

# THE ORIGINS AND FUTURE OF THE DUTCH APPROACH TOWARDS DRUGS

JUSTUS UITERMARK

*This paper considers the roots of the Dutch approach towards drugs. It argues that the idiosyncratic nature of Dutch drug policies can be explained by taking into account the peculiar evolution of the Netherlands' political institutions. The distinctive character of Dutch policies is explained through the concept of gedogen. Gedogen refers to the practice of discriminatory enforcement. Gedogen can be defined as a regulatory system of organized toleration and targeted repression. Only those illegalities that are actually considered to cause social problems are targeted for repression. As such, the policy differs markedly from orthodox prohibitionist policy approaches. Policies towards ecstasy and cannabis are discussed to illustrate how gedogen works in practice. While it is argued that gedogen has functioned well for a number of years, doubts are expressed about the extent to which the Netherlands can be expected to continue to play the role of pioneer with respect to drug policies. After a revival of conservative politics, the country now seems ill equipped to develop alternative drug policies.*

## INTRODUCTION

This issue's central theme is innovations in European drug policy, and the contributors have been asked to discuss recent innovations within their respective countries. This assumes that, in Europe, there remains an opportunity for genuine innovation. Many commentators feel that is especially true for the Netherlands. The fact that prohibition laws are only selectively applied in the Netherlands provides us with the opportunity to speculate about alternatives to global prohibition (Levine, 2003) and how these might be developed. Even though there are many ambiguities

---

Justus Uitermark was trained as a human geographer at the University of Amsterdam and has worked as an assistant researcher for the Centre of Drug Research (CEDRO) of the University of Amsterdam. He has also worked with Peter Cohen (CEDRO) on a research project on amphetamine use in Amsterdam. In addition, he has done research on policies towards ecstasy consumption. Currently, Justus is pursuing his Ph.D. at the Amsterdam School of Social Science Research. E-mail: J.L.Uitermark@uva.nl.

in Dutch drug policy, it is remarkable that successive Dutch governments over the last 30 years continued to develop and support an alternative approach to the regulation of drug use, while withstanding strident national and international pressure.

Despite these accomplishments, it would paint too bright a picture to restrict our discussion to innovations in Dutch drug policy. That is, it would be a mistake to assume that the Netherlands, as a progressive stronghold in a highly conservative international context, is gradually developing an increasingly rational drug policy, based on sound scientific evidence and a tolerant attitude towards this form of deviant behavior. In fact, the Dutch situation is at present not nearly so clear or unambiguous. Thus this paper will highlight the Netherlands' historical accomplishments but at the same time it will argue that it is currently losing, at least to some extent, its quality as a milieu for policy innovation.

The paper is organized as follows. First, an analysis of the historical roots of Dutch drug policy is provided and some general features of the Dutch approach are discussed. It will be argued that the distinctiveness of Dutch drug policies can largely be explained by taking into account the idiosyncratic nature of the development of the Netherlands' political and cultural institutions. The reasons why recent political developments may signal a break with the past will also be explained. Although there is no conclusive evidence that major changes are underway, some elements of the Dutch approach to drugs seem to be eroding. In particular, the ascendancy of the conservative party and the antipathy amongst the general public towards a government that tolerates and regulates what it also forbids (gedogen, or discriminatory enforcement) indicate that the support for progressive drug policies is not as great as before.<sup>1</sup> Second, policies towards the consumption of cannabis and ecstasy are discussed. It is argued that each of these policy areas has its own dynamics and peculiarities but that both are subject to the general processes identified in the first section; that is, the distinctive features of the policies are under threat due to recent political developments. In concluding, it is questioned whether in the future the Netherlands will be able to serve as an example for other countries that are looking for alternatives to prohibitionist policies.

#### THE ROOTS OF THE DUTCH DRUG POLICY

As is well known, Dutch policies are, to a certain extent, unique.<sup>2</sup> This is not to say that elements of those policies cannot be found anywhere else. Switzerland in particular has taken some interesting steps, for example, with respect to heroin (Killias & Rabasa, 1997). Nevertheless, the liberal attitude of the Dutch government towards drugs seems unmatched by any other government in the world. Many accounts of Dutch drug policy have focused in particular on those who played a role in the formation of its policies, such as the Baan commission (Cohen, 1997).

The Netherlands, however, is not the only country where such commissions have advised against severe legal punishments and prohibition of drug use. To explain Dutch drug policy, we therefore must examine not only what commissions have recommended but also why their recommendations have been accepted. This means that we should address the institutional context in which drug policy is shaped.

These contextual factors can be studied in the literature on Dutch corporatism, since it is also concerned with identifying and explaining typical characteristics of the Netherlands' politics and culture (the *locus classicus* is Lijphart, 1982). This literature argues that from the mid-19<sup>th</sup> century onwards, there was a balance of forces in Dutch politics. Protestants, Catholics, and secular liberals each represented roughly the same proportions in the population, making it impossible for any social or religious group to build or maintain a dominant position for a long period of time. Since no group could impose its political programs or policies on others, this also meant that disputes and disagreements frustrated the formation of policies. All this changed in the 1920s, when increasing labor radicalism pressured representatives of each of the subcultures into negotiations, which ultimately culminated in the "pacification" of the "school issue" (Stuurman, 1983). With this agreement, each political party set aside its objections to the reforms suggested by other parties in return for the other parties' support for their most important demands. The result was a major modernization of the legal and political structure of the Netherlands. Most importantly, the agreement stipulated that each religious subgroup was entitled to manage its own service infrastructure – including schools, hence the name of the arrangement – with full financial support from the central government. From this moment on, it became common for representatives of the respective subcultural pillars to establish compromises on a national level and to allow subcultural groups to manage their own affairs without much interference from the central state. The system was based on a high level of tolerance and understanding on a national level and an equally high level of paternalism and interference on a local level. Especially in the immediate post-war period, 1945-1960, the welfare state, in its typical pillarized form, expanded dramatically to become one of the most comprehensive in the world (Cox, 1995).<sup>3</sup>

These brief remarks about Dutch political history provide a background against which one can analyze changes in drug policy. From 1965 to 1975, Dutch drug policy began to take shape, and it became clear that the Netherlands would develop a set of drug policies that diverged from mainstream prohibition in some significant ways. Even though it was not until 1976 that an alternative policy was formally established, De Kort (1995) convincingly argues that specific attention must be paid to the years just before the recommendations of the Hulsman and Baan commissions (1971 and 1972, respectively). He demonstrates that in both policy

and enforcement, the commission reports were milestones in an ongoing process, rather than autonomous causes of change. In his analysis, he shifts attention to the period prior to the publication of the results of the Baan commission (1972). De Kort demonstrates that prior to the recommendations of these commissions, each department of government had already formulated its own position. Civil servants in the department of health adhered strongly to the pharmacological variant of the stepping stone theory, arguing that a relaxation of cannabis laws would cause major health problems.<sup>4</sup> In contrast, employees of the department for recreation and cultural affairs subscribed to sociological labeling theories and suggested that decriminalization was one important step in the "normalization" of drug use.<sup>5</sup> The ministry of justice leaned more towards the latter viewpoint, as it viewed drug use as a social and health problem rather than as a purely legal matter. Outside of these three departments there was support for some form of legal relaxation amongst religious parties, strong support for legalization or quasi-legalisation amongst the progressive parties, and strong opposition to a drug policy that would depart from the spirit or (worse) the letter of the 1961 United Nations (UN) Single Convention agreements within the ministry of foreign affairs.<sup>6</sup> Overall, it is fair to say that there was a balance of forces within the government around 1970. However, three factors eventually tipped the balance in favor of comparatively lenient policies.

First, and most significantly, a tradition of lenient law enforcement already existed. It was customary for Dutch police to act on the basis of the so-called expediency principle, meaning that repressive intervention is not an automatic response to illegality. Moreover, the expediency principle was applied in its positive variant: laws and rules are enforced only when there are reasons to intervene, which usually relate to the risk or actual occurrence of individual and societal harm.<sup>7</sup> This relaxed style of policing is supported by formal regulation; that is, there are official guidelines that police should follow (Korf, 1995, pp. 58-63).

Second, the religious parties were starting to realize that they were gradually losing the dominant position they had held in the pillarized political landscape of the immediate post-war period. In particular, they feared that they were losing touch with the younger generation. For example, the antirevolutionary party, a relatively progressive Christian political party, feared that aggressive enforcement of cannabis laws would exacerbate the generational conflict and called for an approach that would acknowledge the ability of youths to make their own decisions. Prohibition clearly did not fit with this vision (De Kort, 1995, p. 197). Van Agt of the Catholic Party of the People, the Minister of Justice from 1968 to 1973, held similar views, as he also strongly believed that legalization was ultimately the most appropriate answer to the rise of new subcultures in which cannabis use played an important role.

## THE DUTCH APPROACH TOWARDS DRUGS

The third process was the general proliferation of youth movements in the Netherlands and in Amsterdam in particular. Similar movements were probably as strong elsewhere, but, arguably, they were better able to gain ground in organs of representative government. For example, the Provo's party, a left-leaning libertarian party that originated within the youth movements of those times, acquired some seats in Amsterdam's local government. More generally, the youth movements were considered as legitimate partners for debate. The proportional electoral system and the tradition of pacification here undoubtedly played roles as well.

In sum, the Dutch approach, if there is such a thing as a single coherent approach, is rooted in the practices of cautious policing and enforcement. In addition, it has been promoted by a relatively powerful youth movement, supported by influential political pressure groups and facilitated by a culture and tradition of pacification.

Apart from these three factors, one should note two other characteristics of the Netherlands that may have influenced the formation of alternative drug policies. First, in line with theories of urban society (e.g. Lofland, 1973; Bahrtdt, 1998), one can expect people in cities to be more tolerant towards differences, including those concerning the consumption of drugs. Indeed, international research has shown that people in cities are far more likely to disapprove the punishment of cannabis users than are people in rural areas (Korf, Riper, & Bullington, 1999, p. 458). While this is true for Amsterdam as much as it is for other large non-Dutch cities like Copenhagen, Berlin, and Manchester, it is important to note that the Netherlands is the most urbanized country in the European Union.

A second and related issue is that in the Netherlands, drugs have not been strongly associated with marginalized groups that are believed to constitute a threat to the purity of the nation, as the welfare state has prevented the formation of such (ethnic) groups. Also, perhaps as a result of the significance of political pluralism, there has never been a very strong sense of the direction in which society should move – in contrast to countries like Sweden and the United States, where such nationalist imagery has fostered negative feelings towards so-called deviant groups, including drug users.

## THE POLDER MODEL AND THE GEDOOG POLICY

Contemporary changes in Dutch drug policy should be analyzed in light of this historical background. More recently, *gedogen* has been associated with the so-called polder model. The polder model refers to a situation where different stakeholders respect each other's opinions and try to reach outcomes that are desirable for all through negotiations, discussions, and mutual deliberation.<sup>8</sup> In its current form, the polder model was first established in 1982 with the Accord of Wassenaar, when representatives from labor, capital, and the state reached an

agreement on socioeconomic reform (Visser & Hemerijck, 1997). This accord is not without precedents, however, and many scholars argue that the polder model is embedded in a culture that first took shape during the pacification of religious and social tensions during the 1920s. In this interpretation, the polder model is not simply an approach that can be implemented anywhere or anytime, but rather is the historic outcome of specific social and cultural processes (see for example, Terhorst & van de Ven, 1998; Uitermark, 2003). While it initially started as a special type of corporatist arrangement in the field of labor relations, the polder model now refers to a broader practice of cautious governance in which negotiations, compromises, and deliberations are seen as efficient and decent alternatives to the authoritarian imposition of governmental plans (Delsen, 2000). In this context, rules and laws serve as guidelines and are only called upon with much hesitation. The government performs a crucial role in this system as the *primus inter pari* – a partner that cannot impose its plans upon others. Yet the government has many resources at its disposal, and its cooperation is crucial if programs ranging from health care reform to wage negotiations are to be successfully implemented.

In the traditional pillarized society, as in the polder model, the government is present everywhere but always remains in the background. It finances education and television channels, but it does not determine what is taught or broadcasted. It intervenes when labor unions and employers reach an impasse in their negotiations, but it does not impose its will on either party. The role of the government in the management of education and the economy exhibits some similarities with the way in which it deals with illegalities. In this area, too, the government plays a pivotal role and is present everywhere; however, regulations provide an alternative to strict enforcement. As in education and the economy, the government expects others to take responsibility for resolving legal matters. The central government will assist in these matters only if it is necessary. In the case of cannabis, this means that proprietors of coffee shops are allowed to sell the drug if they yield to regulations, even though it is still officially listed as an “illegal” drug. In the case of ecstasy, it means that consumption is condoned as long as there are voluntary associations, municipal health departments, and local police who can regulate its use in such a way that related harms are minimized.

Before elaborating on the attitude of the Dutch government in these two policy areas, *gedogen* must be discussed. As a philosophy, *gedogen* is based on the idea that it is wrong to deny the existence of illegality, since attempts to achieve a utopian society totally free from illegality will necessarily bring more harm than well being. This implies that law itself has a somewhat ambiguous status. Enforcement of the law is considered to be a means to an end, but not an end in itself. If desired goals can be attained by other means, nonjudicial measures are preferred. As stated

above, the ability of institutions and people to regulate their own behavior, with or without help from the government, is valued (Van Oenen, 2001a). Rules are only enforced if the overall effects of doing so are considered to be positive – a situation that only occurs if people and institutions have failed to accomplish this on their own initiative.

The philosophy of *gedogen* is clearly antagonistic to the view that the enforcement of the law should prevail in all cases (Van Oenen, 2002). Such a view can be considered as fundamentalist insofar as authorities establish one principle over all others – the law should be enforced – and accept the consequences that might result from this inflexible line of action. Persons who adhere to this fundamentalist view might argue that society needs one singular juridical framework that is not subject to any ambiguities whatsoever. In their view, it is not of concern that enforcement may have detrimental short-term effects.<sup>9</sup> Employing this line of reasoning, the issue is not the effect of any one measure, but rather, the status of the law itself. Proponents believe that if the status of the law is reduced, no one will be able to rely on the law when such reliance is necessary. Therefore, the argument goes, it is better to have strict and occasionally unjust and undesired enforcement practices than weak laws.

Can one then classify the Dutch approach as pragmatic (as do, for example, De Kort & Cramer, 1999) or even opportunistic (as opponents of Dutch policies might prefer)? To call *gedogen* pragmatic would not do justice to the moral and ideological premises on which it is based: that citizens and organizations are, to a large extent, capable of managing their own affairs; that the government should not be considered superior to society; and, most importantly, that the attempt to tackle juridical inconsistencies can never relieve us from the moral duty to minimize the negative effects of laws and regulations on groups that have relatively little political and financial power. Another feature that might easily be overlooked if Dutch policies are merely described as pragmatic is that they are more, rather than less, consistent than the prohibitionist alternatives. This is the paradox of the *gedoog* policy; it may seem arbitrary to enforce some rules and not others. However, the *gedoog* policy is less arbitrary than prohibitionist regimes. Those regimes have only one rule, a fundamental rule, and that is to suppress all aspects of drug culture (all trade, all production, and all types of use). This allows an endless variety of control measures to be taken, since the number of offenses is so incredibly large and their diversity so enormous. By definition then, under the prohibitionist model the established goals cannot be reached (witness the American war on drugs that has not produced any results apart from overcrowded jails). McCaffrey's characterization of Dutch policy as "legal hypocrisy" (Maris, 1999, p. 494) might more accurately be applied to U.S. policy: there is a huge discrepancy between a regime in which drugs simply have no

place and a reality in which drugs are used in high quantities. The hypocrisy, then, is that one rule, and one rule only, promises to provide enough leverage to address all of the problems associated with drug use, while research shows that even massive legal repression barely affects levels of use (Cohen & Kaal, 2001).

In the Dutch system, there are more considerations that authorities take into account. As the following discussion of policies directed at individual drugs will indicate, the *gedoog* policy does not simply tolerate everything, as, for example, Collins (1999) suggests.<sup>10</sup> On the contrary, it offers a way to set priorities: only in the exceptional event that drug use or trade becomes associated with (major) social problems do the authorities intervene. The basic goals are de-escalation and normalization – goals that are far more easily attainable than the complete abstinence by all members of society that is envisioned by prohibitionism (Leuw & Marshall, 1994, p. ix). As De Kort & Cramer (1999, pp. 488-89) note:

... [T]he Netherlands recognizes that certain policy measures, such as the criminalization of users, can produce undesired side effects. Basing a policy on the concept of risk limitation opens the possibility of weighing the desired and undesired effects of policy measures against one another.

Moreover, the rules that are set, such as those related to crime and nuisance, are enforced. The ways in which priorities are set are not arbitrary and are far more sophisticated and sensible than those existing in a prohibitionist regime.

Many Dutch citizens, however, do not view the *gedoog* policy in this way, at least not any more. In the collective imagination of the Dutch, the *gedoog* policy and the polder model became strongly associated with the so-called “purple cabinet,” a coalition of the labor party (Partij van de Arbeid [PvdA]), right-wing liberals (Volkspartij voor Vrijheid en Democratie [VVD]) and liberal democrats (Democraten 66 [D’66]), which ruled from 1994 to 2002. For years this meant that the *gedoog* policy and the polder model in which it is embedded could count on strong support from the public – these policies were as popular as the cabinet and were associated with all kinds of positive developments, ranging from the successes of the Dutch economy that was organized along corporate lines (see Visser & Hemerijck, 1997) to the laws regarding euthanasia. At some point, however, major feelings of dissatisfaction arose in Dutch society. Pim Fortuyn, the former sociology professor who rapidly gained favor in the polls before he was assassinated on May 6, 2002, severely criticized the purple cabinet and said that it had not addressed major problems such as health care, educational reform, and especially the integration of ethnic minorities. Within a few months, the popularity of the purple cabinet dropped



## THE DUTCH APPROACH TOWARDS DRUGS

tremendously – even the parties that had been active participants in it were unwilling to defend its policies. In his farewell speech, former Prime Minister Wim Kok said that gedogen was over. At the time he was addressing two recent disasters, an explosion that obliterated a whole area of the city of Enschede and a fire in a bar that killed and mutilated dozens of youths. Theoretically, both of these accidents could have been prevented if civil servants had enforced existing safety regulations. Kok's speech marked a turning point. Gedogen would now be seen as simple carelessness or weakness, and, from this point onwards, it became commonplace to suggest that rules either had to be consistently enforced or not enforced at all. There is a general feeling that the whole philosophy of gedogen is passé. It is instructive that the largest political party in the Netherlands, the Christen Democratisch Appel (CDA), has adopted as its second of ten top priorities the abolition of gedogen. So, all kinds of problems have been blamed on gedogen, ranging from fires and explosions to the lack of integration of ethnic minorities. To prevent such problems in the future, it is now believed the government will have to consistently enforce its own rules without being overtly concerned about the social consequences of repression.

Below, some recent developments regarding the policies towards cannabis and ecstasy will be discussed. Policies towards both these drugs are interesting, first because they contrast sharply with those of countries that adhere to prohibitionism (notably the U.S. and Sweden) and, second, because policies in both areas show how close the Netherlands has been to normalizing drug use that is illegal everywhere else in the world. In other words, policies towards these drugs indicate to what extent liberal policies can be implemented within the context of global prohibition. However, it will also be argued that the policy of gedogen in both cases has been in place for some years but is now under pressure due to a variety of processes. How do these political and cultural shifts affect drug policies?

### CANNABIS

Certainly the most famous element of Dutch drug policy is that coffee shops are allowed to sell hashish and marijuana. It is important to emphasize that not just anyone who wants to sell cannabis is allowed to do so. In fact, most municipalities do not allow coffee shops in their jurisdictions, and those that do typically try to keep their numbers very low. In addition, the quantity of cannabis that can be sold to individual customers or kept in storage is limited. A maximum of five grams can be sold to each customer, and a coffee shop is not allowed to have more than 500 grams of cannabis on hand at any time. Cannabis can only be sold to persons who are 18 years of age and older. These rules have been developed over a number of years through a process of trial-and-error (Van der Veen, 2002). When internal or

external pressure increases, the rules have been made more stringent and enforced more rigorously. For example, when coffee shops were first permitted in Amsterdam, few rules existed. The number of coffee shops grew steadily, and many people complained that some of them attracted criminality, caused a nuisance, or sold drugs other than cannabis. In response, the municipality of Amsterdam adopted several measures to eliminate criminal activity from the cannabis sector. Official tolerance (*gedogen*) of the coffee shops began there in 1980. Before that, authorities could (and on occasion did) close down coffee shops on the grounds that they possessed more than 30 grams of cannabis. Since that time, the enforcement of rules has become less arbitrary (Jansen, n.d.). When criminal behavior is detected in a coffee shop, when it sells to persons under 18, when it causes nuisance – in short, when it breaks any rule, it will be closed down either temporarily or permanently.<sup>11</sup> No new permits are now being issued to coffee shops, and shops that close down are not being replaced by new ones. Furthermore, the number of coffee shops that sell both cannabis and alcoholic beverages has been dramatically reduced from 109 in 1996 ago to 86 in 1999 (Intraval, 1999).

To outsiders these control measures may seem like a frontal attack on these shops.<sup>12</sup> To some extent this is true. There is talk of a “die out” policy, since the number of coffee shops can only go down over time under the present arrangement. And many coffee shop owners feel that they face disproportionate sanctions and are arbitrarily targeted for close inspections. Nevertheless, the developed system also clearly benefits coffee shop owners. The guidelines set by the city council provide them with some security, and jurisprudence has been growing – some coffee shop owners whose outlets were closed down have successfully appealed. With each lawsuit, it is now becoming clearer what is, and what is not, allowed or prohibited and what the penalties are for, for example, selling to people under 18 or condoning the trade of hard drugs (i.e., drugs that are not officially tolerated, such as ecstasy or cocaine).

Thus, what may at first seem like a simple neglect of formal laws is, upon closer inspection its opposite: in the absence of rigid enforcement, rules have proliferated and arrangements have evolved according to the needs of the situation. Thus, neighborhood residents can file complaints when there is nuisance, and customers know what they can and cannot buy. Most importantly, the rules help the authorities to establish their priorities. Authorities do not concern themselves much with the sale, distribution, or use of cannabis. Instead they focus on those problems that are especially problematic, such as nuisance and crime. This serves as a prime example of the paradox of the *gedoog* policy: since the decision to enforce existing rules is not based on the elusive desire for a drug-free society, but on a number of other considerations, it becomes possible to enforce rules in such a way that markets are

regulated instead of suppressed. While suppression may lead to the relocation of markets (and nuisance), regulation can help to reduce negative externalities and to create a relatively secure environment for both sellers and buyers.

Yet there are processes at work that might interrupt further progress towards the normalization of the retail side of cannabis. Even though the number of coffee shops is relatively stable, over time this number will likely decline rather than increase. This situation has several potential adverse effects. First and foremost, the system is slowly eroding, since each coffee shop that disappears takes with it the whole idea that cannabis should be treated in a similar fashion to other substances. Second, it can be expected that all kinds of problems will subsequently arise with regard to the distribution of cannabis (Cohen & van der Veen, 2002). If the number of coffee shops declines and the level of cannabis use remains roughly stable, the remaining coffee shops will have to increase their turnover in order to meet the demand. This will make it more difficult to obey the 500-gram rule. We can also expect that if demand remains stable and supply is reduced, the remaining coffee shops will be able to charge higher prices. In addition, small, neighborhood coffee shops will slowly disappear to make room for larger businesses, which means that, *ceteris paribus*, the sector will commercialize even more rapidly than other sectors. Several coffee shops have already developed into chain operations due to expansion, mergers, and takeovers.

Another process at work is growing general dissatisfaction with the gedoog policy itself. Whereas the first two processes are slowly evolving and do not necessarily reflect conscious and informed decisions, there has also been a very explicit attempt by some politicians to directly reconsider the policy towards cannabis. They argue that the cannabis policy is inconsistent and suggest, in line with the new political beliefs, that such inconsistencies should be resolved. Hence they argue that cannabis should either be legalized altogether, which means that consumption, sales, and production would no longer be subject to criminal law, or that it should be completely banned.

### ECSTASY

The Dutch government outlawed ecstasy in 1988 in response to international pressure (Fromberg, 1991; De Loor, 1998). At that time, ecstasy was being imported from the United States, and there were concerns raised that the Netherlands could become a production site for the drug if it was not prohibited. However, ecstasy consumption was of no concern to the government. This changed when the Netherlands, like many other countries, saw a sharp rise in the consumption of ecstasy in the early 1990s. While ecstasy use had previously been restricted to a small number of people, government officials now felt they needed to consult experts

about coping with the new situation. At the time, the experts generally agreed that there were no indications that ecstasy was particularly harmful and advised against stringent enforcement of the law.<sup>13</sup> Since there were no concerns about the effects of ecstasy use on public health, the law remained a dead letter. Around 1990, most ecstasy users did not even know they were breaking the law (De Loor, 1998). When ecstasy use began to rise and to become integrated into burgeoning youth cultures, the government became increasingly concerned about potential harms that might result from it. However, years before ecstasy became an official concern of the government, several nongovernmental interest groups had already investigated its effects on the health of users. They developed policies in line with the harm reduction philosophy.

The employees of August de Loor's Drug Consultation Bureau (Stichting Adviesburo Drugs) played a key role in this regard. From 1986 onwards, this bureau developed an integrated approach to ensuring safety during large-scale (dance) events. The Safe House Campaign was the most explicit example of this harm reduction approach. The Safe House Campaign focused mainly on AIDS prevention and nonharmful drug use. De Loor (1998, p. 48) explains: "By testing drugs, providing information on drugs and sex, and supplying contraceptives in an original way, we impress upon the public the need for safe use and safe sex."

The Adviesburo was soon able to convince local governments, municipal health services, and the local police of the importance of its work. Thus, the lack of strict enforcement of the legal ban on ecstasy use made possible the development of local health coalitions that had as their common goal the reduction of harm that might result from the use of synthetic drugs. Police officials supported rather than frustrated the work of these health coalitions – they did not seek to arrest consumers at parties and allowed pill testing.

In the 1990s, when ecstasy use became a concern for policy makers, they did not try to formulate a new approach. Instead, they looked closely at local-level developments and tried to learn from those experiences. The result was that the central government explicitly promoted a harm reduction approach to ecstasy use in 1995, although it did not impose this approach on local governments. Instead it formulated guidelines that were based on the experiences of large cities, Rotterdam in particular, and left the municipalities to decide for themselves if they wanted to adopt those guidelines in the local policy – a strategy that respects the differences that exist among municipalities.

The role of the central state was not simply to provide guidelines, however. It also provided services that local governments could not offer for logistical reasons. The most obvious example of this is scientific research into the effects of ecstasy use. Another, more interesting example is represented by the Drug Information

## THE DUTCH APPROACH TOWARDS DRUGS

Monitoring System. Again, the Adviesburo played a vital role since it was the first to systematically test pills. People who use ecstasy can now go to about 30 testing facilities spread throughout the Netherlands to have their pills tested. They are then told whether the pills indeed contain ecstasy (or amphetamine, etc.) and whether they also contain harmful substances. Clients are also told that the test can only give an indication of the contents of the pill and can never guarantee the safety of the user. This system benefits users by providing them with relatively accurate information. In addition, it is a vital source of information for the authorities, who now have access to a relatively inexpensive and comprehensive system to monitor the drug market.

The regulatory system that was first visible in embryonic form in 1986 had matured by 1995 and was both sophisticated as well as effective. Ecstasy policies, however, even more than policies for cannabis, have recently come under considerable pressure. Here too, several processes have been at work. First, while the Netherlands has been portrayed in an unfavorable light in the international media because of its alternative policy towards cannabis from the 1970s onwards, it has more recently become renowned for ecstasy production. For example, it is often claimed, without any convincing evidence, that the Netherlands now produces 80% of the world's ecstasy (e.g., Drug Enforcement Administration, 2001). The alleged leading role played by the Netherlands in ecstasy production is explained by a variety of factors, such as its pivotal facilities for transport and the prevalence of a large chemical industry. Various attempts to eliminate the conditions that are favorable for the production of ecstasy, however, have not been limited to production and distribution but have also been directed at consumption. Thus, a central element of the Dutch policy approach, that is, the complete separation of policies towards production and consumption, is now being eroded. This is most evident from remarks made by a representative of the Unit Synthetic Drugs, a law enforcement conglomerate that has been specifically created to combat the production of synthetic drugs, claiming that pill testing practices send out the wrong message to other countries. Some politicians are displeased with the policies towards ecstasy consumption because they feel it is difficult to legitimate harm reduction policies as long as the Netherlands is not successful in combating ecstasy production. The mission statement of the cabinet, which was in office for less than a year, declared that the policy of so-called "quasi-toleration" had to be ended. It remains unclear if the new cabinet, which came into office in June 2003, will follow its predecessor or if it will revive the earlier harm reduction policy.

Such dissatisfaction with policies that specifically concern ecstasy coincides with more general feelings of dissatisfaction with respect to the gedoog policy. Many Dutch politicians now want to appear tough on drugs. The policy of Mayor

## UTTERMARK

Job Cohen of Amsterdam is a case in point. Whenever he has information that drugs, primarily ecstasy, are being sold somewhere, he orders a large-scale house search of that facility. Whenever drugs are found in those searches, he withdraws the permit of the club in question. The two biggest clubs in Amsterdam, the It and the Escape, have in the past year been closed because their proprietors allegedly allowed or even supported drug dealing. Many people, including representatives of Amsterdam nightlife, have pointed out that this policy is not likely to have any significant impact on ecstasy use. The clubs are already trying to detect drugs – they body search everyone who enters the club and confiscate any illegal substances. Despite these efforts, however, they simply do not have the means to prevent drugs from slipping through in socks, underpants, or bras. Also, the parties where drugs were being sold are now taking place somewhere else – the location has changed although the organizers remain the same. The mayor actually admits that his policy is only meant to show party organizers and club owners that they should not think that they are outside the law. Since it is impossible to prevent drug use and sales completely, what he is in fact saying is that no club owner is safe from prosecution, regardless of his or her approach to synthetic drugs. In relation to the spirit of the 1995 memorandum, the mayor's actions have not supported harm reduction measures in the field of synthetic drugs, but have one-sidedly focused on repression.

## DISCUSSION

Contemporary Dutch drug policies are the products of a lengthy social evolution. Dutch drug policies are not the direct result of the Baan commission recommendations or those of any other body of experts. In fact, many commissions in other countries, including the U.S., have argued explicitly against an exclusively repressive approach towards cannabis use and in many cases towards other drug use as well (Zimmer & Morgan, 1997, pp. 151-165). Thus, the explanation must be found elsewhere. In the Dutch case, the strength of youth movements and the formation and subsequent collapse of a pillarized political structure seem of prime importance. This raises significant questions with regard to the transferability of drug policy innovations. In the case of the Netherlands, it seems to be the environment, and not so much the response of policy makers, that best explains the idiosyncratic nature of Dutch policies. Thus, these policies were among the unintended outcomes of more encompassing social processes.

The Dutch example does offer some promise to other nations in their own drug policy deliberations, even though the methods that have worked well for the former would not necessarily produce similar results in totally different cultures. This writer believes that several lessons can be learned from the Dutch example.

## THE DUTCH APPROACH TOWARDS DRUGS

First, the Dutch example is an anomaly in the international prohibition movement, and, as such, a constant reminder that the rules set out by the general conventions are not ironclad laws. There is always room for interpretation (Bewley-Taylor, 2003, pp. 173-174). This means that when and where the conditions are such that groups of people or local governments start to reconsider drug policy, they can look to the Netherlands for parameters: to see to what extent policies can differ from the norms of global prohibition without serious consequences.

Second, the Netherlands, along with several other countries (Jelsma, 2003), has tried to prevent organizations such as the United Nations Drug Control Program (UNDCP) from simply dictating policy. The Netherlands may not be a major donor to the United Nations and, therefore, has a limited capacity to realize its agenda (if it has one), but it is comforting for countries like Mexico (see Bullington, this issue) that the opposition towards the U.S. led coalition against drugs also comes from a developed country with a relatively good international reputation. In any case, it is difficult for the U.S. to achieve hegemony, either on the level of policy or on the level of research, with respect to international drug treaties. Its hegemony already exists on paper, since the U.N. has no other priorities apart from combating drug production and use. However, it has not yet been realized in practice since countries fiercely object to some of the ideas behind those treaties both before and after they are signed (Jelsma, 2003).

Third, to a certain extent the Netherlands functions as a laboratory (see also Cohen, 2003). The Netherlands has developed alternatives with respect to, amongst other things, the regulation of the sale of cannabis and the reduction of harms associated with ecstasy. In the future, whenever other countries adopt more liberal stances towards drugs, they do not have to reinvent the wheel – instead they can apply some of the programs and approaches that have been tested and proven effective in the Netherlands, by adapting these to local circumstances.

The question remains whether the Netherlands will continue to play such a trend-setting role in the future. Again, the unusual nature of Dutch drug policy is a consequence of the Netherlands' unique historical development, politically, socially, culturally, and economically. The evolution of drug policies then becomes a question about institutions and culture: do these support approaches as they did during the formative years between 1965-1975? The answer is no, for several reasons: One relates to the general demise of youth movements and social movements. In the 1960s, 1970s, and 1980s, Dutch social movements, ranging from the peace movement to the squatter movement, were vibrant, effectively challenging the paternalism that was so typical of the pillarized institutional structure. However, while Kriesi (1989, pp. 1112-1113) could argue at the end of the 1980s that the mobilization potential for new social movements would not significantly diminish, it is now obvious

that those movements have in fact quickly lost steam – at present, it is difficult to discern any strong and broad countervailing movement in contemporary Dutch society. Of course, there are many individuals and groups that oppose plans to reform drug policies along conservative lines, but they do not enjoy widespread support. This makes it likely that the conservatives, supported by right-wing liberals and the smaller Christian parties, will no longer face very strong national opposition when they attempt to end a situation in which they see the Netherlands as being “out of line” with international standards and policies. It is not suggested that there is no support for the Dutch approach at home, but it may be questioned if such support is large (and radical) enough to withstand international pressure.

A second reason is that, while countervailing forces are absent, 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. The prime minister, Jan Peter Balkenende, and the minister of justice, Jan-Hein Donner, would like to ban coffee shops as soon as possible. They would be supported in this effort by the largest daily newspaper (the right-wing *De Telegraaf*) and the largest weekly (the right-wing *Elsevier*), each of which regularly feature articles arguing against gedogen and/or drugs. 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. It is only possible to make such a sweeping claim if one is acutely unaware of the intricacy of the institutions that implement the gedoog policy (Van Oenen, 2001b). Nevertheless, such commentaries have become more frequent during the last few years.

A third reason relates to ongoing foreign pressure, especially from the United States, but also from the European Union. Calls to harmonize laws and regulations are frequent. In addition – as seen with the example of ecstasy cited above – a link is often suggested between the role of the Netherlands as a producer of synthetic drugs and cannabis and its relatively liberal policies towards the consumers of these drugs. Since the politicians now in office are not prepared to defend the Dutch approach, they are likely to sacrifice existing harm reduction policies. In addition, the expansion of enforcement agencies is bringing pressure to bear on extant Dutch policies because these agencies are working to strengthen their ties with the U.S. (Uitermark & Cohen, 2003, 2004).

Despite these conservative trends, a complete transformation of Dutch drug policy cannot be expected in the next few years. The large number of rules that have been developed over the past decades cannot be changed overnight. Yet it is



clear that the conservative momentum is bringing the Netherlands closer to other countries in some crucial respects. Today the earlier creative cocktail of a crumbling system of pillarized social control, plural political institutions, and powerful youth movements does not exist. Those who long for the past can only hope that in the near future some kind of broad political and societal coalition will take shape that can revitalize the Dutch tradition of innovative drug policies.

### ACKNOWLEDGMENTS

Large parts of this paper were written while I was affiliated with the Centre for Drug Research, University of Amsterdam. I would like to thank Peter Cohen of CEDRO and Craig Reinerman of the University of California at Santa Cruz for their comments on an earlier draft of this paper. The paper was finished while I was a guest researcher at the Department of Geography and Planning, Nijmegen School of Management, Nijmegen.

### NOTES

- <sup>1</sup> I use the term "progressive" in a very general sense to refer to all of those measures that are developed as an alternative to prohibitionist policies. I use the word "prohibitionist" in an equally general sense to refer to all those policies that are primarily or exclusively aimed at preventing the use of drugs. In practice, policies in almost any country will consist of a mixture of progressive and prohibitionist policies but there is of course a difference between countries that principally prefer progressive policies (such as the Netherlands) and countries that prefer prohibitionist policies (the United States, Sweden).
- <sup>2</sup> Let me state right away that I provide a somewhat stylized account of the policy approaches I discuss. In particular, the two concepts I dwell upon at length, the gedoog policy and the polder model, only exist as ideal types. However, by overemphasising some of the distinctive features of the Dutch policies, I feel the discussion can be of more use to outsiders who might want to learn from (or criticize) Dutch policies.
- <sup>3</sup> Sweden of course represents another prime example of a developed welfare state. Since this country's drug policies have many similarities to those of the United States, it is evident that there is no one-to-one correspondence between the progressiveness of drug policies and the stage of development of the welfare state. A comprehensive comparison with Sweden is not possible here, but I do want to point out that with regard to the factors I consider most relevant for explaining Dutch drug policies, Sweden is in most cases the direct opposite of the Netherlands. For example, whereas the Netherlands has been a distinctly plural society for decades, Sweden has a much more homogeneous cultural

make-up. As a consequence, it has been easier to create a single image of the "perfect" society. In the absence of countervailing forces (such as the youth movements that were so strong in the Netherlands), prohibitionist social movements have been able to turn their views into official government policy. On Swedish drug control policies, see Boekhout van Solinge (1997, 1999) and Tham (1995).

- 4 The stepping stone theory refers to the idea that the use of cannabis (or other drugs with relatively low perceived risks) is likely to lead to the use of other drugs. There are at least two different variants of this theory. The pharmacological variant of the theory holds that the consumption of cannabis alters the functioning of the brain and will cause a longing for more intoxicant drugs in cannabis users. A sociological variant holds that individuals who consume cannabis can become part of a certain subculture where high-level drug use is the norm – in this interpretation, cannabis users will only develop into "hard drug" users if they are isolated from mainstream culture and/or are drawn into deviant subcultures because of their use.
- 5 Normalization here refers to the socialization of drug users in cultural groups that are not deviant. It can be opposed to a process in which drug use triggers negative responses from society to the effect that the user is forced to socialize in deviant subcultures.
- 6 Quasi-legalization refers to an approach that does only *de facto* but not *de jure* allows certain activities, for example, the consumption of cannabis.
- 7 The negative variant of the expediency principle works the other way around: rules and laws are enforced unless it is obvious that harm to individuals and/or society would result from such interventions.
- 8 A polder is a piece of land that has been reclaimed from the sea or a lake through drainage. It is customary to use the word polder to refer to attitudes and practices that are considered to be "typically Dutch."
- 9 For example, chasing the homeless away from places where loitering is not allowed is costly for the public, usually exacerbates and/or relocates the nuisance, and is, of course, highly disadvantageous for the homeless person in question.
- 10 Collins (1999, p. 84) argues that it is typically Dutch to wilfully ignore some illegalities. According to Collins, such an attitude is epitomized by what he considers a typical Dutch saying: "to look through the fingers," which he considers a euphemism for denying the unpleasant parts of reality. Following Collins' preference for metaphors, we might consider the U.S. approach to drugs as a boxing-glove trying to grasp grains of sand: using such means, it is only possible to retain some residues while the vast majority of the grains will escape and it is altogether impossible to mould the grains into a pile of the desired shape.

- <sup>11</sup> Under international pressure, the rules have been made a little tighter in recent years. Cannabis could first be sold to persons aged 16 and older. And whereas first coffee shops were allowed to sell up to 30 gram to an individual, that quantity has now been reduced to five grams.
- <sup>12</sup> Interestingly, this is not true for many smaller municipalities. Conservative strongholds like Kampen and Nieuwegein now slowly start to allow one or more coffee shops within their jurisdictions.
- <sup>13</sup> As an aside, I want to point out that, regardless of the standards that are used to determine dangerousness or harmfulness, there is no a priori reason to prohibit the use of drugs that are considered dangerous or harmful. A strong case can be made for basing policies on the presumed effects of such a law instead of the effects of drugs themselves (e.g., Polak, 2003).

#### REFERENCES

Baan Commission

1972 *Achtergronden en risico's van druggebruik*. Den Haag: Staatsuitgeverij.

Bahrtdt, H.P.

1998 *Die Modernen Großstadt: soziologische Überlegungen zum Städtebau*. Opladen: Leske + Budrich.

Bewley-Taylor, D.R.

2003 *Challenging the UN drug control conventions: Problems and possibilities*. *International Journal of Drug Policy*, 14, 171-179.

Boekhout van Solinge, T.

1997 *The Swedish drug control system*. Amsterdam: Cedro/Mets.

Boekhout van Solinge, T.

1999 Het Drugsbeleid in Zweden. *Justitiële Verkenningen*, 99(8), pp. 69-81.

Cohen, P.

1997 The case of the two Dutch drug-policy commissions: An exercise in harm reduction, 1968-1976. In P.G. Erickson, D.M. Riley, Y.W. Cheung, & P.A. O'Hare (Eds.) *Harm reduction. A new direction for drug policies and programs* (pp. 17-31). Toronto: University of Toronto Press.

Cohen, P.

2003 The drug prohibition church and the adventure of reformation. *International Journal of Drug Policy*, 14, 213-215.

Cohen, P., & Kaal, H.

2001 *The irrelevance of drug policy. Patterns and careers of experienced cannabis use in the populations of Amsterdam, San Francisco and Bremen*. Amsterdam: Cedro, University of Amsterdam. Retrieved May 18, 2004, from [www.cedro-uva.org](http://www.cedro-uva.org).

- Cohen, P., & van der Veen, H.  
2002 *Regulerend ondanks verbod*. Amsterdam: Cedro, University of Amsterdam. Unpublished research proposal.
- Collins, L.  
1999 Holland's half-baked drug experiment. *Foreign Affairs*, 78(3), 82-99.
- Cox, R.H.  
1995 *The development of the Dutch welfare state*. Pittsburgh: University of Pittsburgh.
- Delsen, L.  
2000 *Exit poldermodel. Sociaal-economische ontwikkelingen in Nederland*. Assen: van Gorcum.
- De Kort, M.  
1995 *Tussen patient en delinquent*. Hilversum: Verloren.
- De Kort, M., & Cramer, T.  
1999 Pragmatism versus ideology: The Dutch drug policy continued. *Journal of Drug Issues*, 29, 473-493.
- De Loor, A.  
1998 *The drug XTC does not exist*. Amsterdam: Drug Consultation Bureau. Drug Enforcement Administration
- 2001 *Ecstasy: Rolling across Europe*. Retrieved May 18, 2004, from <http://www.usdoj.gov/dea/pubs/intel/01008/>.
- Fromberg, E.  
1991 *XTC, hard drug of onschadelijk genotmiddel*. Lisse: Swets & Zeitlinger.
- Hulsman, L.  
1971 *Ruimte in het drugbeleid*. Meppel: Boom.
- Intraval  
1999 *Gedogen gewogen*. Groningen: Intraval.
- Jansen, A.  
n.d. *Hasj Coffeeshops in Amsterdam – een historisch perspectief*. Amsterdam: Faculty of Economic Sciences and Econometry, University of Amsterdam.
- Jelsma, M.  
2003 Drugs in the UN system: The unwritten history of the 1998 United Nations General Assembly Special Session on drugs. *International Journal of Drug Policy*, 14, 181-195.
- Killias, M., & Rabasa, J.  
1997 Less crime in the cities through heroin prescription? Preliminary results from the evaluation of the Swiss heroin prescription projects. *Howard Journal of Criminal Justice*, 36, 424-429.

Korf, D.

1995 *Dutch treat. Formal control and illicit drug use in the Netherlands*. Amsterdam: Thesis publishers.

Korf, D., Riper, H., & Bullington, B.

1999 Windmills in their minds? Drug policy and drug research in the Netherlands. *Journal of Drug Issues*, 29, 451-472.

Kriesi, H.

1989 New social movements and the new class in the Netherlands. *American Journal of Sociology*, 94, 1078-1116.

Levine, H.

2003 Global drug prohibition: Its uses and crises. *International Journal of Drug Policy*, 14, 145-153.

Leuw, E., & Marshall, I.H. (Eds.)

1994 *Between prohibition and legalization. The Dutch experiment in drug policy*. Amsterdam: Kugler.

Lijphart, A.

1982 *Verzuiling, pacificatie en kentering in de Nederlandse politiek*. Amsterdam: de Bussy.

Lofland, L.

1973 *A world of strangers. Order and action in urban public space*. New York: Basic Books.

Maris, C.W.

1999 The disasters of war: American repression versus Dutch tolerance in drug policy. *Journal of Drug Issues*, 29, 493-510.

Polak, F.

2003 Legaliseer alle drugs, PSY, tijdschrift over geestelijke gezondheidszorg. May 9.

Stuurman, S.

1983 *Verzuiling, kapitalisme patriarchaat. Aspecten van de ontwikkeling van de moderne staat in Nederland*. Nijmegen: SUN.

Terhorst, P., & van de Ven, J.

1998 Urban policies and the polder model: Two sides of the same coin. *Tijdschrift voor Economische en Sociale Geografie*, 89, 467-473.

Tham, H.

1995 Drug control as a national project: The case of Sweden. *The Journal of Drug Issues*, 25, 113-128.

Uitermark, J.

2003 "Social mixing" and the management of disadvantaged neighbourhoods: The Dutch policy of urban restructuring revisited. *Urban Studies*, 40, 531-549.

## UITERMARK

Uitermark, J., & Cohen, P.

2004 A clash of policy approaches. The rise (and fall?) of Dutch harm reduction policies towards ecstasy. *International Journal of Drug Policy*, forthcoming.

Uitermark, J., & Cohen, P.

2003 *The Netherlands as a branch of the American law enforcement industry?* Amsterdam: CEDRO, University of Amsterdam. Retrieved May 18, 2004, from [www.cedro-uva.org](http://www.cedro-uva.org).

United Nations

1961 Single Convention on Narcotic Drugs. Geneva: United Nations.

Van der Veen, H.

2002 Regulering ondanks verbod – Amsterdam is het gedogen voorbij. *Rooilijn*, 30, 465-470.

Van Oenen, G.

2001a Gedogen in duigen? Een cultuuromslag in het gedoogbeleid. *Openbaar Bestuur June-July*, 19-22.

Van Oenen, G.

2001b Gedogen heeft toekomst, De Volkskrant. September 8.

Van Oenen, G.

2002 *Het surplus van de illegaliteit*. Amsterdam: de Balie.

Visser, J., & Hemerijck, A.

1997 "A Dutch miracle." *Job growth, welfare reform and corporatism in the Netherlands*. Amsterdam: Amsterdam University Press.

Zimmer, L., & Morgan, J.P.

1997 *Marijuana myths, marijuana facts: A review of scientific evidence*. New York and San Francisco: The Lindesmith Center.

Copyright of Journal of Drug Issues is the property of Florida State University / School of Criminology & Criminal Justice and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.