

Turning Points and Chains of Changings ...

... in the legislature and legal practice in The Netherlands ...
 ... concerning pedophilia and pedosexuality
 Liberation, Moral Panic, and now ...?

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Please, note firstly ..

... that pedophilia and pedosexuality are not the same.

- Pedophilia is a feeling or desire, that no law can declare as illegal;
- pedosexuality is acting, about which society can and has made laws.

Here below, I will highlight some turning points and the changes that have followed within the Netherlands during the last ten decades.

1968

The Sexual Revolution has started a period of relative sexual freedom, at least for a part of the population. In the seventies and the eighties several groups have started, promoting more sexual freedom for all and acceptance of pedophilia as an existing fact.

In 1970 the Minister of Justice has started the 'Advisory Committee Moral Legislation', usually called 'The Committee Melai'. The committee produced three interim reports and a final report in 1980. One of the proposals was introducing a provision that sex with a minor only should be sued if a minor between 12 and 16 year had filed a complaint.

The NVSH, 'Dutch Association for Sexual Reform', published in 1978 a Report 'Ages of consent and moral legislation – Protection or threat?' The report said that specific moral laws were not needed because other laws already forbid e.g. the use of violence. If the legislator still wanted specific moral laws, the interest of the minor should get priority. Give protection against (threatening to) violence and abuse of authority, but legislation should not interfere with sexual contacts of minors that are wanted by and accepted with agreement and consent by themselves.

In 1979 a Petition was published by jurists, humanists, a reverend radio pastor Alje Klamer and NVSH, asking for what NVSH had published in 1978. This petition was signed by roughly 60 organizations, including 5 political parties, and by many individuals, including lawyers, criminologists, teachers and parents.

In 1982, the Association Martijn was founded, aiming to speak openly about pedophilia and the acceptability of it in society.

Famous names were Senator Edward Brongersma, psychologist Dr Frits Bernard, researcher Dr Theo Sandfort and radio pastor reverend Alje Klamer.

This period was, at least for parts of the population, a period of a relative liberation for minor-attracted persons, but also for (grand)parents and teachers who felt free to comfort and hug their children, thus also for children and youth.

Moral Panic

Moral panic usually starts with a serious incident.

- A first reaction of the public is to magnify the incident to a dangerous trend and to give it a label. For serious (pedo)sexual incidents, this label was wrongly 'pedophilia', thus 'the pedophiles' were labeled as dangerous persons.
- The next stage is to create more rules and laws to diminish The Danger(ous Persons).
- In the third phase, the panic diminishes and gradually disappears to the background.

1984

A Member of the USA Congress, Ms. Densen-Gerber (if I remember correctly) visited the Netherlands to speak with the government about our reputation, especially Amsterdam, as a modern 'Sodom and Gomorrah', especially concerning the availability of child pornography. Note that the phenomenon 'some people like to see some pictures' got magnified to 'a new Sodom and Gomorrah'. Our government promised to set more limits.

This has started a discussion, doubts about the sexual freedom, especially concerning children and youth and pornography. Just in Amsterdam, there was a quite fanatic police chief who scouted around for child pornography ... and especially the viewers of those images and their possible sexual acts with children. The public climate became less tolerant.

Also in 1984 NVSH published a plea for *self-development, autonomy and self-determination* in sexuality for all, including youth, for whom *protection if needed and freedom of choice if possible* was the norm.

Following the Melai Committee's advises, the Parliament accepted in 1991 a law in which sex with children younger than 16 kept being forbidden, but that sexual acts with youth from 12 to 16 years of age only should be sued if a complaint had been filed by the youngster, his or her parent or legal representative, or a representative of the Dutch council for child protection. The Parliament decided to evaluate this decision some years thereafter.

In 1994, a first evaluation was published by the *Verweij-Jonker Institute*, mentioning several problems caused by the legislation of 1991. The minister asked the Institute to further investigate those problems. The Institute reported in 1998 – see here below.

1995

In this year, the UN organized a convention about the rights of children, especially the right to be protected, especially against sexual exploitation and child pornography.

In the same year, the Dutch Parliament and government changed the law concerning child pornography. Not only producing and spreading is kept forbidden, but also to stock it. This “stock” was originally meant as “to spread or sell it”, but some years later, the same word became read as “possessing” it.

In 1996, the Netherlands and Belgium were shocked by the criminal acts of Marc Dutroux in Belgium, actually exploiting and hungering children in a cellar, a serious crime, but worldwide wrongly called “pedophilia”. Dutroux did not love children, he did love money. ‘Pedophiles’ were wrongly seen as ‘just like Dutroux’. This was a serious incident that started the process of moral panic.

The same year was in Stockholm held the *Congress against the Commercial Exploitation of Children*.

In 1998 an extensive final report ‘The functioning of the complaint requirement’ was published by the Dutch *Verweij Jonker Institute*, mentioned here above. In this report, young people themselves plead for more freedom, but the Institute advised to cancel the passage in the law about the necessity of a claim from 12 to 16 year old youth, because young people exploited in child prostitution did not dare to fire a claim. The report concluded, as the minister said, that “we must protect youth against themselves”.

In 1999 the government has sent an invoice to the Parliament, named *Combatting sexual abuse and sexual violence against children*.

2000

In 2000 started the next phase of the moral panic: the creation of more and more severe rules and laws. The government presented a *National Action Plan* to combat sexual abuse of children. The plan was

- cancelling the ‘12-16-exception’,
- changing the age limit for child pornographic images from 16 to 18 year of age,
- to add virtual images to the illegal images and
- to more severe punishment for “possessing” child pornography.
- Prosecution in cases of supposed sexual abuse of children could be started by the prosecutor even if there is no claim filed.

Also in 2000, NVSH published a Report *Children, Youth and sexuality; safety, freedom and education*, and held a symposium *Youth sexuality and the moral laws*. Analysts told the symposium that a new period has started, a period of polarization and scapegoating ‘The Pedophile’ as ‘a Monster like Dutroux’.

The NVSH Report strongly criticized the National Action Plan, firstly because of the too broad or even missing of definitions of the main concepts ('child', 'sexuality') and the poorly substantiated argumentation for more and more severe laws, for instance by giving figures and conclusions from research without making the crucial difference between offenders and non-offenders. Also the figures about recidivism of moral offenders are strongly overdone or simply not true. Not *every or all* sexual experiences during childhood are by definition intensive and lifelong harming, and are not always negative experiences; they can also be neutral and even positive (or, this is my addition: ambivalent – FG).

These laws, said NVSH, were unnecessary because using violence, delusion and abuse is already forbidden in other existing laws, and not every intimate, erotic or sexual act is violent. Moreover, NVSH doubts if more laws are an effective way to create more safety. Better ways to safety are more and better sexual education, more help for self-development, autonomy and self-determination in sexuality for all, including youth, for whom *protection if needed and freedom of choice if possible* might be a better norm.

Also: "Childish sex with an adult can be OK, adult sex with a child is wrong". Make difference between sexual feelings and sexual acts. See also the difference between 'sexuality'

- during childhood (playing and discovering the body),
- adolescents (discovering and experimenting intimacy and sexuality) and
- (young) adults (starting relationships).

Regrettably, the NVSH Report has had no influence in the legislation process. In 2001 followed a law proposal, accepted in 2002, with the changes mentioned in the National Action Plan, mentioned here above.

2007 - 2010

In 2007, there has been a Congress in Lanzarote, in 2010 followed by a Treaty: *Council of Europe Convention on the Protection of Children against Sexual Exploitation and sexual Abuse*, usually called "The Lanzarote Convention".

"Sexual Abuse" is defined as *every* sexual act with a child younger than the legal age of consent. "Child" is "any person under the age of 18".

- Abuse has to be forbidden and *the abuser* has to be excluded from "professions whose exercise implies regular contacts with children" by a mandatory 'declaration of behavior' (Art 5.3) – in the Netherlands a lifelong exclusion.
- Art. 8.2 demand measures "to prevent or prohibit the dissemination of materials advertising the offenses established in accordance with this Convention". See the forced end of the Association Martijn, to be described here below.
- Art. 12.1 demand measures the plight for child protection workers to report "any situation where they have the reasonable grounds for believing that a child is the victim of sexual exploitation or sexual abuse". Art 12.2 demands

the same for “any person who knows about or suspects ... sexual exploitation or sexual abuse of children ...”

- Art. 20.1. adds “procuring child pornography for oneself ... (1.d) and “possessing child pornography” (1.e) to the list of offenses, as well as “knowingly obtaining access ... to child pornography” (1.f).
- Art. 20.2 describes child pornography as “any material that visually depicts a child engaged in real *or simulated* sexually explicit conduct, or *any* depiction of a child’s sexual organs for primarily sexual purposes”.
- Art. 20.3 makes it possible to exclude from these demands “simulated representations or realistic images of a non-existent child”.

In **2010**, the Netherlands have been shocked by a new severe incident, the crimes against very young children of the child care worker in a nursery and as a child sitter in private homes Robert M. Thus, phase two in the moral panic chain, severe controls (declarations of behavior) of male child care workers followed – and the amount of male child care workers diminished sturdily.

2012 - 2014

The Association Martijn, founded in 1982, has been forbidden in 2012, then allowed on appeal, but again forbidden by the High Court of the NLs in 2014.

In **2016** the Dutch prosecutors (read: the Minister) have adapted the definition of child pornography to the Lanzarote Conviction

- by adding “possession” and “obtaining access” to the definition, as well as
- “children in erotic poses” and
- “material that is not evidently illegal, but for which children are exploited” or are
- “seemingly involved in a sexual act”.
- Also unnatural pose,
- attributes or clothes or make-up,
- images with scarcely visible (parts of) sexual and other organs of a child, and
- emphasis on certain parts of the body.
- Also suggestive gestures (“half open mouth” or “a sultry look”).
- Also *so-called* “art”, “models” and “naturism”.

Consent of the child does not matter. Recidivism has to be actively prevented by forced treatment, even in the lighter cases without a conviction.

Police gets more rights to search houses and computers of suspected persons and to confiscate images that are not illegal, but can refer to a certain life style or interest of the suspected person. For instance photos of children made in public places, as well as innocent images meant for sexual stimulation.

The aim of the prosecutors is “to combat a subculture who child abuse promotes or presents as normal and acceptable” (read: the Association Martijn – and the PNVD, see here below).

2020: The PNVD

The “Political Party for Neighbor love, Freedom and Diversity” started in 2006 by some members of the Association Martijn, but canceled itself in 2010, not being able to gather enough understanding declarations and money, thus votes.

The same persons started in 2020 an e-mail list for ‘pro [sexual] contact’, accessible by anybody under a nickname, *thus* accessed by public, journalists and police detectives. Quite soon, the starters and moderators of the list have been accused of “re-establishing the working of the then illegal Ass. Martijn”. House searches, police research and arrests followed.

The PNVD re-established itself in August 2020, not expecting to recruit enough votes to enter the Parliament, but because a political party is allowed to have and express more (radical) ideas than an association of foundation is allowed to do, e.g. cancelling the king. The program actually claims much more freedom, including sexual freedom, for all people of all ages.

The public reaction was furious. Many Facebook pages with lots of followers, as well as several demonstrations strongly rejected the PNVD and its ideas.

Also several anti-pedo groups/sites started up. Young people approached men, pretending to be a young teenage girl who wanted sex on a meeting place. There the young people confronted the men quite aggressively in about 250 incidents, including one case of homicide.

Prosecutors and police reacted with “Stop this hunt!” Police started to hunt, not the pedo’s but the pedo-hunters, of whom the first predators are already convicted. Since then, the hunters keep silence.

Should here, according to a Dutch proverb, the shore reverse the ship?

Or, in terms of the moral panic process, is here starting phase three in which the panic diminishes and gradually disappears to the background?

2021: Two contrasting trends

One trend is described just here above: strong anti-pedo opinions of a part of the population, partly fed by the complot theories of QAnon, telling about ‘satanic pedophiles drinking children’s blood and trying to rule the world’. This trend can be seen in a part of the population in a polarized society. The USA and the UK are severely polarized, the Netherlands (with now 89 political parties) are far less polarized, but still more or less.

A problem created by the reestablishment of the PNVD was that ‘the public’ thought that *all* ‘pedophiles’ wanted free sex with minors. This is far from true.

There is another trend going on nowadays. Gradually, but more and more, the crucial difference is seen between pedophilia (feeling) and pedosexuality (act).

Professional helpers, researchers, and even the popular press acknowledge this difference. The 'pedophiles' themselves have developed a new ethical code: no sex. The new organization "Virtuous Pedophiles" with a 'no [sexual] contact' ethic, had hundreds of members of followers, in contrast to the very few people who support the 'pro [sexual] contact' ideology of e.g. the PNVD.

Writers of research overviews acknowledge that many research projects in the past wrongly have examined (often even only) *offenders* and their convicted acts, not *pedophiles* and their feelings and ethical ideas. Research among the latter has started now, which is more possible since respondents are able to anonymously give their opinion and data via the Internet.

Professional helpers are now changing their methodology, thus their view, even for offenders. Gradually more and more their *clients* are no longer seen as *patients* with a distortion, but as *persons* searching for a way to have a good or better live, thus for a better way and style of living. This model is called *the Good Lives Model (and Self-Regulation Model)*. In this model, the *patient* (sick, ill, deviant, distorted) viewed *against* the helper (healthy, normal), but the *client* is seen as a *person* who *together with* the helper search for what has gone wrong and what will be a better way to a good life according to the aims, values, possibilities and self-regulation of the client.

Here appears not 'a Dutroux' or 'a Robert M.', but the "NOMAP", the Non Offending Minor Attracted person. He or she might become welcome in society, no longer as a 'distorted patient', but as a person with a less common (sexual) orientation, thus possible with a social problem, which is not dangerous as long as the person has the self-discipline to control his or her impulses, just as every (sexual) orientation demands to every person.

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