

Corruption and Organized Crime: Bridging Criminal and Economic Policies
Mind the Gap: Linking Criminal and Economic Policies
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1. some remarks on the development of ideas on the presence and nature of organised crime in the Netherlands.
2. the development of ideas on the role of the criminal justice system and public administration in combating organised crime.
3. the outline of a market regulation approach.
4. some examples: cannabis, prostitution, gambling.
5. a local pilot project in Amsterdam.

In the Netherlands, up to the mid-eighties of the last century, organized crime was regarded as a phenomenon occurring in foreign countries, especially in the US. However, at the time, prominent Chiefs of Police came to the conclusion that organized crime was developing in the drug trade, not only in the rest of the world, but also in the Netherlands. And there were studies in the field of social fraud, which indicated that traditional professional crime was transforming into a system of national networks with traits of criminal syndicates.

These ideas about the existence of organized crime had not yet emerged in specific policies and (academic) criminology, though there was an awareness of the risk that it might (further) develop. In the governmental policy document *Crime and Society* (1985) it was decided that petty crime should be tackled by means of a preventive approach, carried out by co-operating governmental institutions and private organisations. However, the fight against the emerging organized crime in the drug trade, the prostitution sector and sectors in which social fraud occurs, was declared to be an exclusive task of the criminal justice system.

In the early nineties, the vision that organized crime organisations in the Netherlands were only weakly developed, was rapidly changing. In the policy document *Organized Crime in the Netherlands: Threats and Approach Plan*, the standpoint was taken that organized crime was about to infiltrate in several legal sectors, both public and private ones. Again it was decided that the criminal justice system should be strengthened, but there was also a new approach, in which a more active and prominent role was allocated to the public administration. This idea was promoted in a meeting of Dutch and American police officials at the Dutch-American Conference on Organized Crime in 1990.

The discussion was further encouraged by the parliamentary investigation of the Van Traa Commission, which initiated a scientific study that focused on mapping out organized crime in the Netherlands, and was conducted by a group of prominent criminologists. Apart from clarifying the existence of organized crime in the Netherlands, the group also proposed a definition. At the time, this definition characterized organized crime as follows:

- it is primarily aimed at illegal profits;
- it commits crimes in a systematic way with severe consequences for society;
- it is capable of using violence or engaging in corruption to protect itself against governmental interventions.

Organized crime was thus distinguished from organisational crime, which consists of illegal activities in legal organisations and markets (for instance the waste disposal sector).

In the Van Traa-report it was concluded that the nature of organized crime in the Netherlands was different from that in countries like the US and Italy. The activities of organized crime in the Netherlands do not include racketeering, which often occurs in other countries when criminal groups are trying to gain control over legal markets (for instance, the building industry). Dutch organized crime primarily engages in delivering goods and providing services at illegal markets for drugs, gambling, and prostitution. Since these markets are illegal, there is a lack of governmental regulations, and therefore there is also little opportunity for preventive strategies. However, the profits arising from illegal activities are not only invested in further criminal activities: there is a need for spending or investing these profits in the legal economy and money laundering. Preventive measures can be implemented to reduce the opportunities for these activities and thus the infiltration of organized crime in legal economic sectors. One preventive instrument is the so-called Wet MOT, which obliges financial institutions and professionals to report unusual financial transactions to the authorities.

It is clear that in order to combat organized crime effectively the laws for tracking down, prosecuting and locking up criminals should be enforced by the criminal justice system. This enforcement is facilitated by the introduction of new models within police and criminal justice organisations. We have seen the establishment of a national criminal investigation department and a national public prosecutor office, aimed at combating serious crime, organized crime and financial-economic crime. Apart from that, the Dutch police system is being reorganized extensively, from a decentralised region-based community policing model to a centrally conducted organisation with regional departments, and this reorganization is also carried out in the context of improved control over organized crime, serious crime and large-scale financial fraud.

But alongside this, it is clear that the criminal justice system is only a part of the total strategy against organized crime. The public administration has to join in with preventive actions. As said earlier, organized crime in the Netherlands is particularly involved in illegal markets, where regulations and control measures are absent.

One of the ways this phenomenon is tackled in the Netherlands can be considered as typically Dutch, although it is not completely absent in other countries.

This approach is characterised by the legalisation or toleration of illegal activities, thus creating regulated markets for goods or services within the illegal markets where organized crime is, or may be, active.

A prominent example is the market for drugs. The authorities in the Netherlands make a distinction between hard drugs, such as heroin and cocaine, on the one hand, and soft drugs, such as marihuana and hashish, on the other. With regard to soft drugs, one is permitted to sell and buy small quantities for personal use (however, production and wholesale activities are not permitted). The regulation of a part of the market provides possibilities for preventive measures, such as screening and auditing of businesses and businessmen. In this way, a legal market with possibilities for preventive government interventions is created. Unfortunately, there is a so-called 'front door – backdoor problem', since what happens at the 'front door' (the sale of drugs for personal use) is not illegal, whereas the 'back door' activities (buying drugs from producers) is illegal. This is an important inconsistency in the system. The mayor of the Dutch town of Maastricht, Gerd Leers, has proposed a pilot project in which the production of cannabis is (temporarily) legalised, in order to find out whether it is possible to expand the current regulations, with the aim to enhance governmental control over the sector. Due to the international consequences of legalised production, it is unlikely that this pilot project will be carried out in the near future.

The same idea of legalisation is behind the Dutch policy on prostitution, which was brought under a licensing system in the year 2000. This means that prostitution is now forbidden unless the brothel keeper has a license, which is issued by the local government. The granting of this license is related to rules concerning

the background of the brothel keeper and to the social and labour conditions of the prostitutes. The idea is that to bring this sector under the influence of governmental regulations will hamper human trafficking, prostitution of minors, and the exploitation of women in general. The enforcement of regulations concerning prostitution in the illegal part of the sector should be a matter of interest to both the criminal justice system and the public administration.

Yet another example is the Dutch policy on illegal gambling. Just as prostitution, gambling is brought under a license system, with strict regulations concerning the appropriation of profits, the background of entrepreneurs and the prevention of gambling addiction. The enforcement of the regulations concerning the illegal part of the gambling sector is a matter of maintaining public order and includes enforcement activities of co-operating governmental institutions such as the tax authorities (Internal Revenue Service), social security organisations, the police and local government.

So the basic idea is:

- to create a legal market in sectors where organized crime is active;
- to take care of the enforcement of rules within the system;
- to prevent the invasion of criminals in the legal part of the market;
- to combat the illegal part of the market, through the criminal justice system and the public administration.

The main instrument is institutional reform (the creation of legal markets), with an important regulating role for local government.

With regard to this, the regulating role of the local government is facilitated by a new instrument for screening and auditing, called Bibob. Bibob (which is an acronym for the promotion of integrity judgements by the public administration) enables local governments to draw information from police records and judicial records, not just information on criminal convictions, but also from investigations in progress. This information can be used to refuse a license or a subsidy. The information concerns the people who apply for a license, but also others in connection with the application. The number of Bibob-applications is growing, following a slow start.

I think that some progress has been made with regard to regulating illegal markets, even though combating illegality is still the Achilles' heel of the system as a whole.

So far the ideas I mentioned are national ideas. Now some words on the local situation in Amsterdam, which is not only the national capital, but also the criminal capital of the Netherlands. The studies of the Van Traa investigations showed that sixteen criminal groups or networks were active in Amsterdam. On the basis of this information, the local government has established a project to reduce criminal opportunities, especially in the red light district, which is located in the city centre, where prostitution, drug trade and illegal gambling are most prominent. The project had as its important intermediate goals the improvement of the information position of the local government, the upgrading of the investment climate and living conditions and the screening and auditing of businesses. This project was carried out before Bibob was developed, so the municipality of Amsterdam had to develop its own instruments for screening and auditing by means of agreements with the police and the public prosecutor.

Organized crime may be a global problem, but policies against it can be local.

An evaluation study by researchers of the Free University of Amsterdam made some critical remarks on the project. For instance, they argued that the programme theory was not well developed. Beforehand, it had not been proven that organized crime would be hampered or reduced as a result of the improvement of the information position of the local government and the improvement of the investment climate and living conditions. Apart from that, there was the problem of net widening, because the term 'organized crime' was

not clearly defined. It is simply not known if the measures have helped in diminishing the presence and the activities of organized crime in the area. But the researchers concluded that there were enough signals of government presence in the area and other positive effects of the normalisation that resulted from the project. Therefore they were of the opinion that the project should be continued.

To conclude, it remains an interesting question whether it is possible to combat organized crime by introducing regulations in illegal markets, enforcing these rules, preventing the invasion of criminals in the legal market and combating the remaining illegal activities. It is also interesting to note that the strategy is partly local, with an important role for local government, and partly national, concerning the enforcement activities and information exchange. Of course there is also an international dimension: there is a need to exchange information and enhance co-operation between international criminal justice organisations.