

CHAPTER THREE: REALITY OF CANNABIS CONTROL IN EUROPE AND AMERICA TODAY

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Recent Reconsiderations in Dutch Drug Policy

After a period in which a broad consensus on the issue seemed self evident in Dutch society, drug problems and drug policy have again become more prominent on the political agenda and in the public consciousness. During the last two years interesting developments have taken place, in regard to both the national and the international dimensions of the 'Dutch Drug Policy'. Debates and reports on the issue abound in the Dutch parliament, the mass media and in international exchanges within the European Community. Discussions have focussed just as much on the 'pragmatic' drug policy approach as on the nature and extent of drug problems in the Netherlands. I will provide a brief update.

The current resurfacing of concern with drugs and drug policy should be viewed in the context of significant changes in the Dutch political landscape. Since the summer of 1994 the Dutch government is comprised of a unique coalition of political parties. Christian Democrats who have 'always' formed the core of Dutch governments are no longer represented in the government. The present Cabinet is made up of three 'non-confessional' parties which tend to be more liberal on morally significant issues. The basic socio-philosophical notion that drug use is a liability for the individual rather than for the state is definitely more congenial to the present government of social democrats and assorted 'liberals' than to the traditional Dutch government headed by a Christian Democrat. This is even more true in view of the fact that the two Ministries most involved in the regulation of morally significant issues, the Departments of Justice and of Public Health and Welfare, are headed by Ministers from the 'left wing liberal' coalition party which is traditionally most sceptical of state interference in issues involving private behavior.

With the new administration, expectations were raised that the most contradictory element of Dutch Drug Policy, the existence of semi-legal commercial outlets for the consumers market of cannabis, would be more officially regulated. Most specifically, this concerned the disparity between the judicial policy of the 'front door' and the 'back door' of the 'coffee-shops'. Coffee-shops are more or less officially allowed to sell hashish and marijuana to customers at the front door. At the back door, however, the law 'must be' violated in providing the coffee-shop with their necessary stock. Back door transactions may occur between the coffee-shops and more or less organized 'criminal' wholesalers. Along these lines there is a risk that coffee-shops will be appropriated and used as store fronts (possibly for other illegal activities) by such organizations. The increasing awareness of the inconsistency of front door and back door policies coincided with signals from society that a number of coffee-shops were generating problems. Complaints about coffee-shops causing nuisance for the neighbourhoods were heard more often. Increasing suspicion arose that in some coffee-shops 'hard drugs' (particularly cocaine and XTC/MDMA) might be available

and anxiety was expressed that those facilities could function as deviancy producing sanctuaries for adolescents. Within the Dutch Drug Policy coffee-shops were intended to integrate and normalize a certain kind of drug consumption considered to be not very harmful. A degeneration of part of the coffee-shops would obviously be contrary to this essential aim of Dutch Drug Policy.

There were, however, more areas of concern. Since the beginning of this decennium, the number of coffee-shops has rather sharply increased to about 2,000 in 1996. A relatively large number of the new coffee-shops were established in socially problematic neighbourhoods. Many of them were owned or exploited by entrepreneurs from recently developed ethnic minority communities. Enterprises in the 'grey' market between legality and illegality are, almost by definition, poorly regulated. Because for their economic survival marginal groups often (have to) rely on alternatives to the more exclusive conventional economy, this 'grey' market affords easily accessible economic opportunities, specifically for some ethnic minority groups. The ethnic minorities concerned (particularly the Turkish and North-African immigrants) come from traditional cannabis producing countries. This increases the probability that part of the coffee-shops branch will be supplied with cannabis by foreign-based (criminal) organizations. Because of their easy reliance on the facilities of their home countries, these organizations are rather immune to the normal measures of social control. The normalization of the consumption market of cannabis is seriously complicated by such circumstances. The recent concern that part of the coffee-shop branch might be degenerated triggered strongly divergent ideas about possible solutions. An advisory committee from the Public Prosecutors Office proposed that -in time- the coffee-shop practice should be completely abolished. The Christian Democratic party, considering drug policy as an important issue to express their (new) identity as an opposition party, also adopted this so-called 'zero option'. A majority of the coalition parties, however, favoured the opposing solution of sanitizing the consumer market of cannabis by allowing more legal opportunities to supply coffee-shops with cannabis. This possible solution was in line with the local coffee-shop policy in several Dutch towns, where 'gentlemen's agreements' have been reached between coffee-shops and the local authorities. Coffee-shops will be exempted from police interference with their 'normal' business practice (among which the presence of a realistic stock of cannabis) if they 'guarantee' respectability in terms of public order, security and the absence of other drugs than cannabis on their premises. For instance, in the town of Tilburg a limited number of coffee-shops is allowed to exist on this basis. The establishments are actively supervised by the police to ensure a respectable mode of operation. At the same time they are protected by the local authorities from unfair allegations from the neighbourhoods, which are sometimes based on no more than clashes of life-style. Whether favouring the gradual termination of the practice or further legalisation and integration within the conventional economy, all parties in the current debate agreed that the Dutch consumption market for soft drugs should be more seriously monitored by the police and the civil authorities.

Interestingly, the Dutch explicit and unmitigated harm reduction approach to the use of hard drugs has not raised comparable controversy, neither nationally nor internationally. But here, too, some shifting of priorities is noticeable. Complaints from citizens about bothersome effects of more or less officially instituted free zones for hard drugs have, in some instances, resulted in a more repressive and less

accommodating approach to hard drug scenes. In such cases a different balance has been stricken between avoiding unnecessary marginalization of drug addicts and protecting the public from the adversities of a hard drug consumption market. In Rotterdam and Maastricht one 'planned' (Platform 0 next to the Central Railway station) and one unplanned free zone (a 'needle park' along the river Maas) were successfully removed by police actions. It was felt that the major requisite for allowing a free zone, the ability to control the negative effects for security and public order, was no longer warranted. The almost inevitable relocation of the hard drugs scene into a poor residential area of Rotterdam was met with an intensive police campaign to maintain security and public order. In effect, the Rotterdam situation represents a stalemate rather than a solution. Terminating the 'official' free zone for hard drugs has resulted in the establishment of a subdued hard drugs scene within a residential area. Many police are tied up in containing this situation, and the citizens have certainly not stopped complaining about the nuisance of the drugs scene.

In recent discussions about priorities of the pragmatic Dutch drug policy, the international perspective has become more prominent. Here, too, the picture is rather ambiguous. International opinion seems to have polarized. On the one hand Dutch drug policy seems gradually to have earned more European understanding and approval, especially from those responsible for the 'dirty' work of finding feasible solutions to the urban, real life problems of drug markets and drug addiction. But at the same time, some national governments, most notably the French and Swedish, have mounted fierce criticism on the Dutch practice of decriminalizing the use and the consumption market of illegal substances. During the last year (drug) diplomatic relations between France and the Netherlands have become strained. The French government has maintained that its country is negatively affected by the relatively easy availability -close to its border- of illegal substances. Within the European community France is exerting pressure to put an end to the Dutch coffee-shop practice. In response, the Dutch have asserted their right to autonomy in finding its own solution to an internal social and public health problem. Apart from this, the Dutch feel little responsibility for the bleak conditions in the French suburbs, which make using and trading drugs an attractive option for vast numbers of unemployed and disillusioned adolescents, often from ethnic minority communities. But as has been said, mounting European pressure on the pragmatic Dutch drug policy is only part of the story. In particular, many German states (in fact the majority) have adopted much of the Dutch harm reduction and 'normalizing' approach. Just as in the Netherlands, socio-medically supervised free zones for hard drugs are being tolerated or have been instituted in a number of German states. In Frankfurt, public health officials from Amsterdam were invited to set up a large scale methadone program. And likewise, the use and retail trade of cannabis has been decriminalized in those German states. Germany's Constitutional Court in Karlsruhe has recently ruled that (just as in The Netherlands) possession of up to 30 grams of cannabis should not be punished. The rather favorable attitudes of many German states towards the Dutch drug policy is most clearly expressed in an 'open letter' dated March 1996 from the governments of six (out of 15) German states, urging the Dutch government not to succumb to international pressure to redress decriminalization and normalization of the use and retail trade of illegal substances.

Both the national and the international discussion about Dutch Drug Policy have culminated around the governmental Drug Policy Paper, called 'Continuity and

Change' which was presented to parliament in September 1995. In an introduction to a recent issue of a journal published by the Ministry of Justice, the Minister of Justice concluded that according to the new drug policy plan the Dutch practice of tolerance will be fully retained. "Legal prohibitions on trade and production will be sustained, while some small-scale manifestations of this will be tolerated by law enforcement practice, in combination with civil administration measures." (Sorgdrager, 1996) The drug policy paper as well as the parliamentary debate on the drug policy plan clarifies in some detail what this apparently delicate balancing of contradictions means in practice. On the hottest issue of coffee-shops, the new government has decided that this institution should be preserved, although it should be more intensively supervised to ensure respectable modes of business operations. The government has acknowledged the desirability of counteracting the supply of foreign retail traders purchasing soft drugs from Dutch coffee-shops. For this reason, the maximum amount of a single transaction has been reduced to 5 grams of cannabis. The limit of 'non-interference' with possession of cannabis has remained to be 30 grams, however. Furthermore, local authorities have been given more power to resist the establishment or presence of any coffee-shop within their jurisdiction. On the other hand, cautious hints have been given that arrangements at the local level might be considered for resolving the front door-back door discrepancy, by allowing coffee-shops to provide themselves with cannabis from non-criminal 'home-growers'. A large majority of the Dutch parliament has supported this (perhaps mainly ritual) adaptation of the Dutch soft-drug policy.

According to the Drug Policy Plan and the parliamentary debate, the policy concerning the demand side of hard drugs will remain largely unchanged. Again, a slight mixture of more repressive and more decriminalizing measures has been proposed by government and has been accepted in parliament. A new provision will be devised allowing for the incarceration of highly criminal drug addicts in specialised therapy-oriented institutions. In practice, this provision will resemble penal law commitments to forensic psychiatric detention centers. The policy plan suggests one or two years as a maximum term for such commitments. In itself, this intended penal law measure for 'compulsory treatment' represents a new perspective in Dutch drug policy. It conflicts with the more traditional rejection of any form of non-voluntary treatment for addicts. However, counterbalancing this more repressive innovation, the policy plan has also broken another 'taboo' in the Dutch harm reduction approach to hard drug addiction: The start of some small-scale experiments with the medical prescription of heroin. The heroin maintenance programs will aim at older addicts in destitute psycho-social circumstances, those having a long history of addiction.

Small steps in different, sometimes opposite, directions may be typical for a drug policy which tries to compromise between the apparent futility of drug prohibition and the unknown perils of legalization.

Literature:

Sorgdrager, W.: Nederlands drugsbeleid, pragmatisch en effectief. Justitiele Verkenningen no. 9, 1995.