exposed ; participants might develop a greater sense of empathy and understanding for the sex worker that could prevent prejudice within the reasoning process. Offering such an opportunity does not necessarily sway the outcome in favour of sex worker's demands or needs, but encourages people to refrain from casting judgments regarding the lifestyle choices of sex workers and/or assumptions related to their vulnerability that may get in the way of assessing the reasons and rationale provided. Introducing such a preliminary stage emphasizes the need for empathy within the deliberative democratic process.

Once underway, the deliberative process can greatly increase the influence of typically stigmatized and marginalized groups because it expands the opportunities for them to engage with people with whom they might not otherwise come into contact. This less formalized and personal dimension increases understanding and respect across power differences and gives sex workers the chance to defy damaging stereotypes. As described in the theory section, social interactions that build common understanding and mutual respect are critical to securing the full sexual citizenship of sex workers. If structured with these challenges in mind, the deliberative process can result in sex workers' being recognized and respected by the wider deliberative group.

Challenges: Differences in Communicative Power

Being admitted to the dance does not ensure the participation of someone who has learned to dance to a different rhythm (Tannen, 1991: 95)

Recognition and respect are integral, but not entirely sufficient for sex workers to be able to advance their arguments successfully within deliberative democratic forums. According to Habermas, the ability to present successful arguments in the public domain is a demonstration of communicative competence (May, 1993: 7). However, an inequality often overlooked by Habermas and most traditional deliberative democratic models is differences in the ability to produce and advance a well-reasoned argument (May, 1993: 7). Young, who is critical of this limitation, has expanded Habermas' concept of "communicative competence" to "communicative power" (Young, 2001).¹³⁷

Sex workers may lack the power to communicate within deliberative democratic settings for a number of reasons. First, they generally work alone. It is unlikely that they have linked their work, which is stigmatized by the broader society, to its ability to produce common, public goods (for example: public safety, public health, etc.). Thus, the sex worker may face difficulties in constructing a persuasive case based on a common good or what May calls a "generalizable interest" (1993). To this end, training in rhetoric, persuasion and debate should be available at no cost for those interested. Those who exist outside of those social circles where this type of dialogue is the norm may then feel empowered by the ability to more clearly articulate their positions to a wider audience (Fishkin, 1996: 134).

Second, if designers are not careful, the deliberative democratic process can force a reliance on traditional experts, such as policy makers or what are thought of as subject matter experts in policy circles. If the issue at hand revolves around policy, these traditional experts are often invited to explain the issue and the various policy directions

¹³⁷ The concept of communicative power holds that communicative competence is, for the most part, learned. People learn how best to interpret the dominant rules of procedure and construct logically valid arguments. However, this learned behavior might be a matter of privilege, due to the life circumstances, and fiscal and time constraints of those less financially well off. Moreover, an affluent individual is more likely to hire a professional trained in the use of logic and persuasion - a lawyer, for example - to advance his argument within formally constituted boundaries. The orientation of many deliberative democratic models towards the most logically valid argument has thus been argued to be restrictive, because in many cases, logical validity is "best" constructed by an outsider and thus forces a further reliance on these kinds of "experts" (Guttman and Thompson, 2003).

including their tradeoffs. The problem with this type of arrangement is that it often results in conversations articulated in highly specialist language and the reification of traditional authority structures. Deliberative democracy (at least the variant that I have proposed here), is intended to disrupt these structures and transfer authority to individual participants who are understood as offering valued insights, rooted in their own lives. In other words, deliberators are supposed to discover the policy problem, suggest alternative policy directions and unearth the tradeoffs. At the same time, policy experts can offer valuable evidence where requested by the deliberators, but their involvement should be limited to the early stages of deliberation.

In the same vein, deliberations can undermine the communicative power of some individuals by appealing to “expert” authority, the use of technical jargon, and references to bodies of literature that may be inaccessible to all deliberators. When individuals use language or concepts rooted in the legal or political realm, without adequately explaining them, it would appear that the intention is not to seek to produce a general understanding of the arguments behind a particular project or program but to dominate.¹³⁸ These tactics make other deliberators feel uncomfortable and less confident, which may cause them to disengage. The challenge with the ideal deliberative democratic process, as first advanced by Habermas, is that inaccessibility of an argument does not preclude it from establishing logical validity (1987). Indeed, even if the argument is widely misunderstood, it can emerge as the better argument as long as it is the “least contested” (Chambers, 2003: 321; Young, 1997). Therefore, it is important that deliberators understand one another’s arguments. It is possible to determine whether there is shared understanding of core arguments and, to a greater extent the issue at the center of deliberation, by conducting a mid-way survey or questionnaire. If it becomes clear in the findings that the individuals differ in their perspectives of the policy directions proposed or the problem/s that needs

¹³⁸ Democratic theorists such as Robert Dahl in *On Democracy* (1998) and Linda Weiss in the *Myth of the Powerless State* (1998) argue that in institutionalizing these democratic processes, practitioners or bureaucrats should not lose sight of the power differential that can be created when “experts” are invited or relied upon. This includes paying attention to how one utilizes one’s resources (including formal knowledge) and dominates others with those resources through the deliberation. At times, the knowledge input of “experts” is specifically requested in order to navigate through the deliberative process. At other times, the expert’s role in the deliberative process is less direct in that participants rely on their research or documentation to create their own arguments. Knops, for instance, feels that appeals to “expert” authority through the reasoning process do not necessarily have to be explicit, they can be indicated by switches in kinds of speech, the use of technical terms, or by references to bodies of inaccessible knowledge (2006). For example, reverting to technical language or “name dropping” is a way to appeal to authority to convince counterparts that their arguments are substantiated.

solving, then there is an opportunity to build greater clarity and understanding. Another way to establish shared understanding and encourage the accessibility and clarity of arguments and information is to limit the influence of public relations firms that try to emphasize difference and play upon negative emotions to gain support for particular positions (Cojocaru, 2011: 316).

In the same vein, McWilliam has argued that in order to “achieve a more informed, flexible and negotiated distribution of power among all participants,” participants must start with equal knowledge of the issue and feel confident in that knowledge (1998: 76). Organizers could work to collectively determine what level of understanding is required to thoroughly debate the issue and conduct an assessment of understanding prior to deliberation. In some cases, it may only be necessary to have common working definitions or an understanding of existing programs. A way to support general understanding is to provide all participants with simplified and synthesized materials, vetted by non-partisan or non-interested organizations¹³⁹ or all participants, on the issues that will be discussed, prior to the date, and to meet in small “groups [prior] to the deliberations to work through questions of misunderstanding” (Fishkin, 1996: 135). These briefings can give a quick historic synopsis and explain the terms and definitions of reference as well as provide an opportunity to ask questions. In this way, misunderstandings during the discussion are limited, and individuals will feel more politically informed and equipped with the knowledge to speak during the reasoning process.

Another way to increase baseline levels of understanding is to include an informational panel composed of a diverse array of individuals familiar with the issue. Critics of expert authority may argue that this reintroduces the role of expert in the deliberation, but if these individuals are drawn from different fields and expound different arguments then they may in fact enhance understanding of the various dimensions of the issue. Guttman and Thompson (2003) contend, for instance, that relying on experts does not necessarily mean that the bases of the reasons provided are

¹³⁹ Of course, those providing the preliminary information should be screened, as should the information itself. This screening should be done by those vested strictly in the democratic process, not its outcome (for example, deliberative democratic practitioners under the International Association for Public Practitioners, who can be hired by the government).

inaccessible. In their view, it may be tricky to use experts democratically but it is possible for experts to provide evidence in a way that is understandable and accessible to all. If experts are infused throughout the entire deliberative process, then they tend to reinforce the status quo or dominant viewpoints, but if their input is used in moderation it can be very helpful in bringing to light all of the variables at play. For instance, within the parliamentary processes leading to the legalization of brothels, several research projects were undertaken to amplify the voices of sex workers. These efforts bring to bear the fact that experts can, at times, aid the marginalized, not just simply the dominant actors and the status quo.

The most common problem with identifying and utilizing this expertise or appealing to bodies of knowledge is that the “knowledge” is often disconnected from the issue and is used to dominate the discussion (Van Hees, 2008: 1). The problem, therefore, is not necessarily the inclusion of knowledge, but who the organizers view to be purveyors of knowledge and how the processes accommodate the knowledge. Questioning the role of traditional expert authority does not necessarily disregard technical experts (e.g., scientific experts, policy experts) per se, but reorients the deliberative process and limits the experts’ role to that of “advisory or mediatory” (Guttman and Thompson, 2003).

Challenge: The Deliberative Process, Reason, and the Silencing of Emotion

Another strong criticism of deliberative democracy by feminist scholars is that it relies on a type of reasoning that is based on a “civic, not private conception of thought” (Stie, 2003; Gardiner, 2004: 33). A civic thought process obligates individuals to rid their arguments of appeals to “individualistic emotion” and consider the broader public good in their visions for the future (Gardiner, 2004: 33). This is problematic primarily for two reasons. First, separating emotion from reason likens the deliberating citizen to a “dispassionate observer” (Jaggar, 1989: 148-149). Emotion is a form of communication and while emotion may not be oriented towards establishing a position’s logical validity, it is nonetheless a useful means by which to engage other deliberators and inspire political action. As Young elaborates, emotional forms of speech:

While not deliberative, in the sense of engaging in orderly reason giving... [still do]...communicate specific ideas...They use slogans, humor and irony to do so because discursive arguments alone are not likely to command attention or inspire action (2001: 676).

From Young's perspective, emotion aids the expression of discontent and enlivens what might otherwise be a "dull" political debate. Once the public's attention has been captured, political action may be inspired as a result. Similarly Mouffe advocates for an arena enabling the "vibrant exchange of passions," and contrasts this to the dry political talk found in most formal political settings (2005: 221). Of course, incorporating emotion has more important uses than simply to reinvigorate political debate. The freedom to express one's emotion in public is the means by which an individual can heal (think of victim impact statements, for example) and can help to contextualize a proposal, including its ramifications and its costs. If the Dutch government were to reopen the political process to deliberation, it should make room for the emotional testimony of sex workers, especially considering that sex workers have been deeply harmed by their overall alienation from society, stigmatization, stereotyping and, at times, violence. Trying to silence such "statements of feeling and emotions" by "privileging rationality" is, in its own way, an "act... of violence" (May, 1993: 10).

The appreciation of emotion requires deliberative processes to welcome creative installments as methods of persuasion. If an individual felt that his or her argument was better articulated through photography or through film, then he or she should be welcome to introduce this medium into deliberation. A number of the Red Light Art installations illustrate the many contentions around sex work that are central to policy debates. One of the most provocative is Marieken Verheyen's "How Much?" Marieken, a performance artist, sat behind a brothel window for hours and taped what she saw. She then played the film and set up a chair, encouraging museum attendees to watch the film and thus gain the perspective of a window sex worker. In the film, over and over again, men walk by asking, "how much?" It's a jarring piece that speaks volumes to the relationship between a sex worker and her customer that could not be as easily articulated in writing. It is also relatively objective in that it does not tell people how to perceive the experience. Clearly, art can play a significant role in helping the public to appreciate different perspectives and thus has purpose in deliberation. Indeed, a truly inclusive process would adopt

different modes of emotional communication - verbal, visual, etc., to enable all to take part in establishing the crux of the issue.

Secondly, the limitation of emotional forms of expression within the deliberative process is further troubling when we consider that emotional communication is typically linked to women.¹⁴⁰ The separation of the sexes has, in turn, resulted in what some scholars have identified as two separate “speech cultures” (Young, 2001; May, 1993: 20). As men and women have learned to survive within separate gender norms, many have grown to communicate differently. What are “typically” masculine communication traits, however, have become privileged within the formal political realm and what are “typically” feminine traits have been privileged within the private realm, which is less connected to institutional power. Generally speaking:

white, middle class men’s “speech culture” tends to be “more controlled, without significant gesture and expression of emotion,” which means such persons are generally more at ease with the didactic, disembodied, confrontational style that, according to critics, is privileged by Habermas (Dahlberg, 2005: 114).

Outside of the dominant circles of power, popular forms of communication include “playful verbal interaction, puns, and poetry, as well as other forms of communication” (May, 1993: 12; Ingram, 1983:158 and May, 1993). Sex workers, for instance, are known for their emotive forms of communication, described as informal, affective, gestural, and reciprocal (Koski, 2007: 8). Many studies detail how sex workers interact with each other, their clients, and law enforcement agencies (Koski, 2007: 15), and how political, legal, and even physical environments shape these interactions (Outshoorn, 2004). The challenge now is to think of how deliberative democratic models can re-value these forms of communication and, to some extent, even amend practices to appreciate their benefits.

As a result of their unique social position, sex workers have developed a strong set of interpersonal skills, like the ability to empathize, express themselves emotionally and negotiate, which could be effectively instrumentalized within the deliberative process. In the same vein, there is a rich body of scholarly work that shows that “women’s socialization and child rearing, among other causes, makes them especially concerned to transform I into we and to seek solutions to conflict that accommodate

¹⁴⁰ There is no evidence to the claim that “thoughts and actions of women are influenced more pervasively by emotion” than men (May, 1993: 19) or that emotion itself is irrational, but it is undoubtedly one of the assumptions that has supported women’s exclusion from politics and other formal public realms throughout much of recorded history.

diverse and often suppressed desires” (Cojocaru, 2011: 316). Several studies show that when negotiating, women empathize more frequently than men, are less adversarial and generally demonstrate traits that are more conducive to creating integrative solutions and shared reasons (Cojocaru, 2011: 318). These skills, however gendered they may be, could effectively be mobilized within the deliberative democratic process. The unfortunate reality, however, is that gender pressures ironically also work to prevent many women from participating in the first place (Rubin and Brown, 1975; Sandberg, 2013) or prevent their acceptance within formal political settings (Sandberg, 2013; Stuhlmacher, 1999: 653). Where sex workers may have unique communication skills that can theoretically contribute to the success of the deliberative process, their ambition to be politically involved is, of course, tempered by the same practical and social constraints that come with gender roles. Together, these challenges mean that practitioners should work to establish deliberative democratic settings that anticipate barriers to participation and should work with individuals, for example sex workers, to elicit and value their contributions.

Summary

If the state wants to improve its relationship with sex workers, it needs to engage in a more deliberative style of policy-making. There are a number of practical ways that policy professionals can open the policy process, where sex workers will feel encouraged to speak for themselves in a comfortable, safe and anonymous environment and where their words will be connected in a meaningful way to policy output. It is up to scholars and policy practitioners to examine existing processes to encourage the translation of deliberative democratic theories and recommendations into practice, and to ensure that these practices are as accessible and beneficial to the widest array of citizens possible.

CHAPTER 9

CONTRIBUTIONS TO THE FIELD AND SUGGESTIONS FOR FUTURE RESEARCH

Introduction

The Dutch state's interests in regulating the sex industry have ranged from health and hygiene in the 18th century, to enhancing the City's international reputation, competitiveness, and attractiveness to global finance in the contemporary period. Pressure from international political bodies and the economy have always featured prominently in instigations of political change regarding sex work. Throughout these political changes, formally recognizing sex industry personnel by including them in policy-making processes has shifted from the high water mark of directly engaging them in the legalization debates and resulting policies, to the present moment when their profession has been criminalized, causing them to be both politically and spatially excluded. Unlike the political processes leading to legalization, Project 1012 lacks democratic legitimacy in that its processes failed to include stakeholders, relied on unsubstantiated "evidence," and remained un-validated by a reasoning process. During both of these processes, however, the political focus on Amsterdam's Red Light District (RLD) has remained consistent as the RLD stands at the forefront of Amsterdam's international reputation. At the time of writing (2014), the RLD continues to attract disproportionate policy attention, which helps one to appreciate the significance of the RLD and its transformation as a locus of struggle for sexual citizenship - political, civil, and social. As elaborated on in Chapters 5 to 7, a number of social and political discourses interacted to expel sex workers from the RLD and undermine them as legitimate political constituents. Rather than summarize the arguments of these chapters, this chapter will identify and expand on the central contributions of my research. Outlined throughout are suggestions for future research or action.

Practical and Theoretical Benefits of Deliberative Democracy to Sex Workers

While there is a growing literature that speaks to the benefits of political inclusion and pays specific attention to the deliberative democratic techniques and instruments that can be used to prevent further disenfranchisement, there is little to no discussion on the benefits of deliberative democracy to sex workers. By connecting deliberative democratic theory and in-depth qualitative sex-work research, the dissertation offers new insights into the benefits of deliberative democracy to sex workers. A key assertion is that all parties to the sex industry could benefit from the use of deliberative democratic mechanisms in policy making and implementation, which offer the formal opportunity for these individuals to contest their spatial and social exclusion and defend themselves against the contested claims and assumptions on which many sex work policies have been based.

In advocating for deliberative democratic reform I pay close attention to the local policy-making system and the bureaucracy as they have in the post legalization period, had a significantly negative impact on sex workers' lives. However, sex workers' rights advocates have focused little to no attention on the inner workings of the local policy making system or the bureaucracy, choosing instead to focus their efforts on the impacts of policy implementation or the battles that are fought in the legislative and parliamentary realm. Chapter 3 establishes the need for sex work research to look beyond the effects of policies to the impact that the character of policy-making processes have on the ability of those involved in the sex industry to achieve full democratic citizenship .

As chapters 5-7 argue, if the sex industry had been more involved in Amsterdam's local policy-making system, the output would not necessarily have been altered, but at the very least the involvement would have signaled a policy change to the sex industry and allowed for its members to adapt. Moreover, had participants in the sex industry been invited to deliberate and make formal, political statements as to the potentially disastrous effects of the proposed policies, policy-makers may have reconsidered their choices based on anticipated harm and introduced ways to mitigate it. Lastly, the sex industry's involvement would have ensured that policy-makers could not feign ignorance of the consequences that later developed.

In locating an empirical example of the sex industry's experience with bureaucracy, the dissertation offers a provocation to a host of other potential democratic reform initiatives that connect deliberative democratic mechanisms to sex work related issues. From a practical lens, deliberative democrats suggest a number of procedural mechanisms and institutional designs that help to reconcile the tension between capitalism, bureaucracy and democracy, and which could benefit to sex workers (Morgeson, 2005: 3).

My research has also provided us with a new way to analyze sex worker's experiences with the political system. By connecting the field of sex work research to the study of our democratic institutions, I argue that we can both judge our institutions with respect to their relationship with sex workers *and* identify practical opportunities for improvements to democratic legitimacy. Deliberative democracy is a normative theory that is regarded as holding emancipatory potential for marginalized individuals, but has rarely been used to assess existing policy practices. My research sought to fill this gap in the literature by developing a set of criteria based on deliberative democratic principles to judge the democratic legitimacy of political processes and discern shifts in the character of policy making culture over time. Evaluating policy-making processes in line with these criteria identifies opportunities to make governments more accountable to their citizens and builds upon the normative frame of reference derived from the emancipatory dimensions of deliberative democratic theory. However, deliberative democratic theory is limited in its consideration of the practical challenges to making it work.

Impact of Discourse on the Democratic Engagement of Sex Workers and Procedural Enhancements

The field of deliberative democracy offers limited analysis on its practical constraints and what may limit the emancipatory potential of their procedures for particularly marginalized individuals (Stie, 2003). Some critics cite barriers such as time and funding (Fishkin, 2011), that precludes the recruitment and inclusion of marginalized individuals. More theoretical insights offered by feminist scholars including Scott (1991) and Young (2000) show how social inequalities manifest throughout deliberation to undermine the normative power and appeal of deliberative democratic procedures. Others

argue that the “fundamental differences that accompany inequalities of power and position cannot be overcome” with the use of reason and persuasion that are at the core of deliberative democracy (Scott, 1991: 790). With these criticisms as my starting point, I addressed how the emancipatory potential of deliberative democracy could be limited for sex workers.

Among the greatest challenges to fully and meaningfully including sex workers in political processes are discrimination and stigma. Widespread negative assumptions about the sex worker are used to justify excluding her from decision-making processes and may hamper her ability to advance her arguments within the deliberative realm. While this dissertation remains anchored within the normative evaluative framework that deliberative democracy offers, it addressed the philosophy’s weaknesses by incorporating an analysis of ideological discourses and wider social, economic, and structural factors. Chapters 5 to 8 expand on those wider moral discourses that simultaneously degrade and infantilize individuals by framing them as needing redemption and/or protection. These discourses undermine sex workers’ competence as rational, democratic agents capable of participating alongside other citizens. Excluding sex workers from formal political discussions is thus justified until they are morally redeemed by their protectors (those who are a part of the anti-trafficking or abolitionist movements) or until they independently and voluntarily exit the industry.

I argued that, if deliberative democracy is to be realized, the unique social position of sex workers needs to be taken into account and specific procedural enhancements need to be made to recruit sex workers and make their participation meaningful. To be truly attentive to the kind of experiential knowledge that is offered by way of this inclusivity, practitioners would need to adopt methods of communication not typically recognized by deliberative democracy - visual, poetic, online, one-on-one, etc. These methods help to open a safe space for emotional reason-giving. Being free to express one’s emotions in public can be healing (think of victim impact statements, for example). It can also help to contextualize a proposal, including its ramifications and its costs, and can reinvigorate political debate (Young, 2001). Of course, societal transformation must occur alongside efforts to improve the political system in this way, but if efforts are made to evaluate existing policy processes, recognize shortcomings, and

implement deliberative democratic reform, then much has been done to level the political field and establish democratic legitimacy.

Impact of Discourse on the Uptake of Deliberative Mechanisms

Although deliberative democrats may consider the challenges to the quality of their procedures and some of the practical challenges to full implementation, rarely do they consider what causes governments to incorporate deliberative democratic mechanisms or to eschew them altogether. In fact, deliberative democracy is rather weak in offering causal explanations for declines or upswings in deliberative democratic governance, and it does not go to great lengths to discuss the impacts of wider societal factors on its adoption. This is likely because deliberative democratic theory tends to avoid examining how ideology and/or other forces affect the character of policy-making systems (Mouffe, 2005).

There are, of course, several factors that contribute to continuing the exclusive and non-democratic nature of decision-making practices. A deep-seated xenophobia, brought on by the Dutch state's neoliberal and metropolitan tendencies and a few divisive and traumatic events, is one of these factors. Nationalist political parties and xenophobic attitudes have identified "outsiders" as a problem, and these cultural and xenophobic anxieties have supported ejecting migrant sex workers from the RLD and excluding them from policy-making processes in the process. Indeed, perceived threats from outsiders have justified quick action to solve the "problem," which precludes democratically collaborating with migrant sex workers to design urban policy. While some scholarship has taken Project 1012 as its focus, its racial dimensions have been completely over looked.

Chapters 5, 6 and 7 further describe those discourses that have intersected with the re-evaluation of Amsterdam's inner city, and have privileged a sanitized version of economic growth over an economic growth that it is in any way tied to the sex industry. The way in which Amsterdam treats sex work plays a major role in how the City is perceived internationally. Now that a strong neoliberal discourse has motivated Amsterdam to attract international investment, the City has had to reevaluate its image and standing in the global order.

The adoption of neoliberal governance is identifiable by the development of strong partnerships with the private sector in urban development and the state's investment in the economy (Bonal, 2003: 162). Project 1012 has intersected with the emerging trend of place marketing, whereby cities have shifted their efforts to legitimize the capitalist regime from the payment of direct social benefits to indirect economic benefits. The City of Amsterdam has partnered with private sector interests to invest in urban 'renewal' projects that are assumed to attract further capital investment, provide jobs and distribute wealth to its inhabitants. In this way, capital accumulation becomes its own source of legitimation (Bonal, 2003; Rensink, 2010: 2; Healey, 2000: 300).

One of the most obvious reasons for the exclusionary character of Amsterdam's policy-making system is that elites want to maintain and/or extend their influence and decision-making power. There is a strong preference on behalf of the governing elite for maintaining power through political expediency (Olin Wright, 2009: 4). Public participation may be costly to those trying to retain power because citizens may contest the transformation that is already underway. A closed model of decision-making offers less opportunity for opposition and is thus more conducive to situations whereby politicians trade political power for the investment that is deemed necessary to improve jurisdictions' economies and retain the popular vote. Thinking of the local government this way has significant implications for how we understand deliberative democracy's ability to help design urban space in a way that encourages equal access and diverse neighborhoods. If we think of cities as embedded within neoliberal economic discourse, then it is difficult to conceive of them as welcoming and responding to a diversity of opinion on how the city should be designed, through deliberative democratic mechanisms or otherwise.

While the City of Amsterdam's alignment of its policy making systems and bureaucratic practices with the principles of the market indicates the progression of neoliberal ideology, the revolutionary appeal of deliberative democracy rests in the belief that the city is not fully captured. In the absence of socialist revolution, deliberative democracy is but one of a number of reformist theories that not only appreciates the continued possibility for state autonomy, but demands that the state exercise its autonomy by living up to democratic, not capitalist, ideals. At the centre of my arguments is the

acknowledgement that the state's allegiance to capital interests is not guaranteed to be permanent, and the power of capital interests are not totalizing; the state *can* and has, on occasion, exercised autonomy. While it is important to highlight the pressure of neoliberal discourse on cities, it is equally necessary to realize that political institutions are not altogether irrelevant. In fact, deliberative democracy sees the possibility of redistributing political power by reforming our democratic institutions. However, deliberative democracy is fuelled by a normative conception of the state as reflexive and willing to reform its procedures, practices, and policies to align better with democratic ideals. In the absence of the ideal of the willing state, change must come from the people. Civil society plays a large role in instigating change, offering creative procedural solutions and, ultimately, participating. By asserting the causal primacy of civil society, this view understands that the state may not always initiate its own reform, but that it will be compelled to reform under pressure from society (Hooks, 1998: 30). While deliberative democracy could challenge dominant economic discourse and prevailing attitudes towards sex workers, more research is needed on how to effectively press policy-makers and bureaucrats to include these mechanisms within bureaucratic structures that are largely subservient to capital interests.

Convincing the Governing Elite of the Merits of Deliberative Democracy

Deliberative democracy's potential remains unrealized if the governing class perceives its mechanisms as a purely redistributive exercise through which political power is shared. To overcome the will to maintain power and, to some extent, the will to maintain dominant power relations, deliberative democrats should become skilled in convincing decision-makers that their procedures are effective at democratizing our policy-making institutions and building democratic legitimacy for existing political arrangements. A regime that lacks democratic legitimacy is not likely to be viewed favorably by its citizenry or the wider international community.

I argued that the deliberative reasoning process offers direct benefits both to those who are governed and those who govern. By fostering a greater sense of understanding amongst opposing positions and by unwrapping discriminatory biases and assumptions

through discursive dialogue, deliberative reasoning has the potential to quell polarization on morally contentious topics such as sex work. The less polarized a community is on a topic, the more straightforward it is to construct and implement policy on a given issue. Moreover, including experiential knowledge has the potential to create more relevant and sustainable policy. As more people participate in the policy-making process, more will become vested in a policy's success. As a result, the outcome of the deliberative democratic process is arguably more sustainable if people view the policy as the outcome of negotiated compromises. This creates what is known as policy ownership.

Chapter 8 addresses the claim made by many deliberative democratic theorists that it produces more long lasting and efficacious policy. Rather than blame the earlier deliberative process for failing to produce effective policy, in that the policy output neither stopped trafficking nor reduced criminality, I draw attention to the fact the policy did not build in any evaluation mechanisms and measurable objectives, and that there was no established democratic political structure within which to debate its consequences and continued relevancy. In other words, the policy-making system failed to satisfy the criterion of reflexivity. Had these earlier deliberative processes been institutionalized to the extent that they were able to establish some kind of permanency, then at least the policy could have been adjusted to account for contingencies. Moreover, institutionalizing these mechanisms would have enabled stakeholders to contest the way in which subsequent regulations were designed, attest to their negative impacts and revise them. In our efforts to build confidence in deliberative democratic mechanisms, we must pay special attention to the conditions under which deliberative democracy is most successful.

In making a case for deliberative democracy, it is also important to point out that deliberation does not necessarily compromise the advancement of commercial development. As with most democratic scholars, a deliberative democrat may recognize the benefits of healthy markets, but will simultaneously “want to embed [markets] in politics, and particularly in democratic politics” (Chambers, 2003: 313). If the local government were to bring these large-scale projects into the realm of democratic discussion, prior to implementation, private interests could better understand opposition to them and work creatively to develop win-win situations. The difficulty of operating

businesses within tense oppositional environments means that deliberation hosts potential benefits for capital interests. Most importantly, however, considering these projects within formal, deliberative democratic parameters means that capital interests/state actors would be required to legitimate their policies through deliberation, which might lessen the unequal distribution of space and wealth and the distortive impact of marketing and public relations campaigns, and improve the quality of our democracy. Further research into the pushback against deliberative democratic mechanisms and the opinions of deliberative democracy would add significant value to these efforts.

In the absence of deliberative democracy, the state will continue to face significant opposition on the basis of its contested legitimacy. In Chapter 5, I argued that protests made visible not only the deep schism that now exists between the sex industry and the post 2002 government, but also a section of the population that is reacting to the state's refusal to renew the discussion of sex work within formal deliberation. In this regard, Platform 1012's protest expresses radical activism, an alternative form of democracy that arises in an effort to secure democratic procedure when such opportunities are absent (Young, 2001). From this line of reasoning, the protest is evidence of a state that has failed to sustain the deliberative democratic policy system that was once present throughout legalization. Activism poses challenges to the desire to operationalize deliberative democracy for evaluative purposes-what does protest mean when it occurs because stakeholders have not had their concerns adequately addressed within the formal, political process? Are there ways in which to assess whether protest is an active choice in a political method of a last resort? Further analysis would enable us to answer these questions and ascertain what political activities undermine or support the cause of deliberative democracy.

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APPENDIX A: INTERVIEW LIST

Interview #	Organization name	Type of organization/person's involvement
1	Scharlaken Koord (Scarlet Cord)	Aid agency for sex workers
2.	P+G 292	City health agency for sex workers
3.	SOAIDS	Representative of the aid agency for sex workers
4.	Rode Draad (Red Thread Union)	Founder, director and public spokesperson.
5.	Rode Draad (Red Thread Union) and University of Amsterdam	History professor and sex workers' rights activist. Active in the Red Thread
6.	University of Amsterdam	Researcher whom does ethnographic research on migrant sex workers in Amsterdam
7.	Amsterdam History Museum	Historian and curator for the "400 Years of Prostitution" and Hoerengracht exhibits, as well as the 21 st century brothel.
8.	Groenlinks	Municipal politician and sex workers' rights activist
9.	University of Amsterdam	Researcher and lead author on "Macht Op De Wallen."
10.	University of Leiden	Hired as lead researcher on legalization process
11.	SOR and Red Thread	Brothel owner and sex workers' rights activist
12.	Association of Brothel Owners (SOR)	Founder of the Association of

		Brothel Owners and former brothel manager
13.	Women of the World and Vereniging Exploitanten Relaxbedrijven (VER)	Escort agency owner and board member of the Association of Escort Workers
14.	De Koning & Renes Advocaten (Law Firm)	Lawyer representing the Association of Brothel Owners against the City
15.	Belasting Dienst (National Tax Services)	Policy-maker, and project manager in charge of creating the opt in/out tax system for sex work post legalization
16.	Ministry of Labour and FNV	Lawyer and union representative
17.	Municipal Police	Retired police officer with 35 years working in postcode 1012
18.	Postcode 1012 Resident's Association	Founder and lead
19.	Van Beke Criminology Institute	Commissioned by the City of Amsterdam to do a study on window brothels
20.	Project Management Bureau	Project manager for Project 1012
21.	Project Management Bureau	Office coordinator
22.	Amsterdam Planning Department	Director
23.	Topstad, City Marketing	Director
24.	Boundary Unlimited	Lead architect
25.	SMBA, Stedelijk Museum	Partner, Red Light Art
26.	Red Light Art	Curator
27.	Kunestaars and Co.	Project manager for Red Light Art
28.	Red Light Art	Artist
29.	Red Light Fashion	Shoe designer
30.	Red Light Art And Beyond Duo	Artist
31.	Artist Red Light	Artist
List of Informal Interviews (no transcript at request/irretrievable data)		
1.	Freelancer	Dutch historian
2.	Human Rights Research & Consultancy	Researcher
3.	Stagiair wethouder Van der Burg Brothel	Brothel owner
4.	NV Stadsgoed Housing Corporation	Policy-maker
5.	The Hague at the Ministry of Social Affairs	Policy-maker
6.	Danny's Leather and Red Light Glam	Business owner
7.	SOR and Brothel	Business owner and head of

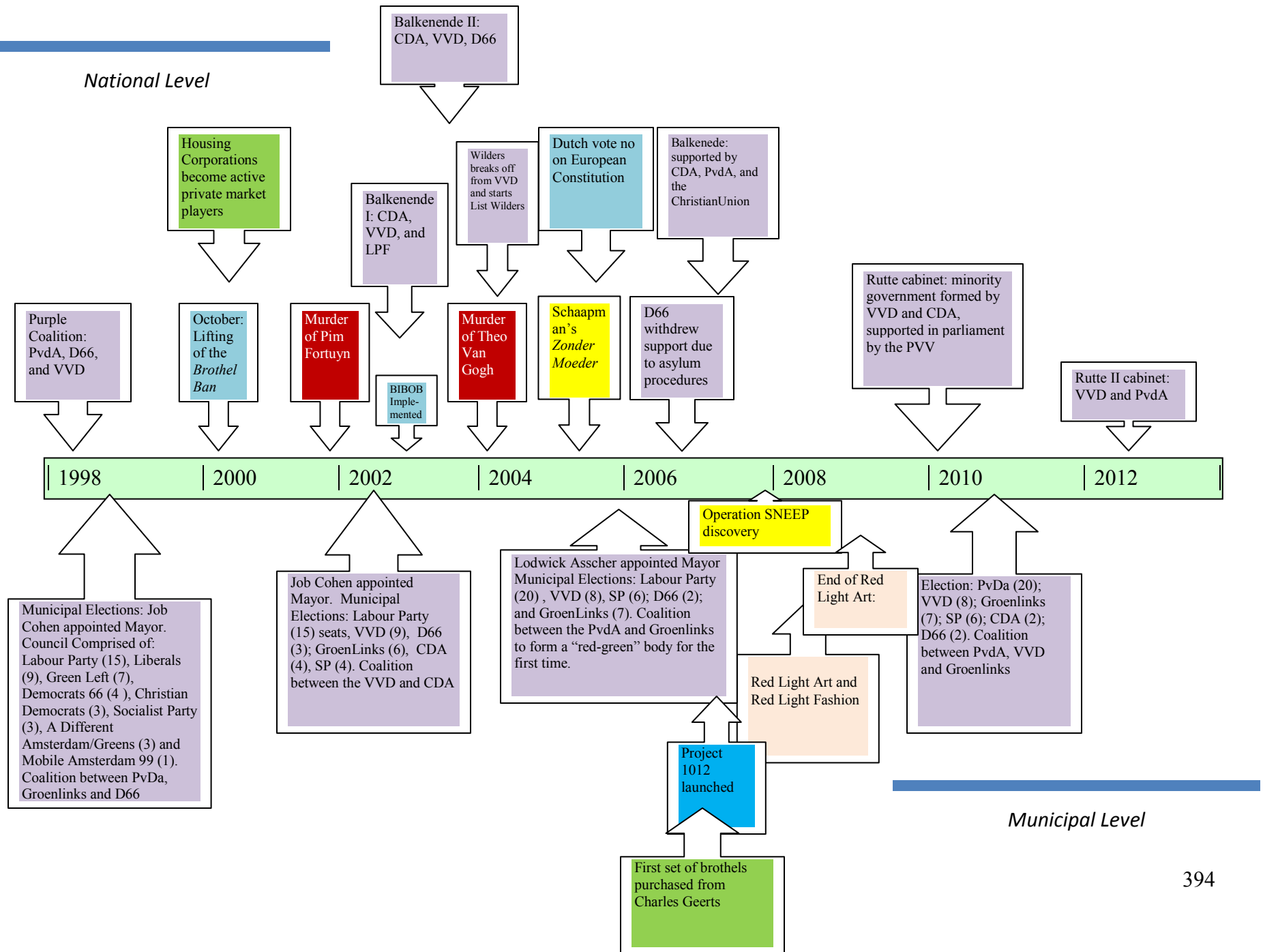
		SOR
8.	Red Light Art	Artist
9.	Rode Draad (Red Thread Union)	Sex workers' rights advocate
10	University of Amsterdam	Researcher
11.	Red Light Art	Intern
12.	Red Light Art	Intern
13.	Stadsgoed (Housing Association)	Employee

APPENDIX B: SEX WORK RELATED OFFENCES IN THE NETHERLANDS

OFFENCE	ACT	MAXIMUM PENALTY	COMMENT
Coercion	250bis	Six years, or either if more than two parties were involved in the act of coercion	Punishes those who, by physical coercion or another act of violence coerce another person into making him or herself available to sexual activities with a third party against remuneration or who otherwise, under aforementioned circumstances undertakes any action that he or she knows or can reasonably suspect will induce the other person to engage in these activities
Coercion of a Minor	250bis	Eight years	He or she who deliberately takes advantage of a another person's sexual activities with a third party against remuneration, if the other person is a minor."
Trafficking	Penal Code 250ter sec 1, 2 and 197a	Six to eight years	Human trafficking in the Netherlands is defined as the 'taking and holding of people under duress to work in various branches of industry, including prostitution regardless of whether this happens voluntarily or by force.'
Trafficking of a minor	Penal Code 250ter sec 1, 2 and 109a	Eight years	He or she who recruits, brings back or abducts another person with the intention of inducing this person to make him or herself available to engage in sexual activities with a third party against remuneration in another country.

The table is modified from that of Hubbards, Matthews and Scoular; 2012

APPENDIX C: POLITICAL TIMELINE



¹ Exiting the field is challenging for researchers because they are then supposed to establish a critical distance from an “emotionally consuming experience,” and relate their interpretations to theoretical bodies of knowledge that are deemed relevant to their discipline (Behar, 1996: 5). Behar best describes the complexity of this situation:

Lay down in the mud in Columbia. Put your arms around Omarira Sanchez. But when the grant money runs out, or the summer vacation is over, please stand up, dust yourself off, go to your desk, and write down what you saw and heard. Relate it to something you’ve read by Marx, Weber, Gramsci or Geertz... (1996: 5).

Many patterns and commonalities emerged among the interviews. Determining whether these were points of generalizability required me to consider the methodological risks involved. Integrating the findings of my field research to form conclusions necessarily required that I use my own judgment and remain cognizant of these risks. In an effort to buffer the interpretation and analysis stage against overwhelming subjectivity I followed Mead’s suggestion to verify the data by simultaneously using more systematic research (2004: 25). Mead argues that theory has its place in framing the researcher’s conclusions, but it is most important that any assertions in the lead-up to these conclusions are cross-checked with the use of other methods and/or evidence. Following Mead’s suggestion, I often asked myself: “Do the connections that respondents assert between certain policies and results really hold; and if they hold at one site, are they valid across the entire program?” (1997: 548). For example, in those instances where an interviewee claimed that the sex industry was completely excluded from the process, I cross-checked this assertion with the accounts from others who were involved to see whether their version of events was the same. In addition, I looked for evidence of participation from groups in agendas and/or other recordings. For example, I noted that in response to a claim by a prominent brothel owner that conversations were happening behind closed doors at a forum, the lead of Project 1012, Pierre Van Rossum argued that “you are always there!” To investigate this claim further, I poured over city council documents that where sex work was discussed and looked for evidence of community consultations with brothel owners. I found none. The brothel owner, an individual who represents several other brothel owners, insists that he has not been invited to sit down with city officials unless it is for a discussion with their lawyers. In other instances, a former brothel owner had claimed to start the Association for Window Brothel Owners (SOR) in order to adhere to new regulations and improve the industry’s image. However, in later conversations with several different owners, I discovered that this owner was not, in fact, a part of the original group of SOR members and that SOR started out as a lobby group. The interviewee, who had since left the business, had painted a picture of an amicable relationship between regulators and the brothel industry, a relationship that I soon discovered did not exist. The process of cross-referencing and verification across a variety of sources effectively substantiated the conclusions that are made throughout the dissertation and mitigated the risks involved with identifying generalizable trends.

A separate challenge making it difficult to draw conclusions is the deep polarization within the community and the position that my dissertation would eventually have to take, which I was certain would offend some of those I interviewed. Sex work, and Project 1012 in particular, is so divisive that it is difficult to provide adequate coverage of all the political antagonisms that surround it, without becoming aligned with any particular set of criticisms. While undoubtedly immersed in the politics throughout the duration of my research, for the most part I refrained from aligning with any particular group to maintain some semblance of objectivity (though I did attend a conference with a brothel owner). I also vigilantly managed the relationships and nature of interactions (informal interviewing) among stakeholders, so that I could map the players involved and list potential interviewees. The most obvious of the Project 1012 antagonisms played out in the mainstream media, including debates between brothel owners and politicians and between sex work organizations holding divergent views on what prostitution’s “problems” are or were. Now that I have exited the field, my interpretations of the events and my argument will undoubtedly offend some of those who kindly gave me the time for an interview, but I have shared the quotes used with the interviewees to ensure that they are not out of context. The argument I present, while it may be offensive, is my own and not one I felt ready to make until I had exited the field.

² The International Roots of the BIBOB:

Since its introduction, the BIBOB Act has undergone two iterations: the first in 2007 and the second in 2013 (Ministry of Security and Justice, June 2013). Neither legislative process openly sought the participation of sex industry stakeholders; in fact, the law broadened the already extensive authority of the Van Traa Team. To mark its 10-year anniversary in 2013, the authority of the BIBOB Bureau was extended to cover real estate transactions and rack renting² (Ministry of Security and Justice, 2013). However, in a small concession to business owners, the administrative costs of appeal were reduced, although it is not entirely clear by how much. The central argument here is that the BIBOB Act maintains its strength within urban policy because it demonstrates to the Netherlands’ international partners a tough-on-crime approach.

The BIBOB Act constitutes part of an organized crime agenda originally developed in the 1990s. As Van de Brunt argues, while the organized crime agenda was initiated in response to public outcry within the Netherlands, it is now maintained largely by foreign pressure:

...foreign pressure and criticism have kept organised crime on the Dutch political agenda. The United States in particular has criticised the Netherlands for not doing enough to investigate and prosecute criminal organisations involved in the production and international trade of ecstasy. As a result of this kind of

criticism, an additional € 20 million is spent annually on investigating this form of organised crime in the Netherlands. Many Dutch citizens consider these foreign comments an exaggeration of the situation and they view them as an uncalled-for criticism... The public's interest in the subject of organised crime has subsided. After all the excitement in the 1990s, the pendulum has now swung back (Van De Bunt, 2003: 690)

Specifically, the BIBOB Act was drafted under guidance from the 2004 Public Procurement Directive of the European Parliament and Council, pertaining to the "coordination of procedures for the award of public works contracts, public supply contracts and public service contracts" (Ministry of Defence, 2005). The primary purpose of the directive was not to establish fair rules across jurisdictions and create a transparent and thus safe investment environment. With the past three governments strongly committed to European market integration, it becomes clear why the BIBOB Act has remained at the forefront of the organized crime agenda despite changes to the Netherlands' governing coalitions.² The implementation of the BIBOB Act demonstrates leadership in addressing transnational organized crime and, relatedly, helps the Netherlands to manage its international reputation (Hekma, 2009: 1) and its integration agenda.

There are, however, non-commercial factors that support the BIBOB Act's dominance. At the same time that the BIBOB Act signals a tough-on-crime approach, it has had a disproportionate effect on the sex industry and thus undermines the Purple Coalition's earlier objective of normalizing the industry via lifting the *Brothel Ban* (Leek and van Montfort, 2004: 431). However, it is likely that these biases have not been brought to bear in a deliberative arena, such as in the promised parliamentary review, because since 2002 the Christian Democratic Appeal has maintained a strong position on the Netherlands' ruling coalition (Outshoorn, 2004: 169). Although all parties advanced support for the BIBOB Act based on the possibilities of European integration, the Christian Democratic Appeal (CDA) may have additional reasons for supporting the law. The CDA maintains a strong abolitionist position and may be dis-inclined to initiate a parliamentary review of the BIBOB Act, which has, in its implementation, effectively reduced the size of the sex industry and thus supported their abolitionist standpoint. In light of the outcomes of the BIBOB Act, the support for the BIBOB Bureau from governing coalitions from 2002 onwards indicates a strong moral agenda and a position that runs counter to the political motivations that led to legalization.

³ The City of Amsterdam has asked sex workers not only to comply with all tax investigations but also to register their names with their local chamber of commerce. In 2009, the CDA (see above) drafted a bill that, if passed, would require sex workers to carry licenses and register at City Hall. The 2009 bill would also further enable municipalities to monitor and survey the sex industry because "they will no longer be permitted to delegate their supervisory duties to the police" (Dutch Ministry of Foreign Affairs, 2012: 6, 12).