Drug Laws in the Netherlands

The drug policy of the Netherlands is based on two principles. Firstly, the idea that drug use is a public health issue, not a criminal matter. Secondly, that a distinction between hard drugs and soft drugs does indeed exist.

It is a pragmatic policy. Most policymakers in the Netherlands believe that if a problem has proved to be unsolvable, it is better to try controlling it instead of continuing to enforce laws with mixed results. By comparison, most other countries take the point of view that drugs are detrimental to society and must therefore be outlawed, even when such policies fail to eliminate drug use. This has caused friction between the Netherlands and other countries, most notably with France and Germany. As of 2004, Belgium seems to be moving toward the Dutch model and a few local German legislators are calling for experiments based on the Dutch model, but finally decided against it in 2004; currently a ballot initiative is in the works on the question.

Public Health

The Dutch drug policy is based on the general principle of self-determination in matters of the body. Specifically, that it is not illegal to hurt yourself; however, you remain liable for the consequences of your actions. Because of this, users are not prosecuted for possession of small quantities of soft drugs ("for personal use"). Driving under the influence of drugs is nevertheless prohibited, as is being under the influence in public (of either alcohol or other drugs), mainly from a public nuisance perspective.

Hard Drugs / Soft Drugs

A distinction is drawn between hard drugs (which bear "unacceptable" risks; e.g. cocaine, heroin, etc.) and soft drugs such as the psychedelic psilocybin mushrooms as well as cannabis products: hashish and marijuana (as defined in the Dutch Opium Act). The distinction is drawn on whether the substance is only psychologically addictive (i.e. producing no worse effect than moderate craving when withdrawn) or also physically addictive. One of the main aims of this policy is to separate the markets for soft and hard drugs so that soft drug users are less likely to come into contact with hard drugs. This policy also aims to take the soft drug market out of the hands of the criminals, thus reducing crime.

Coffee Shops

So-called coffee shops are allowed to sell soft drugs openly, and to keep supplies greater than the amounts allowed by law for personal use, though they are only allowed to sell individual customers the amount allowed for personal use. The coffeeshops' wholesale suppliers; however, are still criminalized. In theory, the limit of the "for personal use" clause is 5 cannabis plants per person for growing, or possession of 5 grams of hashish or marijuana per person. However, to be prosecuted one would need to possess considerably higher quantities than that. An example of a sentence in 2004 for possession of 360 grams: confiscation and a fine of €750. Coffeeshops pay taxes just like any other business, though there are some special exemptions for them, mostly because they cannot show receipts for their supply of marijuana.

Drug Dealing

Large-scale dealing, production, import and export are prosecuted to the fullest extent of the law, even if this does not supply end users or coffeeshops with more than the allowed amounts. Exactly how coffeeshops get their supplies is rarely investigated; however. What is certain is that coffeeshops do sell cannabis that comes from countries where it is illegal. Large suppliers tend to be criminals motivated by profit who do not make the distinction between hard and soft drugs. Hence, the soft drug policy, by failing to address the issue of supply, has made the Netherlands the main centre for hard drug trafficking in Europe. Creating a highly controlled, legal production chain for cannabis to combat this problem has been proposed by a number of Dutch
politicians over the last few years. By the end of 2005, the majority of the Dutch Parliament was in favour of an experiment with controlled cultivation and production of cannabis. It is still uncertain when and how this experiment will take place, due to judicial issues.

Non-enforcement

Cannabis remains a controlled substance in the Netherlands and both possession and production for personal use are still misdemeanors, punishable by fine. Coffee shops are also illegal according to the statutes.

However, a policy of non-enforcement has led to a situation where reliance upon non-enforcement has become common, and because of this the courts have ruled against the government when individual cases were prosecuted.

This is because the Dutch Ministry of Justice applies a gedoogbeleid (policy of tolerance or allowance policy) with regard to soft drugs: an official set of guidelines telling public prosecutors under which circumstances offenders should not be prosecuted. This is a more official version of the common practice in other countries, in which law enforcement sets priorities as to which offenses are important enough to spend limited resources on.

Proponents of gedoogbeleid argue that such a policy offers more consistency in legal protection in practice, than without it. Opponents of the Dutch drug policy either call for full legalization, or argue that laws should penalize morally wrong or decadent behavior, whether this is enforceable or not.

In the Dutch courts; however, it has long been determined that the institutionalized non-enforcement of statutes with well defined limits constitutes de facto decriminalization. The statutes are kept on the books mainly due to international pressure and in adherence with international treaties.

Drug Law Enforcement

Despite the high priority given by the Dutch government to fighting narcotics trafficking, the Netherlands continue to be an important transit point for drugs entering Europe, a major producer and exporter of amphetamines and other synthetic drugs, and an important consumer of illicit drugs. The export of the synthetic drug ecstasy to the U.S. during 1999 reached unprecedented proportions. The Netherlands' special synthetic drug unit, set up in 1997 to coordinate the fight against designer drugs, appears to be successful. The government has stepped up border controls and intensified cooperation with neighbouring countries.

Although drug use, as opposed to trafficking, is seen primarily as a public health issue, responsibility for drug policy is shared by both the Ministry of Health, Welfare, and Sports, and the Ministry of Justice.

In contrast with most countries’ policies, the Dutch policy has yielded positive results in the war against drugs. The Netherlands spends more than €130 million annually on facilities for addicts, of which about fifty percent goes to drug addicts. The Netherlands has extensive demand reduction programs, reaching about ninety percent of the country's 25,000 to 28,000 hard drug users. The number of hard drug addicts has stabilized in the past few years and their average age has risen to 38 years. The number of drug-related deaths in the country remains the lowest in Europe.

On 27 November 2003, the Dutch Justice Minister Piet Hein Donner announced that his government was considering rules under which coffeeshops would only be allowed to sell soft drugs to Dutch residents in order to satisfy both European neighbours' concerns about the influx of drugs from the Netherlands, as well as those of Netherlands border town residents unhappy with the influx of "drug tourists" from elsewhere in Europe. As of 2006 nothing has come of this proposal and Dutch coffeeshouses still enjoy robust foreign patronage.
Prostitution in the Netherlands

Prostitution in the Netherlands is legal. However, prostitutes must be at least 18, while for non-commercial sex the age of consent is 16. Clients must be at least 16. Violation of either age limit is a crime for the other party, and possibly for a pimp. Prostitutes pay taxes and are otherwise treated like any other self-employed tradesperson. Advertising their services is likewise tolerated. Health and social services are readily available, but the women are not required to undergo regular health checks. A recent study found that despite health rules, about 7 percent of Dutch prostitutes have HIV/AIDS.

Current Situation

Prostitution has long been tolerated in the Netherlands under the gedoogbeleid (policy of tolerance) with the reasoning that the world's 'oldest profession' has proven impossible to ban by any government. Indeed in places where it is banned it is usually the prostitute who is the victim and, as the easiest target, the one who suffers criminal prosecution instead of the client or pimp. In an effort to stop the exploitation of sex workers, prostitution in brothels was legalised in the Netherlands in October 2000. This also gave the government the opportunity to tax prostitution and for prostitutes to pay social security and receive benefits and pensions. By legitimising prostitutes as workers, it is viewed that this will help remove control from the criminal element and make it easier to clamp down on exploitation.

Window prostitution is the most visible form, though it only takes up about 20% of the entire sex industry in the Netherlands. Windows are rented for 8 hour shifts for some 60–150 euro (depending on the time and place), which includes closed-circuit security. Fifteen to twenty minutes of sex cost about 40 to 50 euro (though prices can go both higher and lower according to the service). Despite the legalization, some of the working women are still illegal immigrants. These prostitutes cannot work in the windows, since a European Union passport is required to rent one.

Some municipalities in the Netherlands would like a "zero-tolerance policy" for brothels on moral grounds, but by law this is not possible. However, regulations, including restrictions in number and location, are common. Whether a zero-tolerance policy on urban planning grounds is allowed is still unclear.

There are twelve red-light districts with window prostitution in the Netherlands. A thirteenth (Spijkerkwartier in Arnhem) was closed down in 2005.

The largest and best-known is De Wallen in Amsterdam, also known as Walletjes or Rosse Buurt.

Not to be outdone, Utrecht also boasts an impressive red light district, centered around the area north of the famous Rode Brug (red bridge), containing more than one hundred canal boats and also a smaller city center street called Hardebollenstraat.

An article in Le Monde in 1997 found that 80% of prostitutes in the Netherlands were foreigners and 70% had no immigration papers, suggesting that at least some were victims of sex trafficking, forced prostitution. The Netherlands is one of a number of destination countries in Europe for trafficked women (many of whom are led to believe by organised criminals that they are being offered work in hotels or restaurants or in child care and are forced into prostitution with the threat or actual use of violence).

In an effort to crack down on forced prostitution, a campaign was launched in 2005 in magazines through posters put up around the red-light districts encouraging clients to report signs of coercion. The poster has an eye-catching silhouette of a spike-heeled prostitute with long hair leaning back, but on closer inspection another picture reveals a gun being held to the female's head. The caption reads "Have you seen the signals? Fear, bruises, no 'pleasure' in the job." It then goes on to offer a phone number which clients can call anonymously.

In 2004 the Norwegian government published a report comparing two opposite choices in dealing with prostitution, the Dutch one and the (prohibitionist and criminalizing) Swedish choice. It turned out that, although
there are still some unsatisfactory issues, the Dutch approach seems to be much more effective than the Swedish one in ruling prostitution and fighting crime.

Prostitution Population

A study by the Dutch Ministry of Foreign Affairs in 2000 estimated that there are a total of between twenty thousand and twenty-five thousand prostitutes in the Netherlands on a yearly basis. Approximately 32% are Dutch, 22% are Latin American, 19% are Eastern European, 13% are African (south of the Sahara), 6% come from other countries from the European Union (aside from the Netherlands), 5% come from Northern Africa and 3% are Asian. Approximately 5% of the prostitutes are male, and another 5% are transsexual. However with new legislation from 2001 that prohibits migrants from outside the European Union to work legally, demographics most likely have shifted.

Prostitutes in the Netherlands work in several types of prostitution. The most common form is in sex clubs and private houses. Approximately 45% of the prostitutes work in this type of prostitution (private houses are brothels where prostitutes are directly introduced to the clients in a separate room, there is no bar and the client is not confronted with other clients). Approximately 20% works in window prostitution, 15% in the escort, 5% on the streets and 5% in their own homes. An estimated 10% works in other types of prostitutes, like massage parlours, sexshops, sex theaters and bars.

Present Situation

During the second half of the twentieth century, prostitution was condoned by many local governments. The police only interfered when public order was at stake or in cases of human trafficking. Brothel prohibition made it difficult to set out rules for the sex industry. During the eighties many municipalities urged the national government to lift the ban on brothels. In 1983 Minister Korthals Altes presented an amendment to the law on prostitution. It took until October 1, 2000 for prostitution to be fully legalized.

Dutch attitudes regarding prostitution support legalization and normalization. Public opinion polls conducted in the late 1990s show that the Dutch public overwhelmingly rejects the notion that prostitution is unacceptable, deviant behavior. In a 1997 survey, 73 percent of Dutch citizens favored legalization of brothels, 74 percent said that prostitution was an "acceptable job," and in a 1999 poll 78 percent felt that prostitution is a job like any other job.

Until the 1970s, prostitutes in the Netherlands were predominantly white lower-class women from the Netherlands, Belgium, France and Northern Germany. During the seventies, in the wake of the sex trips to South-East Asia by Dutch men, the sex operators brought in women from Thailand and the Philippines. In the eighties there was a second wave from Latin America and Africa. In the nineties, after the fall of the Soviet Union, women came from Eastern Europe. Foreign prostitutes are economically motivated to come to The Netherlands, and they tend to travel to engage in sex work between Holland, Germany, Belgium, and other European societies.

In early 2007, the Netherlands government refused to renew the licenses of 33 licenses brothels, possibly signaling the end of the famed windowed brothels of Amsterdam.