

Pride and prejudice.

## Dutch and German Drug Policy in Historical Comparative Perspective

Holland, as I am sure you are all aware, has quite a reputation when it comes to drug use. A Dutch coffee shop even featured in the popular 2004 movie *Ocean's twelve*, when a group of gangsters, played by amongst others, Brad Pitt and George Clooney have a meeting in an Amsterdam coffee shop. We do not actually see them smoking, but some suspiciously vague talking and laughing is definitely going on.

Our country is (in) famous for the distinction we make between soft and hard drugs, and the way in which we tolerate the sale of cannabis products in coffee shops. This brings in quite a lot of tourism: in fact, 35% of all tourists who come to Amsterdam also visit a coffee shop during their stay. We are known as well for our public health approach to drug use in general, meaning that we try to put the health & safety of users first. In The Netherlands, ridding society of drugs is not a policy goal, like for instance in Sweden, as this is considered to be simply impossible. Instead, the primary goal is to limit risks in conjunction with drug use. The umbrella term for this approach is 'harm reduction': minimizing the harm that is done by drug use to both society and the drug user. This means, for instance, supplying methadone and heroin assisted treatment, offering injecting drug users possibilities for needle exchange, and encouraging party drug users to have their XTC and other pills tested.<sup>1</sup>

The Dutch approach is either presented as a successful alternative to the American, or Swedish, policy of zero tolerance - or as an out-and-out disaster. U.S. drug control officials in the past have often denounced Dutch drug policy as if it were an invention of the devil himself. One former U.S. Drug Czar claimed that all the Dutch youth in Amsterdam were "stoned zombies."<sup>1</sup> In fact, Dutch cannabis use is about average

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<sup>1</sup> See for instance: Ed. Leuw, *Between Prohibition and Legalization. The Dutch experiment in Drug Policy* (Kugler Publications: Amsterdam & New York 1994); Tim Boekhout van Solinge, *Dealing with Drugs in Europe. An investigation of European Drug Control Experiences: France, the Netherlands and Sweden* (Amsterdam 2004).

compared to other European countries, higher than in Germany or Scandinavia, and slightly higher than in the UK but lower than in France, or Spain.<sup>2</sup>

In this paper, however, my aim is not to defend Dutch drug policy, but to explain how it has come about, and also highlight several fights we have had with our neighbouring country Germany, where drug policies in the 1970s and 1980s were much stricter. Finally, I will try to draw some lessons for the present from this story about the recent past.

## **Repression**

The Netherlands have not always been tolerant to drug use. In fact, when recreational drug use by youngsters first started to become a social phenomenon in the 1950s and 1960s, Holland reacted to this in a repressive manner. Dutch 'hippies' - or 'Provo's' as they were called because of their provocative behaviour - were regularly arrested for possession of cigarettes filled with cannabis. The Opium Law was revised in 1953 to turn the possession of cannabis products into a crime. Between 1961 and 1969, the number of drug arrests in Amsterdam alone rose from 15 to 451. Young cannabis smokers were jailed, fined, and then sent to an addiction treatment centre for (ambulatory) supervision, treatment and moral re-education. They actually received the same treatment as young persons who were arrested for public drunkenness at the time. In the 1950s and 1960s, in the Netherlands public drunkenness was used as a means to force problematic drinkers into treatment.<sup>3</sup>

## **Lowlands Weed Company**

However, by the late 1960s things started to change. As Amsterdam became the "magical centre of the world", and hippie tourists flocked to the city in large numbers, the police and the justice system simply could not keep up their efforts of prosecuting young cannabis users. An increasing number of cannabis arrests were dismissed. The Provo's, however, did keep up their efforts of provoking the police, for instance by

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<sup>2</sup> <http://www.emcdda.europa.eu/countries/prevalence-maps>

<sup>3</sup> Gemma Blok, *Ziek of zwak. Geschiedenis van de verslavingszorg in Nederland* (Amsterdam: Uitgeverij Nieuwezijds 2011) 145-181.

opening up the Low Land Weed Company: a place where two Provo's were selling marihuana plants, on a boat right across the street from a police station. At large open-air rock festivals, such as the Kralingen festival in Rotterdam in 1970, cannabis was quite openly sold. The first coffee shops already opened their doors as well in the early 1970s. Moreover, in many subsidised youth centres, the staff tolerated the sale of cannabis by a trusted "house-dealer". In short, a situation arose around 1970 where in fact, cannabis use was already being tolerated by police and state officials.

### **The Opium Law revision of 1976**

This situation was then turned into official law in 1976, when the Opium Law was revised in a fundamental way. Some of the more important provisions of the Revised Opium Act are:

- \* Drug addicts should be offered treatment, and not be persecuted.
- Penalties for wholesale international trafficking in hard drugs were greatly increased,
- Possession of cannabis is classified as a minor misdemeanour. However, cannabis was given a pseudo-legal status, allowing for possession of 30 gram for personal use. In effect the provision also protected small-scale dealers from prosecution and paved the way for coffee shops. This was seen as a way of separating drug markets and drug cultures, thereby lowering the risk that hard drugs would be diffused to vulnerable groups of adolescents.

This revision was framed by reports written by two expert committees, which were appointed by the government to look into the 'cannabis problem'. They advised the Dutch government to decriminalize cannabis use. The political climate at the time was receptive to changing the Opium Law as well, as since 1973 a left-wing government was in place, with the Dutch socialist party leading a very progressive coalition indeed. One of the ministers responsible for drug policy was Irene Vorrink, minister of public health, from the socialist party. Her son, Koos Zwart, was a famous hippie in Holland at the time, and a fanatic proponent of cannabis use. Vorrink was in favour of complete cannabis legalisation, like her son. This, however, was deemed one step too far by the socialist Prime Minister Joop den Uyl, as well as by many ministers in his administration, and by members of parliament. Complete legalisation was thought to be too far out of tune with international agreements the Netherlands had signed, such as the Single Convention on Narcotic Drugs (1961).

Remarkably, the socialists were supported in their efforts to decriminalize soft drug use by the Catholic minister of justice Dries van Agt, who asked the rhetorical question: “Do we really want to clip the wings of youngsters who smoke a spliff? No!!” Dries van Agt was not in favour of drug use in itself, but he was sympathetic to a much bigger movement of scientists and others working in criminology and justice in Holland, who wanted to reform the justice system, making it less stigmatising and less repressive. The effect of this larger movement meant that, long before the progressive and permissive sixties and seventies came about, the Dutch incarceration rate plummeted drastically, becoming one of the lowest in the world.

### **Germany: our strict neighbour**

In contrast, in 1971, the German Opium Law was also revised, but very much in an opposite direction to their Dutch neighbours. Sentences for both soft and hard drug users and dealers were increased. At the same time, the German Law prohibited the use of methadone: doctors could be prosecuted or fined for prescribing it to heroin addicts. How do we explain these diametrically opposed reactions to the growing youth drug culture? Certainly, there were people in Germany who favoured decriminalizing cannabis use at the time, and many experts proposed adopting a public health approach to drug use. Moreover, Germany was also lead by a socialist liberal coalition.

However, the German political arena was heavily dominated by the Christian-Democrats, who had been in power from the late 1940s until the late 1960s. Although by the early 1970s they were in opposition, they were still a very large and strong force to be reckoned with, and they attacked the socio-liberal government on the issue of drug use. Christian Democrats asserted that cannabis involved a terrible risk for the structure of society itself, and that the liberals just sat by, while foreign criminals and noxious weeds were corrupting the youth of the country. The social-liberal government thought it wise to outdo the opposition by passing a “tough drug law”.<sup>4</sup>

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<sup>4</sup> Sebastiaan Scheerer, ‘The New Dutch and German Drug Laws: Social and Political Conditions for Criminalization and Decriminalization’, *Law & Society Review* Vol. 12, No. 4 (Summer, 1978), pp. 585-606.

## **Harm Dost**

In hindsight, it was unavoidable that Holland and Germany should clash with regard to their diverging drug policies. And clash they did. In 1977, a Dutch social worker Harm Dost, working in an alternative youth centre in the Dutch town of Arnhem, near the German border, was arrested by German Police, when he was visiting a German friend, and put in German jail for several years, for selling cannabis to German tourists in Arnhem. Harm Dost did not deny the charges: he said he just never inquired after a person's nationality when he sold them cannabis. In Holland, there was much anger about the arrest of Dost, both among the general public, in the media, and also within politics. How did Germany dare to impose its own laws on Dutch citizens? As the visual images of the large public protest against the arrest of Harm Dost indicate (swastika's were used on posters, for instance) the rhetoric at the time was far from subtle. The memory of the Second World War clearly loomed large in this debate. After a period of intensive diplomatic activity, Dost sentence was reduced and after a year or so he could go home.

## **Heroin tourism**

Holland and Germany clashed once again in the 1980s, when thousands of German heroin users came flooding to Amsterdam, in search for methadone, better quality heroin, and to escape the German legal system. In Amsterdam at the time, a large methadone maintenance system was being set up, coordinated by the Municipal Public Health Service of Amsterdam. Giel van Brussel, coordinator of the methadone maintenance system in Amsterdam, voiced the criticism by Dutch addiction treatment officials of the German system quite strongly in the communist newspaper *De Waarheid* ("The Truth"). He claimed that Sweden and West Germany addressed the heroin problem "in an almost fascist manner". Germany did not care for its addicts properly, many Dutch experts believed, driving them away to other countries. Germany should solve its own social problems, in a more humane and effective manner. In the 1990s, these international tensions eased as Germany took a more tolerant stance towards methadone maintenance. Harm reduction gradually became more accepted in this country as well as in the Netherlands. The city of Frankfurt even took the lead in

establishing a set of treatment provisions called “The Frankfurt Way”, involving for instance the setting up of drug consumption rooms.

### **National pride**

By the 1990s, Dutch addiction experts, public health officials, and politicians alike, were promoting the Dutch approach in a very proud manner, almost as a cultural export product. Eddy Engelsman, for instance, a senior official working at the Dutch Ministry of Public Health, wrote an article in 1989 in the *British Journal of Addiction* about harm reduction, stating “The Dutch, being sober and pragmatic, opt rather for a realistic and practical approach to the drug problem than for a moralistic or overdramatized one.”<sup>5</sup> As harm reduction was growing into fashion in Europe during the 1990s, the Netherlands was considered to be an exemplary country. Many addiction experts and politicians visited Amsterdam to see the mobile methadone clinics and needle exchange programs with their own eyes, and to be informed about the practicalities of setting up such treatment provisions.

However, Dutch drug policies once again took a conservative turn at the dawn of the 21st century. The concepts of cannabis addiction and of drug-related nuisance became increasingly important in public and political debates. Nuisance is the term the Dutch use to summarise drug-related problems such as public order disturbances, or decreasing property values in the vicinity of dealer locations, or citizens feeling unsafe at home and in the neighbourhood. Nine hundred coffee shops were closed (leaving about 600). In 2002, the testing of XTC-pills at dance-parties was prohibited because the Dutch administration no longer wanted to send out signals that it was “OK to use drugs at parties”. Drug users could still have their pills tested, but only at specifically designated locations, such as institutions offering information on drug use. Some politicians from left wing or liberal oppositional parties are now calling for a return to tolerance, stating, “once again, Holland should become a country at the vanguard of drug policy”.

### **Lessons from history?**

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<sup>5</sup> Eddy Engelsman, ‘Dutch policy on the management of drug-related problems’, *British Journal of Addiction* 84 (1989) 211-218.

As I hope to have shown in this brief overview of Dutch and German drug policies after the Second World War, drug policy has never been a completely neutral, rational endeavour. Rather, drug policies in the Netherlands and Germany during the 20<sup>th</sup> century have been infused with nationalist sentiments, tainted by the memory of the Second World War, and guided by concerns about the moral and social development of young drug users.

Moreover, this short history of Dutch and Germany drug policies also makes clear that cultures of drug use are a transnational phenomenon and a transnational reality. This is why Holland and Germany clashed several times: users do not stay within national boundaries, but are happy to cross them in search of better or more readily available drug. Therefore, national drug policies are lacking in that they do not provide fitting answers and solutions to these transnational movements of users (and dealers).

To conclude, I would like to suggest that it might make more sense to work towards international drug policies, rather than national ones. International cooperation has in fact been growing rapidly since the 1990s, for instance within the European Monitoring Centre for Drugs and Addiction, or the signing of the “Frankfurter Resolution” in 1990 by several European cities who wanted to work towards cooperation with regards to drug policies and harm reduction. Perhaps, historians of later centuries will look upon the 20<sup>th</sup> century as the age of national answers being formulated to emerging drug problems; the 21<sup>st</sup> century might become the age of international integrated drug policies in response to the transnational phenomenon of drug use.

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<sup>1</sup> Craig Reinerman, ‘The Dutch example shows that liberal drug laws can be beneficial’, in: Scott Barbour (Ed.), *Drug Legalization: Current Controversies*. San Diego: Greenhaven Press. pp. 102-108.