JAN J.M. VAN DIJK

THE NARROW MARGINS OF THE DUTCH DRUG POLICY: A COST-BENEFIT ANALYSIS*

ABSTRACT. In order to introduce more structure to the debate it seems worthwhile to make a rough cost-benefit analysis of the probable effects of the Dutch drug policy in various areas. A multi-disciplinary analysis of this nature makes it possible to bring together the arguments put forward by the protagonists from various perspectives and to some extent balance them against each other. In a traditional cost-benefit analysis the anticipated effects are assessed in financial terms. This is only possible to a very limited extent when it comes to drug policy. The article is limited to cataloguing as fully as possible the most significant pros and cons of the Dutch drug policy found in the literature on the subject. As a conclusion, attention is paid to whether changes such as 'decriminalisation' or 're-criminalisation' of drug use will yield a better cost-benefit analysis against the background of this overview.

KEY WORDS: cannabis, control costs, drug policy, harm reduction, legalisation

The national and international debate about the approach to illegal drugs is proving to be a dialogue falling on deaf ears. The discussion is hindered by the absolute normative starting points that are adopted. Those who, for ideological reasons, regard the use of drugs as inherently reprehensible under all circumstances, will not easily be won over by a policy aimed at limiting the harm to public health. Even if such harm is in fact limited, they regard drug use as completely unacceptable. Advocates of a tough criminal approach are rarely willing to recognise that their policy may have serious negative side effects or be even counterproductive (De Baare 1996). A policy of this nature often seems to fulfil as many expressive as instrumental functions. On the other hand, people who regard the consumption of drugs as mind-expanding in itself, and place it in a positive light, will rarely be impressed by the medical risks involved. As far as they are concerned, the risks are no worse than those involved in other dangerous habits such as consuming alcohol or smoking cigarettes containing nicotine.

Also those who base their reasoning on more objective positions, such as academic drug experts, often seem to have diametrically opposed views. In my view, their inability to communicate is founded primarily on the fact that they view the problem from different perspectives. Some econo-

* This article is an adaptation of a Dutch article published in *Tijdschrift voor Criminologie*, 39(1), pp. 2–24, 1997.

European Journal on Criminal Policy and Research **6:** 369–393, 1998.

mists and lawyers advocate decriminalisation, putting forward the argument that this would put an end to illegal markets in which criminals are presently operating profitably. Their analysis is convincing in itself, but fails to address the risk to public health linked to the anticipated increase in consumption due to lower prices. Those who advocate a tough criminal approach can also point to local successes. But they say nothing about the enormous investments required and the number of addicts who die of overdoses or infections as a result of such an approach.

The medical sector understandably works hard towards providing addicts with good, easily accessible care. With this humanistic approach, however, it is easy to lose sight of the fact that a tolerant approach to addicts can lead to them becoming a disproportionate nuisance to others. Finally, there is the argument – used by some as the final, definitive argument – of international obligations and/or pressure from abroad. Others reject the international dimension as irrelevant to the national policy of an independent state. There is no question in either case of any balancing of the international implications to the Dutch policy in relation to the other anticipated effects.

In order to introduce more structure to the debate it seems worthwhile to make a rough cost-benefit analysis of the probable effects of the Dutch drug policy in various areas. A multi-disciplinary analysis of this nature makes it possible to bring together the arguments put forward by the protagonists from various perspectives and to some extent balance them against each other.

In a traditional cost-benefit analysis the anticipated effects are assessed in financial terms. This is only possible to a very limited extent when it comes to the drug policy. The effects are partly of an intangible nature (such as the well-being of the drug users or the anxiety of those living in large cities concerning drug-related crime). Furthermore, the balancing of some factors depends largely on normative convictions. The article is limited to cataloguing as fully as possible the most significant pros and cons of the Dutch drug policy found in the literature on the subject. As a conclusion, I will give attention to whether changes such as ‘decriminalisation’ or ‘re-criminalisation’ of drug use will yield a better cost-benefit analysis against the background of this overview. Finally, I will discuss the probable effects of the partial adjustment of the drug policy introduced by the Dutch government in 1996 (Ministry of Health, Welfare and Sport 1995).

THE DUTCH DRUG POLICY

Clearly, a cost-benefit analysis can only be carried out after establishing the global content of the Dutch policy and the ways in which it differs from that conducted elsewhere in the world. The Dutch drug policy, as conducted since the beginning of the 1970s, is largely defined by its concentration on public health aspects and a restrained criminal approach.[1]

Harm Reduction

The Dutch drug policy, including the enforcement of the Opium Act, is first and foremost expressly designed to protect public health. The policy is not aimed at prohibiting the consumption on drug use on moral grounds but at limiting the harm to public health. In the international debate this is typified as being aimed at *harm reduction* or *damage control*.

This starting point is primarily expressed in the distinction in law and policy between drugs involving unacceptable risks to health (hard drugs, such as heroin, cocaine and XTC) and cannabis products (soft drugs). The primacy of public health is also clear from the extent and quality of the care and aid facilities for addicts. Few other countries spend as much on these facilities per 100,000 inhabitants as the Dutch government (Ministry of Health, Welfare and Sport 1995). Defining features of Dutch health care for addicts include the easy accessibility and large-scale provision of the substitute drug methadone and the good medical care, including the supply of clean needles to prevent the spread of contagious diseases. In some cities the municipalities have opened 'users reception rooms' wherein drug addicts can use drugs without interference from the police on the condition that no nuisance is caused and dealers are kept at bay. In several cities, the police also condone private organisations to test the purity of XTC-pills at 'rave parties'. All these measures are primarily seen as forms of harm reduction.

Restraints in Criminal Law

Complementary to the extensive care for addicts is the restrained law enforcement. Absolute priority is given to the detection and prosecution of those involved in the (international) trade in soft and hard drugs. The addict himself is regarded as a patient rather than as a criminal. Criminal law is applied in a restrained manner so that the user/addict is criminalised as

[1] For more information on the Dutch drug policy see the fact sheets Nos. 3 and 7 (on hard drugs and cannabis respectively) of the Dutch Institute of Mental Health and Addiction (http://www.trimbos.nl).

little as possible (that is, prevents him from assuming a criminal identity). The use of drugs is not in itself punishable by law. The possession of cannabis products has been legally decriminalised up to a maximum of 30 grams, making it not a criminal offence but a misdemeanour. This policy has been elaborated into a detailed detection and prosecution guideline of the Prosecutors General. According to the latest version of the guidelines, no detection priority is attached to the possession of a 'user's quantity' of hard drugs. Street level dealers who are themselves addicted are preferably given the opportunity of accepting treatment rather than being punished. The possession of a small amount of cannabis – or, in recent years, a few plants (maximum five) of 'nederwiet' – is not targeted by the police authorities and neither are charges brought. In accordance with the guideline, however, the quantity of cannabis found is confiscated.

Differences and Similarities with other Countries

The policy outlined above contains significant differences when compared to policies conducted elsewhere. The United States policy and that of some other European countries, for example, are principally aimed at combating the use of drugs by deterring both the drug trade and drug use by means of criminal law. Limiting harm to public health by other means falls outside the policy and is therefore supported only to a marginal extent by the government (Zimring and Hawkins 1992). In many countries, including France, no legal distinction is made between soft and hard drugs. The use of illegal drugs is deemed punishable by law, without the risks to public health being taken into consideration. In Sweden the drug policy is aimed explicitly at banning all drugs from society.

Nevertheless, there are considerable similarities between the enforcement policies in other Western countries and The Netherlands. Priority is given everywhere to tackling large scale hard drugs trafficking, while the use of cannabis and small-scale dealing is barely tackled at all. In most countries addicts have little to fear from the police and judiciary where the simple act of being addicted is concerned. The repressive approach to the users is not essentially different from that in The Netherlands in its everyday practice. In keeping with a tradition of administrative openness, the Dutch approach is laid down more openly in legal regulations and public guidelines for the police and prosecutors. This enhances the legal protection of drug users and addicts in The Netherlands.

The Dutch drug policy is often depicted abroad as being extremely liberal. There are even those abroad who are under the impression that heroin and cocaine are freely available for sale. If we judge the policy according

to its practical interpretation, we see that the differences are not in fact as big as assumed.

In one respect, however, there is an essential difference: the criminal policy approach to the sale of cannabis. With a view to public health issues the Prosecutors General decided in the 1980s that regulated sales outlets for cannabis users were to be tolerated ('coffee shops'). In the absence of such outlets, (young) people who want to smoke cannabis have to buy it from dealers who belong to the local criminal scene. This can lead to situations in which users unintentionally come into contact with hard drugs. In The Netherlands, the social importance of reducing the supply of soft drugs (by prosecuting cannabis dealers) is subordinate to the greater importance of public health, that is combating the switch from soft to hard drugs. Under certain conditions, precisely specified in the prosecution guidelines, no legal action is therefore taken against the sale of cannabis in The Netherlands. The most important conditions are presently: no sale of hard drugs, no advertising, no admission of minors (under 18, no outlets near schools), no nuisance to neighbours, no trade stock exceeding 500 grams, and no sale of more than a maximum five grams per customer per day. Compliance with these conditions is supported using the administrative instruments of the municipalities. The layout of the places in which cannabis is sold, for example, can require a permit based on local catering by-laws. This enables the municipality to administratively support compliance with the conditions under criminal law and to set additional conditions within the scope of public order. In most cities the sale of cannabis may not be combined with the sale of alcohol. The retailers selling user's quantities who adhere to these conditions can go about their business without fear of prosecution.

Although most European legal systems operate the principle of expediency – the prosecution is dropped if it runs counter to the general interest – it proves difficult to explain this 'tolerance' of cannabis retailing under criminal law. This part of the policy is therefore not regarded as a consequence of the *damage control* policy, but as an expression of misplaced tolerance by foreign critics.

INVENTORY OF EFFECTS

What are the most important effects of the Dutch drug policy on the relevant social areas?

Number of Addicts

There is broad agreement within the international community about the desirability of limiting the number of people addicted to hard drugs as much as possible. There is a widespread view that the number of addicts per thousand inhabitants in The Netherlands is excessively high as a result of the tolerant policy. Although there are no exact figures on the number of addicts, experts in many countries have made estimates on the basis of the administrative systems of care institutes and/or the police and on population surveys. It is probable that in countries with a more repressive drug policy a larger proportion of the addicts remains unregistered. In those countries the status of being addicted has more adverse consequences attached to it. In this case the *dark number* will probably be greater than that in a country such as The Netherlands.

Table I shows the number of addicts per thousand inhabitants in a number of Western countries. The table shows that the number of addicts in The Netherlands is no greater than elsewhere. The supposition of many that the Dutch policy leads to greater numbers of addicts is therefore incorrect. The discrepancy between the real and the perceived extent is probably a consequence of the greater visibility of the drug scene in certain Dutch inner cities. This visibility is an (intentional) consequence of the more tolerant policy.

The available figures do not in themselves support the criticism of the Dutch drug policy. There is even an indication here that the objective of separating the users' markets for soft and hard drugs, and therefore combating growth in the number of new hard drug users, is being achieved (Korf 1995). The caring approach and the accompanying restrained application of criminal law will moreover have made experimenting with hard drugs less of a challenge for young people. This interpretation is supported by the fact that the average age of hard drug users in The Netherlands is relatively high and is constantly rising. Sixteen per cent of addicts registering for treatment in The Netherlands are under the age of 25. This percentage is twice as high in countries such as the United Kingdom, Spain and Italy. The rise in the number of younger users is clearly lower in The Netherlands.

We cannot establish with any certainty whether it is in fact a result of the coffee shop policy aimed at separating the markets or the health approach adopted towards addicts. The prevailing view among experts is that the number of hard drug users will only be affected to a limited extent either favourably or unfavourably by any government policy (Swierstra 1996). There are grounds to regard the relatively low number of younger addicts in The Netherlands as indeed being a consequence of the policy being

TABLE I

Prevalence of hard drug addiction in Western countries.

	Number of residential addicts	Number of inhabitants (millions)	Rate of addicts per 1,000
United States	2,550,000/ 3,050,000	250.0	10.0/12.2
Italy	175,000	57.8	3.0
United Kingdom	150,000	57.6	2.6
France	147,000	57.0	2.6
Spain	120,000	39.4	3.0
Germany	110,000	79.8	1.4
Portugal	45,000	10.0	4.5
Switzerland	36,000	6.7	5.4
Greece	35,000	10.1	3.5
The Netherlands	25,000	15.1	1.7
Belgium	17,500	10.0	1.7
Sweden	13,500	8.6	1.6
Denmark	10,000	5.1	2.0
Austria	10,000	7.8	1.3
Norway	4,500	4.3	1.0
Luxembourg	2,000	0.4	5.0
Ireland	2,000	3.5	0.6

Source: Ministry of Health, Welfare and Sport (1995); Bieleman et al. (1995).

conducted. This is because the social and cultural backgrounds in other Western countries do not differ greatly from those in The Netherlands. Related phenomena such as youth crime have virtually identical patterns in most large Western cities (Junger-Tas et al. 1994). The very fact that the number of younger people addicted to hard drugs differs so significantly seems to me to be a consequence of the policy being conducted. Heroin and cocaine probably have a much more negative image among Dutch young people than among those elsewhere in Europe. These hard drugs benefit less from the (new) population of cannabis users in the 1990s: cannabis functions less as a stepping stone to hard drugs in The Netherlands than elsewhere.

Drug Fatalities/Contamination

Another significant indicator of the public health effects of a drug policy is the number of drug-related deaths. The available figures relate to deaths caused by overdoses and/or acute poisoning. The figures can underesti-

TABLE II

Numbers of drug-related fatalities per country, absolute and relative as compared to inhabitants for 1995.

	Fatalities (absolute)	Per 1 million
Switzerland	353	53
Denmark	274	53
Luxembourg	20	50
Spain	394	10
United Kingdom	1,778	30
United States	± 6,000	24
Germany	1,565	19
Sweden	194	22
Austria	160	20
Italy	1,195	21
Ireland	49	14
Portugal	196	20
Finland	76	15
Belgium	48	5
France	465	8
Greece	176	17
The Netherlands	65	4

Source: EMCDDA (1996); derived from Table IX.

mate the actual numbers and are therefore only indicative. These data are, however, accompanied by fewer methodological uncertainties than the estimated number of hard drug addicts. Table II provides an overview of the absolute numbers and the numbers related to the population.

Mortality is the most significant indicator of the health of addicts. In The Netherlands the number of drug-related deaths fluctuates around sixty a year. The comparative overview for 1995 reveals that the number of drug deaths per million inhabitants is relatively low in The Netherlands. Elsewhere in the European Union it is higher, and in many countries the rate of drug overdoses is still rising. In The Netherlands there are relatively few addicts and the existing population is in a relatively good state of health. This result indicates that the Dutch emphasis on care for addicts within the drug policy has positive effects on the health of the addicted population (Rossi 1995).

The spread of AIDS has received a good deal of publicity in recent years. Injecting addicts are one of the most important risk groups. Improved medical care has slowed down the AIDS epidemic among addicts

TABLE III

Numbers of new AIDS patients among injecting addicts (new cases, per one million inhabitants).

	1993	1994	1995	1996
Austria	7.5	5.5	4.8	2.9
Belgium	2.2	2.2	1.3	0.9
Denmark	4.1	4.9	5.6	3.1
Finland	0.2	0.4	0.2	0.4
France	25.7	23.1	22.2	16.6
Germany	3.3	3.3	3.4	2.8
Greece	0.8	0.5	0.5	1.0
Ireland	10.5	6.4	3.6	9.0
Italy	53.1	60.2	62.5	53.3
Luxembourg	12.7	5.0	0.0	4.9
The Netherlands	3.9	3.6	4.7	4.9
Portugal	22.6	33.7	37.8	51.0
Spain	84.7	120.5	109.1	105.9
Sweden	3.7	3.0	2.7	2.6
United Kingdom	2.5	2.1	2.1	2.0

Source: EMCDDA (1995, 1997).

in The Netherlands (Wever 1996). Both the percentage of addicts contaminated with the HIV-virus and the percentage of drug addicted AIDS patients is relatively low in the Netherlands. This is confirmed by the data of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA). Table III shows the most recent data concerning the number of addicted AIDS patients among injecting addicts within the European Union. The highest incidences are found in France, Italy, Portugal and Spain.

CANNABIS CONSUMPTION

It is fairly reasonable to assume that the easy access to cannabis via coffee shops leads to a greater number of people using this drug. Estimates of cannabis consumption are generally based on population surveys. No international standards have yet been set for surveys of this nature, which makes it difficult to compare the results. Cannabis use is moreover subject to strong fluctuations, which means that results are quickly outdated.

Approximately 15% of Dutch students have at some time used cannabis (NIDA-Notes 1995). This prevalence has been twice as high in the United

States in recent years (National Household Survey on Drug Abuse 1993). Prevalence is relatively high in Europe as a whole, but in some European countries such as the United Kingdom, Spain, Belgium and Denmark the percentages are as high as in The Netherlands (de Zwart and Mensink 1995; EMCDDA 1996). In short, there is little to indicate that the tolerant policy regarding coffee shops has led to increased consumption of cannabis among young people. There are, however, indications that Dutch users continue to smoke cannabis for longer periods of time (Korf 1995).

Various research projects have revealed that the percentage of young people who have ever used cannabis or who have done so in recent months has risen sharply in The Netherlands in recent years (de Zwart and Mensink 1995).[2] This rising trend is also present in countries with a more repressive policy, such as the United States (National Household Survey on Drug Abuse 1993). For some time, cannabis has been back in fashion among young people. There is no reason to attribute this rise to its easy access in The Netherlands. Comparative research reveals that cannabis is not more difficult to obtain in the large West European cities and in the United States than in The Netherlands (SCP 1994; de Kort 1995). The presence of coffee shops does not so much lead to greater availability of cannabis for young people as to a safer form of availability: the quality is better and hard drugs are not additionally on offer.

Effects on Public Order and Safety

The use of drugs can be a source of crime in various forms. The criminalisation of drugs in itself leads to the origin of illegal markets. The production of and trading in illegal drugs offers criminals the opportunity to make profits. Indirectly, criminalisation also leads to addicts committing property crimes in order to finance their use of illegal drugs. I will return to these negative side effects of the international drug criminalisation policy in my conclusion. The question here is whether the specific Dutch policy has any special effects.

As mentioned above, some of the addicts commit property crimes to obtain money for drugs. The relatively small number of drug addicts and the relatively wide reach of the methadone supply could lead to a lower level of common crime. Comparative public surveys into the experiences of crime reveal, however, that the level of common crime against property

[2] Research carried out by the Groningen Municipal Health Service (GGD) is said to have revealed that use of cannabis among secondary school students has doubled since 1992 (Wiegersma 1996).

(theft and burglary) is not lower than that in the neighbouring countries (Mayhew and van Dijk 1997). A survey of people's experiences with domestic burglary conducted at the beginning of 1996, which formed part of the Eurobarometer survey, also revealed that the percentage of people who fell victim to burglaries during the previous year was higher in The Netherlands than the European Union average (INRA 1996). Although this is explained by a whole complex of factors, it is not possible to rule out the suggestion that the relatively tolerant policy towards criminal drug addicts has, in this respect, enjoyed more unfavourable effects than anticipated.

Approximately 40% of Dutch drug addicts regularly commit crimes, regardless of whether they are prescribed methadone. Ten per cent belongs to the group of highly active criminal drug addicts. According to recent estimates, criminal drug addicts commit approximately 30% of the recorded crime. As a consequence, Dutch society suffers damages amounting to 300 million Euro a year (Meijer et al. 1995). This estimate also notes that many criminal addicts would probably have committed offences even if they had been able to finance their addiction legally. The frequency would, however, be lower. According to cautious estimates, the pure effect of criminalisation amounts to approximately half of the losses mentioned above.

Organised Crime

Research into organised crime in The Netherlands, carried out by Fijnaut et al. for the Parliamentary Committee of Inquiry on Special Investigations Methods, reveals that the supply of drugs is carried out by a few dozen criminal organisations (*Inzake Opsporing* 1995). A particularly striking aspect is the involvement of Dutch criminal organisations in the international trade and the production of cannabis (van Dijk 1993). According to Boekhoorn et al. (1995), Dutch cannabis dealers are responsible for a large proportion of the international cannabis trade. The position of Dutch criminal organisations on the international heroin and cocaine markets is much less significant. The organisations of known Dutch drug traffickers such as Bruinsma, Brown, Zwolsman, De Hakkelaar and Etienne Urka were only significant in the cannabis trade.

These data represent an indication that the low priority attributed in The Netherlands to the detection and prosecution of the retail and production of cannabis has created a lucrative domestic market, which has subsequently served as a springboard for international activities. The relatively tolerant policy regarding these drugs does not appear to have led to increased domestic consumption, but has led to larger-scale criminal activities on foreign markets. It is partly due to this criminal expansion that organised

crime in The Netherlands has undergone rapid growth during the last fifteen years, with all of the accompanying unfavourable implications for the integrity of financial and public administrative functions and relevant professions.

Public Nuisance

Drug use leads not only to crime, but also causes other public nuisance problems. The presence of addicts and dealers in a residential area goes hand in hand with pollution (such as discarded needles), causes increased traffic congestion and is often accompanied by begging. Many members of the public are moreover intimidated by the open drug scene at train stations, underground stations and other public places. Local committees against drug nuisance in several Dutch cities reveal the (perceived) seriousness of this problem. The omnibus surveys of the European Union – the Eurobarometer – included a question about drug nuisance. The question was:

> Over the last twelve months, how often were you personally in contact with drug-related problems in the area where you live? For example, seeing people dealing in drugs, taking drugs or using drugs in public places, or by finding syringes left by drug addicts?

Table IV shows the percentages for each of the EU member states. Seventeen per cent of the population in The Netherlands indicated that they had been in contact with drug-related problems often or occasionally. This percentage is above the EU average (14%). It is possible that some Dutch respondents may have been thinking of 'coffee shops' in their response to this question. Anyway, the results confirm that the Dutch population is suffering more nuisance from drug addicts than the population of most other West European countries. It is worth noting here that the same survey revealed that Dutch members of the public felt unsafe less frequently in their own neighbourhoods than those in most other European countries (van Dijk and Toornvliet 1996). The drug nuisance is apparently widely felt in The Netherlands, and there is also a relatively high level of 'petty crime', but these factors do not lead to people feeling threatened. Drug nuisance and drug-related crime appear to cause more annoyance than anxiety in The Netherlands. The drug problem is considerable in The Netherlands, but apparently does not affect the social fabric in the most troubled urban quarters to the extent that members of the public feel anxious.

TABLE IV

Personal contact with drug-related problems during the last 12 months, EU average and per country (n = 16,235) in percentage 'often or occasionally'.

European Union	14
Austria	10
Belgium	11
Denmark	8
Finland	7
France	12
Germany (western states)	13
Germany (eastern states)	4
Greece	14
Ireland	16
Italy	14
Luxembourg	8
The Netherlands	17
Portugal	19
Spain	24
Sweden	7
United Kingdom	14

Source: INRA (1996); Eurobarometer, 44.3.

FINANCIAL COSTS AND BENEFITS

As mentioned previously, Dutch society suffers losses of approximately 300 million Euro a year as a result of drug-related crime. According to estimates, the Dutch government spends an additional 300 million Euro a year on combating drug-related crime against property and the drug trade by means of criminal law (Meijer et al. 1995). Special efforts made include the activities of one national and five inter-regional investigation teams, who primarily investigate the large-scale trade in soft and hard drugs, including XTC. Since 1997 a special investigation team has also been in charge of locating and taking action against XTC laboratories. There is no reason to assume that less is spent per 100,000 inhabitants on combating drug use by criminal law in other countries. The Netherlands also spends an annual 80 million Euro on treatment of addicts (clinics and ambulant care for addicts), which is more per head of the population than elsewhere.

The European Court of Justice has ruled that no VAT can be charged on the sale of cannabis. Other taxes are, however, collected from coffee shops

to an increasing extent. The corporation tax paid by coffee shops must therefore be counted as a benefit. A large proportion of the approximately 1200 coffee shops are regularly assessed by the tax authorities. Domestic sales are estimated at 400 million Euro a year. It is probable that several million Euro are collected from this target group a year.

INTERNATIONAL CRITICISM

The Dutch government has undertaken to combat the trade in opiates in various treaties. The relevant UN treaties were also reaffirmed in the Schengen Treaty on European Unification (Schutte 1995). In these treaties The Netherlands has always implicitly or even explicitly reserved the right to apply the principle of expediency when Dutch criminal law is applied by the Public Prosecution. This implies that the public prosecutor can decide not to prosecute if he considers this to be in the public interest. This principle is also applied by other countries, including Germany, Belgium and France, when dealing with opium offences. This clause provides the space to conduct a policy of tolerance concerning illegal drugs (Rüter 1996). People may wonder how such policy can be in keeping with *bona fide* compliance with the treaties. In its annual report of 1995 the supervisory body of the UN expressed doubts about the Dutch government's "fidelity to its treaty obligations" on this point (UN 1996). The Netherlands must ensure that the coffee shop policy remains tenable as a consequence of the application of the expediency principle.

Apart from the treaty obligations, the Dutch government is also facing stern criticism from some other EU member states, France and Sweden in particular. Stumbling blocks are primarily the export of hard drugs and XTC to neighbouring countries, as well as cannabis seeds.

In 1997, the Council of Ministers of the EU drafted a document about a joint – mutually co-ordinated – drug policy. Deviations from the European line are justified if a plausible argument is made that the deviation enhances the efficacy of tackling drug addiction. The practical outcome of this policy will be reported annually. In the years to come the Dutch government needs to explain that tolerating 'coffee shops' is a more effective means of combating addiction to hard drugs than the more repressive policy conducted elsewhere.

It is difficult to establish whether and to what extent international criticism harms the interests of The Netherlands. What is clear is that a relatively small country that is highly economically dependent on activities on foreign markets is especially dependent on international goodwill. It is also clear that it will be difficult for The Netherlands, as one of the medium

TABLE V

Pros and cons of the Dutch drug policy.

Prevalence of addicts	Low	+
Mortality rate	Low	+
AIDS	Low	+
Prevalence of cannabis	No effect (?)	0
Drug-related crime	No effect	0
Organised crime	High	–
Nuisance	High	–
International relations	Negative effect	–
Costs of health care	High	–
Costs of repression	No effect	0
Tax income coffee shops	?	+
Total		++++/000/----

sized EU member states, to be the only one to deviate from the jointly set course in a politically sensitive area.

COST-BENEFIT OVERVIEW

The pros and cons of the Dutch drug policy as discussed above are shown in Table V. The overview indicates that in numerical terms – albeit unweighted – the advantages are just as great as the disadvantages. The Dutch policy is not advantageous to the government in financial terms. Against the relatively high expenditure for care there is no lower expenditure for the criminal justice system. The tax income from the tolerated cannabis sales is probably of a minor order.

The overview also reveals that the advantages are found mainly in the public health area, while the disadvantages are found mostly in the areas of public order and safety and international relations. From the perspective of (preventative) medicine, the objective of *harm reduction* has to a certain extent been achieved. The Dutch drug policy, measured against its own objectives, is therefore a moderate success. The (side) effects regarding safety and nuisance are much less favourable. The challenge facing the Dutch government is to adjust the drug policy, in such a way that the population suffers fewer safety disadvantages and other countries are appeased, while preserving the positive effects on public health. What options are available for optimising the policy? Other cost-benefit analyses of possible adjustments can be conducted to address this question.

TOWARDS AN OPTIMUM DRUG POLICY?

The Dutch drug policy could be liberalised further by decriminalising or legalising other elements of the drug market. A theoretical policy option that is worth considering is first and foremost to fully legalise both hard and soft drugs.

Decriminalisation/Legalisation

Those who take the view that there will be a meaningful reverse in the attitude to drugs in the next ten years are in my view labouring under a misapprehension. There is little political support for legalisation in Germany, France and the United Kingdom or in the Scandinavian countries and most Southern European countries. There is at most a degree of support for the prescription of hard drugs to seriously ill addicts in keeping with the Swiss model. In this respect, it is also clear that *within* The Netherlands the vast majority of the population is against the 'release' of hard drugs (Elffers et al. 1996). Although there are plans for the sale of cannabis through pharmacies in parts of Germany (and some other areas), the prospects for the legalisation of soft drugs are not bright either.

The legalisation of opiates and similar drugs can be tackled in various ways. The form chosen makes little difference to the broad, social effects. Given the fact that there is little chance of a significant world-wide movement in this direction in the short or mid-term, legalisation can presently only involve The Netherlands going it alone. The following effects are to be expected.

The health of addicts could perhaps improve somewhat. Crime against property is likely to decrease, possibly by half, if heroin is sold at market prices. The need of criminal addicts to 'score' for at least a hundred guilders per day would become a thing of the past. Nuisance caused by drugs would also probably decrease somewhat. If legalisation remained limited to The Netherlands, there would be no expected decrease in organised crime. Dutch criminal organisations are presently operating mainly on international markets. A grey market will originate within Dutch territory for non-legalised variants and for non-registered, foreign addicts. Once again, the domestic market of legalised drugs might be used as a springboard for international activities.

Legalisation will be accompanied by a decrease in the prices and easier access to sales outlets. The effects of this on the demand for drugs are not certain, but an increase in the number of users is probable. It can be assumed that there will be a degree of flexibility in the prices in this market. It is likely that recreational drugs such as cocaine and XTC will attract new users (Clark 1993). There will probably be no effect on the prevalence

TABLE VI

Pros and cons of two scenarios for the Dutch drug policy.

	Legalisation	Re-criminalisation
Prevalence of addicts	Higher (–)	Higher? (–)
Disease/mortality rate	Lower (+)	Higher (–)
Prevalence of cannabis	No effect (0)	No effect (0)
Drug-related crime	Lower (+)	No effect (0)
Organised crime	Higher (–)	No effect (0)
Nuisance	'Magnet effect' (–)	Lower (+)
International relations	Negative (–)	Positive (+)
Costs of care	No effect (0)	No effect? (0)
Costs of law enforcement	Lower (+)	Higher (–)
Tax income coffee shops	Higher (+)	Lower (–)
Total	+ + ++/00/– – – –	++/0000/– – – –

of cannabis. After all, in practice the consumer market for this drug has already been liberalised in most large Western cities.

It is virtually certain that if legalisation takes place exclusively in The Netherlands the country will act as a magnet to foreign addicts. The number of foreigners arriving in The Netherlands to use or buy cannabis will probably remain at its present high level. The anticipated positive effects on crime and nuisance will be nullified by this import of foreign addicts and consumers.

Finally, there is no doubt that international relations will be damaged by unilateral legalisation. Not only would The Netherlands have to withdraw from a number of UN treaties to which the world-wide community attaches great importance, but there would also be major problems in the EU. Legalisation could perhaps represent savings in police and judiciary budgets. The income from charging tax on the production and sale of cannabis would rise sharply. The anticipated effects are given in Table VI.

Re-criminalisation?

The use of drugs and the retail of soft drugs are legally, or at least pseudo-legally decriminalised in The Netherlands. For some time there has been a perceivable de-criminalisation in legislation regarding sexual behaviour.[3] Re-criminalisation is also conceivable in the area of the drug policy. Like

[3] For example, at the end of 1996, the Dutch government announced that sexual relations with children under the age of 14 would again be subject to the full force of criminal law. This proposal follows five years after the legislature decided in 1991, after years of

criminalisation, decriminalisation can involve amendments to the law and/or the investigative and prosecution policy. The use of hard drugs and the possession of soft drugs could be made punishable by law. Amending the guidelines for the prosecution of drug cases could also mean an end to the tolerant treatment of addicts and of course the toleration of coffee shops and the home-cultivation of cannabis. The more repressive approach to addicts could consist not only of more targeted investigation and the imposition of heavier penalties, but could also be supported by administrative law. The first steps in that direction have in fact been taken. To give an example, legislation was passed in 1997 that offers municipalities increased power to close down places that are known to sell drugs. Work is also being done on an amendment to the Opium Act which will enable the municipality to close coffee shops on grounds other than the fact that nuisance is being caused. Finally, a bill was introduced which will increase the maximum penalty for the cultivation of cannabis.

The policy scenario of re-criminalisation will, in my estimation, have little or no effect on the suppression of property crimes. If prices rise, there could even be a corresponding rise in crime. Neither can we expect major effects on the activities of criminal organisations. Costs may rise, but they will be set off against the prices. For organised crime it will be business as usual, just as it is elsewhere in the industrialised world. Positive effects can, however, be expected where drug nuisance is concerned. The drug scene will become less visible and, for example, will be contained within run-down suburbs as is the case in many cities elsewhere in Europe. The average member of the public will probably be confronted less often with addicts and dealers.

It can be safely assumed that extensive re-criminalisation of drug use will have an adverse effect on the health of addicts. Addicts will be less inclined to register with municipal health centres or to come forward for specific aid for drug users. According to some experts, hounding addicts could also lead to an increase in the use of crack (a form of ‘instant’ cocaine which requires less preparation before consumption). The addictive effect of crack, however, is such that its users would be more inclined to use violent means to obtain money than other addicts.

Many experts take the view that the prevalence of hard drug use is largely policy-resistant, but if terminating the toleration of coffee shops leads to the consumer markets for soft and hard drugs becoming intertwined, there would be a rise in the number of people addicted to hard

discussions, that sexual contact with youths between the ages of 12 and 16 were only prosecutable in the event of a complaint being made (Savornin Lohman et al. 1994).

drugs. Heroin could regain popularity with young people in The Netherlands.

A re-criminalisation policy would be welcomed abroad by advocates of a more repressive criminal policy against drugs, especially by several foreign governments. The Dutch government would gain the reputation of a penitent sinner. The reputation of The Netherlands among those favouring a more pragmatic approach – including many drug experts – would be damaged by the U-turn. The costs of the police and judiciary would of course increase significantly. Table VI shows the effects that can be expected from the legalisation and re-criminalisation scenarios for the Dutch policy.

Table VI also shows that neither the legalisation scenario nor the re-criminalisation scenario presents a more favourable balance than the current policy. The disadvantages seem greater than the advantages. Radical adjustments to the policy will not lead to optimum results. The best approach therefore seems to consist of minor adjustments aimed at achieving positive effects in certain dimensions without a price having to be paid elsewhere in the form of negative effects.

DISCUSSION

The Dutch drug policy is not, on the whole, proving unsuccessful in its implementation. Yielding to external criticism on the liberal drug policy could result in a deteriorating situation, e.g. an increase in the number of young users of hard drugs or the mortality rate of addicts. Radical adjustments towards legalisation will also almost certainly lead, on the whole, to deterioration.

When cataloguing the costs and benefits of the policy it was especially notable that the advantages were found mainly in the area of public health. There are fewer (young) addicts and the addicts are in relatively good health. The risk groups and the addicts have benefited from the policy conducted. On the other hand, the rest of the population suffers its downsides, that is, falls victim to crimes of property or suffers nuisance. Estimates suggest that there is a sub-group of approximately 6,000 addicts who are responsible for the majority of property crimes and nuisance (Meijer et al. 1995). The question arises as to whether this category is not abusing the tolerance in criminal law towards addicts. This group of highly active criminal addicts contrive an extensive anti-social lifestyle for which drug addiction is used as an alibi.

Re-Integrating Criminal Addicts

Efforts have been made in The Netherlands for many years to better utilise the existing ways of bringing criminal addicts into line using criminal law. Addicts who regularly commit property crimes are given prison sentences of a few months at most. It is possible to be placed in a drug-free section in more and more penal institutions. However, most addicts return to their old criminal lifestyles as soon as they are released. Criminal addicts can also be admitted to a treatment clinic as a special condition for a suspended sentence. Given that the length of the custodial sentence replaced by this treatment is short, it is not possible for the treatment to last very long. According to experts criminal addicts need at least a year to be prepared for a new start in life.

Against the background of unsatisfactory experiences with the existing enforcement methods, there are plans in the large cities to place criminal addicts – especially the group who are arrested four times or more a year – in a re-integration institution for a period of, for example, 18 months. Within this institution the development of a better adjusted lifestyle will have to be worked on intensively. The addicts will be offered vocational training facilities that give them prospects of finding a job upon their release.

In 1998, the Minister of Justice will be submitting a legislative proposal that provides a legal basis for this arrangement.[4] The proposal covers the introduction of a measure for the compulsory incarceration of addicts. Dutch criminal law used to have a legal measure for detaining vagrants and pimps in a state workhouse. The measure now under consideration can be regarded as a modern-day version of this. The objective of the measure is to steer addicts towards a better adjusted, stable lifestyle. The objective of special prevention is therefore given priority: society is safe during the addict's stay in the institution or an extra-mural programme.

The anticipated advantages of this measure are less property crimes and nuisance. This will reinforce support for the relatively tolerant attitude shown towards addicts. Whether the addicts involved will be able or willing to adjust their behaviour remains to be seen. There is a risk that the target group of criminal addicts will behave more covertly, out of fear of having the measure imposed on them, and, for example, be less willing to contact addict support organisations. This could have an adverse effect on their health. When evaluating possible pilot projects it will not only have to be the health effects during detention or after release that are examined,

[4] The measure is called in Dutch 'Strafrechtelijke Opvang Verslaafden' (forced treatment of incarcerated drug addicts).

but also the effects on the wider local addict population caused by less open access to regular health care.

Medical Prescription of Heroin

Another partial adjustment determined by the Dutch government is medical prescription of heroin to seriously ill addicts on an experimental basis. In Switzerland, almost a thousand addicts labelled as 'hopeless cases' have been included in such a programme. Initial reports suggest that the medical and social condition of the addicts has improved and that they are coming into contact with the police much less frequently (Killias and Rabasa 1996; see also Killias et al. in this issue). The external effects of the Dutch experiment – which will start with a group of two hundred seriously ill addicts – will probably be limited. In view of the target group a fall in property crimes is not expected (Korf and Leuw 1992). It is possible that the nuisance aspect will decrease somewhat (e.g. less begging). Whether the medical condition of addicts will improve as a result of the supply is one of the questions that the experiment is designed to answer. The experiment will be regarded abroad with suspicion, but also with curiosity. The experiment in The Netherlands could certainly contribute to the international discussion about the possibilities and advantages of a form of medically prescribed hard drugs. If the Swiss-Dutch experiment with the medical supply of heroin is well received from both a medical and a social perspective, it is conceivable that it will be introduced in The Netherlands at a national level.

Coffee Shops

The government's policy paper on drugs stipulates that the coffee shops are to be subjected to stricter conditions, while no legal action will be taken against the cultivation of a few plants of 'nederwiet'. The ratification of the new prosecution guidelines in 1996 and the practical implementation of policy documents concerning the coffee shops by several large cities has succeeded in regulating coffee shops more strictly. In the meantime, the number of coffee shops has decreased sharply (Bieleman et al. 1996). At the beginning of 1995 there were 1,460 coffee shops in a broad sense, that is, including locations with a licence to serve alcohol. At the end of 1996 this number had fallen to 1,293, which represents a decrease of more than 11% as a result of the municipal coffee shop policies. Most of the large municipalities are aiming towards a further reduction and have, in fact, achieved it in 1997.

The policy regarding the supply of 'nederwiet' to the shops is somewhat vague. The prosecution guidelines fail to address the supply problem.

The home cultivation of a few plants is not subject to prosecution, but the plants can be confiscated if they are discovered. Legal action is taken against the cultivation of larger numbers of plants. Commercial cultivation is an aggravating factor. The government has also announced that the maximum penalty for cannabis cultivation will be raised from a two to four year prison sentence. During the passage of the policy paper on drugs, the minister stated that, in principle, a degree of flexibility would be offered to some municipalities wishing to experiment with the supply of locally cultivated 'nederwiet' to *bona fide* coffee shops. Such experiments would have to be discussed in three-way consultations between the mayor, the chief public prosecutor and the head of police, and submitted to the meeting of the prosecutors general.

Although the experiments are not provided for in the new prosecution guidelines, the principle of expediency also applies outside the areas for which the guidelines were formulated. The prosecutor in question could conceivably decide that the prosecution of a grower, who cultivates 'nederwiet' for a fixed group of coffee shops in consultation with the municipality and the police, would not be in the public interest. An arrangement of this nature would cause domestic organised crime to lose attractive sales channels. The importance of some small, local experiments would be the opportunity to gain practical experience of an integral cannabis regime, which implies a definitive regulation arrangement for domestic production, trade and sale. The policy theory behind the separation of the hard and soft drugs markets will thereby be tested to its fullest extent. It does not seem probable that there will be adverse effects on other countries; in fact the importation of cannabis from and through other countries will be reduced.

The International Prospects for Legalisation

It will be clear that in The Netherlands much thought is being given to a scheme whereby cannabis is formally regulated. There are also plans for regulating the sale of cannabis through pharmacies in some German federal states and in Italy, but they have not yet been implemented. The recent decision by referendum in the American states of California and Arizona to henceforth allow the use of cannabis for medical use is of great symbolic significance. This means that medical doctors prescribe cannabis for patients who qualify on medical grounds.

Opportunities for the further legalisation of recreational cannabis consumption will perhaps not come from a more liberal attitude to drugs, but from the mounting opposition to tobacco. In the United States tobacco has already been added to the official list of addictive drugs. The scientific evidence of the addictive and fatal effect of tobacco is overwhelming. Within

Europe half a million people a year die from tobacco-related diseases. The mortality figures of so-called hard drugs look pale and insignificant in comparison. Fatalities related to cannabis use are unknown. It is likely that in coming years the regime for tobacco in the United States, and subsequently in Europe, will become stricter and will begin to resemble the sale of alcohol to adults in Sweden or Norway via state shops.

As I see it, once a regime of this nature is introduced, it will not be long before the sale of less addictive, and probably also less harmful, cannabis for medical or recreational purposes is also included in the regime. In some American catering outlets with a strict smoking ban there are separate areas for cigar smokers. The analogy with coffee shops is compelling. The Dutch coffee shop may well prove to have been the predecessor of a global network of government regulated sales outlets for nicotine and less health-damaging smoking products such as cannabis. At the beginning of the next century The Netherlands may prove to have been a leading country in this respect. The way to achieve this accolade is to continue the current, give-and-take policy. Those who advocate legalisation on intellectually convincing grounds will have to exercise patience. The sacrifice that The Netherlands will have to make is that the Dutch drug policy will retain traits of inconsistency for some years. This policy will be a transitional situation on the road to administrative regulation.

In the meantime, efforts from abroad to force The Netherlands into abandoning its 'inconsistent' policy on soft drugs ought to be resisted. A policy that leads to lower numbers of drug overdoses and fewer underage drug addicts is worth preserving, even if it raises eyebrows abroad. Moreover, it is not correct to describe the Dutch policy as inconsistent. The cannabis policy elsewhere in Europe is just as inconsistent. Cannabis is freely available in most of the larger cities in Europe and North America, without governments taking any action to change that situation. In practice the retailing of cannabis has been decriminalised in many parts of the world without any form of regulation. For The Netherlands there is every reason to muddle on with its (in)famous coffee shops for some more years.

REFERENCES

Bieleman, B., J. Snippe and E. de Bie, *Drugs binnen de grenzen.* Groningen/Rotterdam: Intraval, 1995.

Bieleman, B., S. Biesma, J. Snippe and E. de Bie, *Quick scan; ontwikkeling in aantal coffeeshops in Nederland*. Groningen/Rotterdam: Intraval, 1996.

Boekhoorn, P., A.G. van Dijk, C.J. Loef, R.N.J. van Oosten and C.H.D. Steinmetz, *Soft-drugs in Nederland; consumptie en handel*. Amsterdam: Steinmetz Advies en Opleiding, 1995.

Clark, A., Adding up the pros and cons of legalisation. *International Journal of Drug Policy*, 4(3), pp. 116–121, 1993.

de Baare P., Alcohol, drugs en onbedoelde gevolgen van overheidsbeleid. *Tijdschrift voor Criminologie*, 38(3), pp. 263–284, 1996.

de Kort, M., *Vooronderzoek drugsbeleid in Nederland*. Zoetermeer: Stichting Toekomstscenario's Gezondheidszorg, 1995.

de Zwart, W.M. and C. Mensink, *Jaarboek Verslaving, NIAD*. Houten: Bohn Stafleu Van Loghum, 1995.

Elffers, H., D.J. Hessing and A. Zeljkovic, *Drugs in Nederland: tussen beleid en acceptatie van beleid*. Rotterdam: Erasmus University, 1996.

European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), *Annual Report on the State of the Drugs Problem in the European Union 1995*. Lisbon: EMCDDA, 1996.

International Research Associates (INRA), *Les Européens et la sécurité publique, Brussels, 24 Mai, 1996*.

Inzake Opsporing. The Hague: SDU, 1995.

Junger-Tas, J., G.J. Terlouw and M.W. Klein (Eds), *Delinquent Behaviour among Young People in the Western World: First Results of the International Self-Report Delinquency Study*. Amsterdam: Kugler Publications, 1994.

Killias, M. and J. Rabasa, *Less Crime through Heroin Prescription? Preliminary Results from the Evaluation of the Swiss Heroin Prescription Projects, University of Lausanne, Congres Paper for the Seminar on the Prevention of Urban Delinquency linked to Drugs Dependence, Brussels 21–22 November 1996*, European Commission, 1996.

Korf, D.J., *Dutch Treat; Formal Control and Illicit Drug Use in the Netherlands*. Amsterdam: Thesis Publishers, 1995.

Korf, D. and E. Leuw, Drugsgebruik, drugsverslaving en criminaliteit. In: W.R. Buisman and J.C. van der Stel (Eds), *Drugspreventie: achtergronden, praktijk en toekomst* pp. 89–105. Houten/Zaventem: Bohn Stafleu Van Loghum, pp. 89–105, 1992.

Mayhew, P. and J.J.M. van Dijk, *Criminal Victimisation in Eleven Industrialised Countries: Key Findings from the 1996 International Crime Victims Survey*. The Hague: Ministry of Justice, WODC, 1997.

Meijer, R.F., A.C. Berghuis, K.E. Swierstra, J. de Waard and P.P.M. van Hooff , *Drugs, delicten en handhavingskosten*. The Hague: Ministry of Justice, WODC, 1995.

Ministry of Health, Welfare and Sport, *Drugs Policy in the Netherlands: Continuity and Change*. The Hague: SDU, 1995.

NIDA-Notes. Washington DC: National Institute on Drug Addiction, 1995.

Rüter, C.F., De grote verdwijntruc. *Nederlands Juristenblad*, 71(3), pp. 81–86, 1996.

Rossi, C., Evaluating world drug policies; towards a cost-effectiveness analysis of initiatives undertaken. *The International Journal of Drug Policy*, 6(4), pp. 238–242, 1995.

Savornin Lohman, J., W.M.E.H. Beijers, C.P. van Gelder, M.J.H. Goderie, S.M.A. Nieborg and R.A.L. Rijkschroeff, *Betere en adequate bescherming door de nieuwe zedelijkheidswetgeving*? Utrecht: Verwey-Jonkers Instituut, 1994.

Schutte, J.J., *Overzicht van internationaalrechtelijke verplichtingen op het gebied van de publiekrechtelijke handhaving van voorschriften betreffende verdovende middelen en psychotrope stoffen, waaraan het koninkrijk is gebonden*. The Hague: Ministry of Justice, 1995.

Sociaal en Cultureel Planbureau (SCP), *Sociaal en cultureel rapport 1994*. Rijswijk: SCP, 1994.

Swierstra, K.E., *Introductory Report to be Presented at the Regional Seminar of the Multidisciplinary Training Project on the Global Drug Phenomenon. Prague, September 25–27, 1996.*

United Nations (UN), *Report of the International Narcotics Control Board for 1995*. Vienna: UN, 1996.

van Dijk, J.J.M., Opportunity makes the mafioso (also in the Netherlands). *Nederlands Juristenblad*, 68(38), pp. 1337–1342, 1993 [in Dutch].

van Dijk, J.J.M. and L. Toornvliet, *Towards a Eurobarometer of Public Safety; Key Findings of the First Survey on Public Safety among the Residents of the European Union, European Commission, Seminar on Urban Delinquency linked to Drugs Dependence, Room Paper, Brussels, 21–22 November, 1996.*

Wever, L., Drugs as a public health problem: assistance and treatment. In: E. Leuw and I. Haen Marshall (Eds), *Between Prohibition and Legalization; The Dutch Experiment in Drug Control* pp. 59–74. Amsterdam: Kugler Publications, 1996.

Wiegersma, P.A., *Deelrapport gezondheid en riskant gedrag: scholierenonderzoek 1996*. Groningen: GGD Groningen, 1996.

Zimring, F.E. and G. Hawkins, *The Search for Rational Drug Control*. Cambridge: Cambridge University Press, 1992.

Ministry of Justice
P.O. Box 20301
2500 EH The Hague
The Netherlands