Introduction

Grand narratives such as David Garland’s *The Culture of Control* undoubtedly provided a much-needed re-imagination of the landscape of crime and social order at the turn of the millennium, accounting for both punitive ‘non-adaptive’ strategies and ‘adaptation’ to the ‘policy predicament’ facing high-crime societies (Garland 1996; Garland 2001). Whilst much of the focus had initially been premised upon developments in the UK and the USA, it seemed logical that just as other Western European countries were experiencing strains of late-modernity, so too they would experience the ‘punitive turn’ and a ‘culture of control’.

However, criticism since developed concerning the usefulness of such meta-narratives in explaining divergence across different national and subnational settings (Young 2002; Matthews 2002; Edwards and Hughes 2005). Even where countries do exhibit apparent similarities which seem to indicate such ‘determinedly dystopic’ visions (Zedner 2002), there is a danger of masking much more complex processes and mechanisms which underpin how internal and external pressures are mediated and translated into policy responses. These points have been shown to be significant, as how national policy and legislation is generated and translated into local spheres of governance is not a homogeneous process, but rather is subject to negotiation and resistance (Edwards and Hughes 2005; Stenson and Edwards 2004).

Structural relations of governance and varying features of elected representation present bounded opportunities and constraints for policy change. The development and performance of policy is further shaped by contestations by social actors within positions of power who wrestle over how something ought to be defined and responded to. Political actors, keen to progress their vocational goals, attach themselves to conceptions which fit into their ideological schemas and which appeal to key electorates. Coalitions of actors, informal groups and agencies operating both within and outside the policy machinery form loose policy communities, joining together at specific moments to advocate their preferred policy alternatives (Kingdon 1995).

How conceptualisations of, and responses to, particular problems emerge, then, is through a dynamic set of structure-agency relationships which over time have assumed new meanings and reaffirmed others, being mutually shaped by currants in late modernity and developments in broader signifying territories. Policy processes are by no means always linear or ‘rational’, with ‘windows of opportunity’ for policy communities to progress agendas and craft policy opening and closing within an inherently shifting and messy social landscape (Kingdon 1995).

Certainly, whilst Garland’s work has added immense value in providing a map to the contemporary terrain of crime control, there is a lack of depth and empirical specificity concerning the interaction of political institutions, processes and cultures across different governable spaces. Indeed, Garland (2001:vii) notes this, with an overt brushing aside of the ‘empirical particulars’ to focus on a ‘sweeping account of the big picture’. Moreover, examinations of legislative processes have received relatively little attention within criminology as a whole, with preference usually to look at the *effects* of legislation (Jones and Newburn 2007). However, given the potential for variation across and within jurisdictions, it is an area which is growing in importance to understand how and why policy takes the direction it does within the broader constraints and possibilities presented under late modern conditions.

This is particularly pertinent in the area of illicit drug policy given the ‘silence’ of *The Culture of Control* in explicitly discussing drug policy beyond a handful of references to the ‘war on drugs’ (O’Malley 2002). Certainly, despite the growth of global frameworks of control that emerged throughout the 20th century, there is evidence of continued variation in responses across different jurisdictions, particularly in relation to the most commonly used illicit substance, cannabis. This is particularly intriguing in the case of the Netherlands, where despite analyses advocating a shift towards a culture of control (e.g. Downes and van Swaaningen 2007), the curious resilience of tolerated cannabis coffeeshops appears to contrast with the *de jure* criminalisation of all cannabis activities found in England & Wales.

Fifteen years on from *The Culture of Control*, the aim of this paper is to empirically test, corroborate and accumulate knowledge on how and why particular strategies of crime control are experienced and performed across and within England & Wales and the Netherlands with regards to a specific set of changes in cannabis policy.

Cannabis Control in England & Wales and the Netherlands

Trajectories of cannabis control in England & Wales and the Netherlands over the past fifty years show points of similarity and difference, but as a whole can be understood as differentiated outcomes of ‘structured ambivalence’ (Garland 2001). In respect of small-scale supply and use (possession), significant differences have emerged, whereby the Dutch employ a *de facto* legalised approach through tolerated ‘coffeeshops’ (MacCoun and Reuter 1997), in contrast to overt criminalisation found in England & Wales. However, the approach towards cultivation and large-scale supply has witnessed a mutually increasing law enforcement-led approach develop.

The explicit purpose of the Dutch approach is premised upon an attempt to separate the drug markets between cannabis, perceived as an ‘acceptable risk’, and ‘hard’ drugs, which are deemed to pose ‘unacceptable risks’. This became officially enshrined within the Opium Act 1976 which created a two-tier system of illicit drug control, with cannabis being placed in Schedule II. Through framing drugs as a health issue, and conceptualising cannabis as posing acceptable risks, the rationale behind the framework was based upon preventing marginalisation and stigmatisation (particularly of young people) that was associated with criminalisation. As such, the Ministry of Health, Welfare and Sport assumed primary responsibility in the governance of drug policy, with support from the Ministry of Justice and the Ministry of Interior.

In conjunction with the development of guidelines for prosecution, known as the *gedoogbeleid* (‘tolerance policy’), which arose initially from existing local practices, this allowed vendors and consumers to engage in small-scale supply and possession offences without facing police action (see Leuw 1994). Since the emergence of coffeeshops as a vehicle to deliver these health-driven aims, their numbers grew exponentially between the 1980s and early 1990s.

However, since their high point of an estimated 1500 in the early 1990s, the coffeeshops have more than halved in number and have seen a raft of stricter measures and approaches imposed (Bieleman and Goeree 2001; Bieleman et al. 2012). These have granted more powers to local municipalities and law enforcement agencies, largely under the guise of tackling coffeeshop-related ‘nuisance’[[1]](#footnote-1) and organised criminal networks involved in cultivation and supply (Van der Gouwe et al. 2009; Wouters et al. 2010; Boekhout van Solinge 1999; Bieleman et al. 2012). For example, this includes: reductions in the amount of cannabis that coffeeshops can sell per customer per day; powers to local municipalities to choose a ‘zero option’ and to close premises that transgress local policy; greater powers to investigate the financial background of proprietors; multi-agency partnerships targeting cultivation; a voluntary distance criterion of 250m between coffeeshops and secondary schools; and the establishment of a national specialist Organised Cannabis Cultivation Taskforce. It is salient to note, however, that the fundamental role of the coffeeshops as a means to separate illicit drug markets, and thus reaffirming the central health-driven aim, has been constantly restated in policy documents.

The most recent policy changes seem to further confirm a shift towards a more risk averse security-conscious set of strategies with the Rutte I Government[[2]](#footnote-2) announcing in 2011 the introduction of three new tougher measures aimed at reducing the number and size of coffeeshops (Tweede Kamer 2011a). The three new measures involved restricting entrance to coffeeshops to residents of the Netherlands; requiring coffeeshops to become private member clubs with a maximum membership of 2000; and closing all coffeeshops existing within 350 metres of secondary schools.

The first two of these measures (residency and closed club) were to be trialled in the three southern provinces from May 2012 with national introduction from January 2013; while the school distance criterion was to be applied nationally from January 2014. However, in 2012, while the trials were proceeding, a shift of government to Rutte II[[3]](#footnote-3) saw the new measures revised. The closed club and school distance criteria were removed from the prosecutor’s guidelines, leaving only the residency criterion intact, which was given greater flexibility in its enforcement.

In England & Wales, contemporary control of cannabis stems from the 1971 Misuse of Drugs Act which created a three-tier classification of illicit substances – A, B, and C – purportedly based upon the degree of harm and dangerousness. One of the principal purposes of the Act is to stipulate the types of criminal justice penalties available for different drug offences (e.g. possession; possession with intent to supply; production), with Class A substances attracting the most serious punishments and Class C the least punitive. An implication of this system is that illicit drug control is *primarily* the remit of the Home Office (as opposed to the Department of Health or equivalent, as is the case in the Netherlands).

Initially, cannabis was categorised as a Class B drug, which carried with it a maximum of five years imprisonment and/or an unlimited fine for possession, and up to fourteen years and/or an unlimited fine for production or supply. The classification of cannabis remained the same until the issue came under the spotlight during the 2000s with the period witnessing two reclassifications in a space of five years. The initial reclassification in 2004 from Class B to Class C was shrouded in confusion. Whilst a predominant rationale was to reduce criminalisation of users and to allow greater freedom for police officers – seemingly illustrating adaptation to the pressures and ‘normality’ of increased prevalence (Garland 2001) – media and police-driven fears ultimately led to compromises being made. Sentences for production and supply were retained at the same levels as Class B drugs as was the power to arrest under ‘aggravating circumstances’[[4]](#footnote-4). In addition, the introduction of an out-of-court disposal, the Cannabis Warning, became tied to centralised performance indicators which consequently led to a massive growth in the numbers processed by the criminal justice system since 2004 (see Shiner 2015).

Following the 2004 reclassification, the same New Labour government reversed their own decision under the leadership of Gordon Brown a mere 5 years later in 2009. The return to Class B projected a tougher approach to ‘protect the public’ from a ‘clear and serious problem’ (House of Commons 2008a), with concerns cited particularly regarding domestic ‘commercial’ cultivation and the links between high-strength ‘skunk’ and mental health issues amongst young people. The decision to reclassify took place within the context of the New Labour Government having consulted the expert Advisory Council on the Misuse of Drugs (ACMD) over cannabis classification three times within the space of six years, ultimately choosing to reject their advice *not* to reclassify (ACMD 2008).

The result of this change in classification primarily affected the maximum penalties available for possession offences, raising them from 2 to 5 years imprisonment on indictment. Moreover, the Association of Chief Police Officers (ACPO) introduced new policing guidelines which formulated an escalated approach to possession offences, retaining Cannabis Warnings as well as introducing a Penalty Notice for Disorder (PND) (ACPO 2009). Overall, the reclassifications created widespread confusion whilst effectively granting the police much greater powers to flexibly deal with adult possession offences.

Changes in cannabis policy, particularly regarding low-level offences, indicate the frenetic nature of policy-making that has occurred in recent years in both England & Wales and the Netherlands. The broad trajectory shows signs of convergence, with the Netherlands employing more restrictive measures towards cannabis offences. Certainly, both of the most recent policy movements *prima facie* indicate the presence of non-adaptive strategies at a national level. However, the key point is that whilst both jurisdictions have experienced broadly similar societal insecurities surrounding cannabis over the past three decades, the genesis and unfolding of cannabis policy has not been experienced in a similar way across and within England & Wales and the Netherlands. Whilst surface changes may indeed highlight a degree of convergence, questions remain given continued differences in policy approaches towards small-scale supply and possession offences, and how policy changes unfold at a subnational level.

Methodology

This paper discusses the findings of an empirical study which explored the extent of policy convergence and divergence in cannabis control across and within England & Wales and the Netherlands.

The research adopted a comparative multiple-embedded case study design (Yin 2014). The overarching rationale behind the adoption of such a research design was to understand the ‘diverse determinations’ of social phenomena through illuminating the messy contingencies of policy development emanating in particular geo-historical contexts (Edwards and Hughes 2005). In this sense, whilst it was neither reasonably possible nor the objective of the research to extrapolate with certainty the role that particular factors play in policy formulation, a key element was to test, corroborate and clarify how strategies of crime control manifest themselves across and within contrasting regimes of cannabis control.

Such an ‘intensive’ design is well placed to indicatively identify a set of factors and mechanisms which played some role in how a set of events unfolded within the specific contexts under examination (Sayer 1992). The concern with generalisability is not with the applicability of the findings to other geographical or policy settings, but to question and build upon more generalised accounts of contemporary crime control strategies in late modernity. However, through conducting research of this kind, it is then possible to assess whether these same conditioning factors are relevant and perform similar functions in other settings, providing a springboard for future research programmes.

In order to provide a more in-depth analysis, the empirical focus concerned two specific policy movements across and within England & Wales (the 2009 reclassification of cannabis from Class C to Class B) and the Netherlands (modifications to the ‘tolerance policy’ of cannabis coffeeshops in 2012/13). The research utilised the analytical framework of Kingdon’s (1995) Multiple Streams Model as an organising device to capture the constructions, processes and events by which policy change occurred at the levels of ‘talk’ and ‘decisions’ (Brunsson 1989; Pollitt 2001).

Case sites were explicitly selected on the basis of showing potential to be both ‘exemplary’ and ‘deviant’ in performing and reworking non-adaptive strategies. At a national level, England & Wales represented an ‘exemplary case’ of the culture of control (as used by David Garland), whilst the Netherlands, by virtue of a distinctly different approach to cannabis policy, was considered a *de facto* ‘deviant case’ (Pakes 2010). At the subnational level, two local sites (Cardiff and Utrecht) were selected by virtue of their potential to display resistance to shifts at the national level.

The methods involved two main components: first, an analysis of key policy documents pertaining to the policy changes; and second, a total of 62 semi-structured elite interviews with stakeholders in the cannabis policy network, situated at both national and local levels across both jurisdictions[[5]](#footnote-5).

The sampling strategy for the documentary analysis involved a mapping of published documents by state organisations which related to the policy changes under examination. A review of sources was conducted through online searches of government websites, initially using broad search terms such as ‘cannabis’, ‘reclassification’ and ‘coffeeshop’, and was further complemented through information and hard-copies provided by interview participants.

This included the most recent state drug strategies and official reports from advisory committees such as the ACMD in England & Wales, and the van der Donk and Garretsen Commissions in the Netherlands. In addition, a further set of specific published documents were selected for a more in-depth analysis[[6]](#footnote-6). Whilst recognising the somewhat overwhelming availability of documents that could be considered relevant, especially considering the vast array of readily available transcribed parliamentary debates, these particular documents were chosen on the basis that they originated from the actors and organisations responsible for implementing policy change (e.g. Home Office/ACPO) and were considered central in the dissemination of how and why the new measures were being introduced. This allowed the analysis to focus on how cannabis was officially constructed as a policy problem, the rationalisation for intervention, and the actual manifestations of the policy measures.

Interview participants were sampled through purposive and reputational methods followed by a process of snowballing. Across national and subnational levels, this included current and former politicians and civil servants from key departments[[7]](#footnote-7), senior police officers and health administrators, policy advocates from non-governmental organisations, expert committee members, and relevant academic specialists in the drug policy field.

All interviews shared common core components which were aligned to the organising framework of Kingdon’s (1995) Multiple Streams Model. Indicatively, such common ground involved asking about problems associated with cannabis, how and why the policy changes had occurred, and the relationship between national and subnational levels of governance. However, given the breadth of participants, interview schedules were tailored to ensure that discussions generated data which most effectively elicited the particular expertise and situated perspective of the participant. For example, interviews with political actors at a subnational level were more focussed on the dynamics existing within the local council and amongst political parties and the relationship with other key agencies, such as the police and probation. Whereas interviews with an advisory committee member operating formally at a national level were asked more specific questions on their perceptions of the utility of evidence to policy formulation etc. This allowed various parts of a much larger puzzle to be pieced together, whilst simultaneously allowing for a questioning and validation of participants’ perspectives across different interviews and settings.

Utilising the principles of adaptive theory, data from both the interviews and the documents were thematically analysed to construct a representation of how the policy changes came into being and unfolded across national and subnational levels. The Multiple Streams Model was used as a middle-range analytic framework, with the data of each governance level, of each country, manually coded into three broad categories of ‘problem’, ‘policy’ and ‘political’ streams. Smaller meta-codes were also adapted from Kingdon’s work, including, *inter alia*, ‘political feasibility’, ‘changes in administration’ and ‘organised political forces’. Additionally, further codes were inductively generated and refined iteratively as the research progressed, allowing the themes of the data to not be constrained to the imposition of particular codes and to more accurately reflect the phenomena being investigated.

By using both a common set of analytical categories, as well as accounting for culturally and topic specific components, this allowed for an international and intra-national set of comparisons to be made. The findings of this analysis were then placed back into the broader theoretical propositions of the culture of control to delineate the extent to which such forces have been felt in this policy area and the nature of its existence across and within the geo-political contexts under examination.

Next, we examine the intimate interconnection between political institutions and policy-making cultures which were found to have presented particular bounded opportunities for policy change. In turn, it is argued that such facets shape the nature of the policy response, through facilitating and/or limiting the impact of various influences, notably that of expertise and the media and public opinion.

Political Institutions and Cultures

*The Netherlands*

Under a system of proportional representation in the Netherlands, which facilitates a larger number of electable political parties, coalition rule ensures that a mixture of views is often represented in cabinets on all issues (Andeweg 2008). In spite of a more politicised and hostile environment, whereby a politics of accommodation has slowly been eroded away by a more adversarial style, the structural forms of political organisation have retained intact (ibid.).

The effect this has had with regards to cannabis and drug policy is that there is a significant difference in the availability of political positions. Parties lying on the centre-to-right side of the political spectrum (such as CDA and VVD) have shifted and become more supportive of punitive responses regarding cannabis, which can be partly accounted for due to pressure from the populist PVV in the broader fields of crime control, immigration and community safety (Van Swaaningen 2005). However, there are a multitude of parties on the centre-to-left which have become more aligned with responses which would further regulate the coffeeshop system, particularly regarding the back door of cultivation and supply (such as PvdA; D’66; GroenLinks; SP). Thus, preferable policy options are not constrained within the dominant model of prohibition. However, the importance is the combination of structured forms of elected representation with the particular constellations of power which has the potential to unlock or constrain particular policy preferences based upon necessary processes of ‘wheeling and dealing’ in forming coalitions and making governmental decisions.

This links to key ‘changes in administration’ which were important catalysts for the instigation and revision of cannabis policy (Kingdon 1995). The measures instigated under Rutte I were politically feasibile due to the composition of the right-leaning coalition (comprised of VVD; CDA; and supported by PVV). However, a second change of administration in 2012 brought in more balance with the coalition of VVD and PvdA. With the PvdA adopting a more progressive position towards cannabis, this facilitated pressure for greater leniency with the new measures:

‘…now there is a new government and they consist of left and right. The right-wing extremists [PVV] are smaller, the threat is less I think on that side of politics, and they [VVD] made a deal to govern and… by wheeling and dealing… part of the deal was, I think, more liberal, more tolerant approach of the coffeeshop policy.’ (Policy Advisor to the Mayor, Utrecht)

The suggestion here is that the constitutional system itself mediates the proliferation of different and multifaceted control strategies. Having to find consensus amongst differing parties is a necessity for a coalition government to rule, and so whilst politicisation and populism may have become more prominent, there is still a very pragmatic element involved in generating agreement. This is illustrated in the views of one VVD politician:

‘One thing, that is campaigning, and secondly, that is also negotiating. I was quite fierce in the media about, for instance, the *wietpas*, then you get a sort of pressure always that the others are getting fiercer and in the end I don’t have to move this much but I only have to move this much because I already took a very radical position in the beginning.’ (VVD Politician)

Written in to this cultural code of negotiation and consensus-building is the idea of developing policy over time. So whilst the formation of Rutte I signalled a right-leaning cabinet, the origins of the recent policy measures – with the formation of the Van der Donk Commission – started in the Balkenende IV cabinet which also included PvdA. The same party then also returned in Rutte II. So whilst there has been voter volatility and mobility in recent decades, a breadth of political parties come and go from national government (Andeweg 2008).

In this context, of needing to find agreement over time and across diverse political parties in a highly polarised policy area, the role of expert commissions has a heightened *potential* to play a significant role. Where decisions are difficult to make, commissions may provide legitimacy in decision-making through pragmatic advice. According to one politician, who in spite of representing a party which is ideologically against the use and tolerance of cannabis, suggested that this allows political parties to move from their original starting points:

‘…because a coalition system really needs to have a basis, someone will always have to move in their position to get a decision, that means they should have reason to change which they cannot get from their manifesto because they are changing from this. So there is some necessity for facts or expert judgement or something like that to support the moving of the political position.’ (CDA Politician)

This is not to suggest that there is always a secure relationship with scientific expertise, with participants highlighting, *inter alia*, the role of incident-driven events and media reporting in driving policy concerns, shifts in political rhetoric towards symbolic ‘sound-bites’, and the challenge of populist parties towards elitist forms of policy-making. However, examining the recent policy movements, it is clear that expert commissions had a key role in finding a ‘golden angling’ or ‘middle ground’[[8]](#footnote-8) which was acceptable for parties across the political spectrum.

Indicative of this consensus-finding and pragmatic-leaning style is the broad remit afforded to both the Van der Donk and Garretsen Commissions which considered options from complete prohibition to full legalisation and an examination of the entire drug scheduling system. Moreover, it is significant that most of the key recommendations were accepted and introduced by the Rutte I and II governments, which reflects their influence in finding an acceptable policy shift in a contested policy domain. The continued influence of expert committees arguably reduces the influence of the public and media, thereby producing some insulation from populist punitive pressures. Thus, whilst the Dutch political landscape has undergone significant turbulence in recent years, it is clear that fundamental structural and cultural features remain intact which are highly significant in understanding policy change. In a similar, but differentiated way, such aspects were central in understanding the policy change in England & Wales, which is where we turn to next.

*England & Wales*

In contrast to the Netherlands, there is a distinctly different political architecture and culture in England & Wales, which in its own way, conditions how cannabis policy is created and unfolds. An adversarial ‘first-past-the-post’ system, coupled with the historical culture of two large political parties, purposefully supports a strong one-party government.

Set within the broader context of heightened politicisation and the depolarisation of Labour and the Conservatives towards law and order issues, this facilitates a competitive imperative to criticise the opposition and reject accusations of being ‘too soft’. After all, the likelihood of having to directly work with other political parties in a ruling government in England & Wales is extremely rare in comparison to the constantly changing coalitions found in the Netherlands. However, a consequence of having a limited set of electable political parties is that this provides a narrow set of political positions.

Although polarised views and support for alternative approaches to prohibition do exist in a number of political parties in England & Wales (such as the Liberal Democrats; Plaid Cymru and the Green Party), such positions do not publicly feature within the two major parties, Labour and the Conservatives, and has had little influence in the overall direction of policy.

Indeed, if we look at the reclassification of cannabis back to Class B in 2009, there was little opposition to the Misuse of Drugs Act Amendment Order. 76.3% of the House supported the motion, with only a joint total of 6 MPs rebelling from the Conservative and Labour parties (see House of Commons 2008b). Such dominant perspectives are partly conditioned by historical cultural values with both traditionally embracing a prohibitionist logic, but also by the type of environment in which political actors find themselves in with drug policy pertinently described as a ‘toxic third rail issue’[[9]](#footnote-9).

This is connected to what both observers and current political actors alluded to as the limited ‘political currency’ available with the issue being one which inhibits ‘sticking your head above the parapet’[[10]](#footnote-10) due to political ‘perception, prejudice, and pressure’[[11]](#footnote-11). The need to be seen to be taking authoritative action on ‘existential threats’, such as illicit drugs, conditions the types of policy options considered rational to those in power (Crick 2012).

Importantly, the nature of political institutions and culture shapes these dynamics. Ruling, through what was once described as an ‘elective dictatorship’ (House of Lords 1953), facilitates strong governments with the ability to create policy as they see fit. In a competitive two-party system, there is a lot of pressure to be seen as more capable guardians than the main opposition, and this has been shaped and helps shape a more demanding public and rapacious media. A consequence is that policy has a greater potential than under the Dutch system to assume knee-jerk reactions and quick policy reversals, as was the case with the 2009 reclassification.

As with the Netherlands, an important ‘change in administration’ was an important conditioning factor in the genesis of the 2009 reclassification. In part it was facilitated and expedited through the rise of Gordon Brown as a new Prime Minister in 2007, who announced within a few months of coming to power that he intended to address the classification of cannabis.

The political desires and pressures placed upon Brown to reclassify occurred within a suitable window of opportunity, which had opened due to what one informed participant described as the ‘media hysteria’[[12]](#footnote-12) immediately following the 2004 reclassification. At the time, cannabis classification became an issue with heightened ‘electoral anxieties’ (Garland 2001), with insider fears that the 2004 reclassification confirmed the ‘caricature’ of New Labour as being ‘soft’, thereby ‘giving the Tories their rightful position… as being tough on law and order issues’[[13]](#footnote-13).

The context in which Brown came to power provided an apt opportunity for the reclassification to occur at that moment. In particular, it was contended by critical observers that the 2009 reclassification served a political purpose for an incoming (non-elected) Prime Minister in need of support from a key, contested demographic who are more receptive and prone to fears of criminality and deviance:

‘It probably served the broader purpose of trying to connect with middle England or that base that Tony Blair had in his pocket, just by virtue of who he was and how he looked and came over. He had that constituency wrapped up, Brown never did.’ (Academic Expert and Former BBC Home Affairs Correspondent)

The importance then is that political decision-making is conditioned by the nature of the adversarial and majoritarian political system in which political actors draw upon a set of dominant values and act upon opportunities to further desirable goals. The implications of such structural and cultural features also offer a contrasting picture to the Netherlands in respect of the use of research and expertise. In England & Wales, the relationship is far less obvious (see Bennett and Holloway 2010; Monaghan 2011), with expertise more likely to be utilised where it is seen to progress ideological and political agendas but can also be more readily discarded. The culture of policy-making is one in which both politicians and civil servants are more amenable to reproducing and performing prevailing orthodoxies in a closed policy arena (see Stevens 2011; UKDPC 2012). This was further corroborated in this research through the account of a former senior Home Office Civil Servant:

‘Sometimes, dare I say, you might have to marshal the evidence in such a way that it supports the decision, and I think over time that became more and more the scenario, that you got a decision and your task was to find the evidence to support that decision, rather than find the evidence which demonstrated what the most sensible way forward would be.’ (Former Senior Civil Servant, Home Office)

An effect of such working cultures is that it limits the spaces in which ‘counter-doxic’ voices can gain legitimacy and challenge expressive, symbolic, and more objectively considered, irrational, policy shifts. The implications of this style of decision-making became clear in relation to the 2009 reclassification, which saw a rejection of the ACMD’s central recommendation *not to reclassify* in favour of securing the political goal of projecting authority to key electorates. As a Former Chair of the ACMD noted:

‘…he [Brown] sent his minders out on the street saying he is going to reclassify to B, even before we told him what the evidence was… I did actually write to the Home Secretary and I wrote to the Prime Minister, and said if you have already made your mind up what’s the point of asking our advice?’ (Former Chair of the ACMD)

In sum, the interconnection between political institutions and policy-making cultures in both jurisdictions, located within a broader social context seemingly favouring the politics of fear and law and order, and coupled with the specific constellations of power and actors involved at the time, moulded the policy process in particular directions and forms. In England & Wales, such conditions facilitated a quick policy reversal carrying significant symbolic function for New Labour, whilst in the Netherlands the process was drawn out over a longer period, seemingly assuming a more pragmatic set of policy changes which fitted the middle ground of involved groups. These arguments are further substantiated and bolstered through paying attention to the nature of organisational responsibilities and relations of power.

Organisational Responsibilities and Relations of Power

*The Netherlands*

In the Netherlands, cannabis policy is layered both across different national departments, and also within national and subnational levels, with local municipalities having significant powers to shape policy both locally and nationally. As a consequence of having multiple organised interests at stake, and set within a broader political culture stemming from processes of bargaining and negotiation, this has facilitated both preservation of the coffeeshop system and more readily accommodates negotiation and resistance towards measures perceived to overly threaten the model.

The *gedoogbeleid* was deliberately developed to ensure that cannabis use would not be considered a criminal justice issue, and this is reflected in the organisational responsibilities and relations of power. As such, an important feature of Dutch drug policy is that it involves several departments, with the Ministry of Health taking the lead at a national level. A universal theme uncovered in the interviews was that the role and voice of the Ministry of Security & Justice has increased over the past decade, indicatively seen with most official correspondence on cannabis policy changes emanating from this department.

However, the involvement of other key departments, notably of Health and also the Public Prosecution, provides a powerful voice in raising objections to policies which are considered counterproductive or administratively burdensome. This can be seen with the reflections of a policy worker from the Public Prosecutor’s Office:

‘…we often say inside here that we are busy doing the prevention of new measures, policy prevention, instead of developing or formulating new policies, because there are so many new ideas and a lot of them don’t make much sense so we try to stop them instead of further development.’ (Policy Worker, Public Prosecutor’s Office)

These dynamics continue to provide a strong space and voice for the rationalisation of coffeeshops, as they have largely been adjudged to be fulfilling their health objectives of separating the ‘soft’ and ‘hard’ drug markets (see Van Laar and Van Ooyen-Houben 2009). On the whole, the measures initiated under the Rutte I government were considered unsavoury, unworkable, and challenged the fundamental essence of the health-oriented and liberally-inspired separation of markets philosophy. The trial of these measures in the southern provinces caused a huge backlash against the government, which were seen to be overstepping the mark in intruding into people’s lives (by forcing people to register for an illicit activity). Moreover, they were felt to have generated a ‘serious adverse side effect’ by encouraging non-tolerated sources to flourish, thus threatening the market separation policy (WODC 2013).

In an available vacuum for competing narratives to be voiced, resistance to the new coffeeshop measures was also raised by the counter-voices of municipal leaders. This was due in part to the fact that municipalities, particularly of the *Grote Vier[[14]](#footnote-14)*, have significant powers to resist and rework nationally-instigated policy changes whilst also having room to advance alternative agendas.

In part, this can be accounted for due to a degree of insulation from both national and local electoral anxieties and pressures. Executive power rests with the College of Mayor and Aldermen which consists of appointed individuals who are separate from the directly elected municipal council. Simultaneously, the responsibility of the Mayor and Aldermen is at first to the local council rather than the national government, and this provides a mechanism whereby support is fostered for policy development and resistance against unfavourable national measures, as was the case with the municipality of Utrecht. The new measures were perceived with hostility, addressing a problem which did not exist in serious proportion, whilst not dealing with the ‘big problem’ of organised cultivation:

‘…we don’t have any problems with tourists in coffeeshops so we don’t see the idea of installing permits or something, and 350m, we don’t have any problems yet and we don’t see the advantage of that, only that we have to close down a lot of coffeeshops and only a problem that we have too few coffeeshops’ (D’66 Alderman, Utrecht)

Such pressure from a number of municipalities substantially contributed to the school distance and closed club criteria being rescinded and greater flexibility given to enforcing the residency criterion. This was due to concerns that these measures would lead to greater nuisance problems and would lead to the closure of most coffeeshops; an effect which would be unwelcome in most urbanised municipalities who value the role of coffeeshops. Thus, the position of Utrecht towards the residency criterion is that it does not enforce it until a problem arises:

‘As long as we don’t have that problem [tourist nuisance] there is no duty to implement it.’ (Policy Advisor to the Mayor, Utrecht)

As with the national level, empowerment to act and react at the local level must be considered in conjunction with geographical location and political representation as it not only affects how policy is translated from national to local spheres, but also in the propensity of the local in challenging national policy formation. This is not to suggest that this necessarily causes resistance to policy measures, lest we forget that it was local municipalities in afflicted border areas which called for national assistance to prevent foreigners from being able to enter coffeeshops; but rather that powers located in particular ‘geo-historical’ contexts present opportunities to rework policy in unique ways (Edwards and Hughes 2005).

Given the prominent role of some mayors in the larger municipalities, who often have political histories and continued influence at the national level, this places more bargaining power in their hands. The specific relationship between subnational authorities and central government during the period of policy change is of central importance in this regard. Most of the largest municipalities, which contain most of the coffeeshops, are led by PvdA mayors and have ‘progressive’ municipal councils (see Wouters et al. 2010).

This component, combined with the fact that PvdA became a national coalition partner in Rutte II, created political pressure for greater flexibility with the new arrangements. The local case site under examination, Utrecht, is both a member of the *Grote Vier* and had a ‘full’ left-wing political representation[[15]](#footnote-15). It is these facets which granted more influence in shaping the debates on the new coffeeshop measures and continues to serve as a springboard for propelling concerns and alternative responses into the political sphere.

For example, in Utrecht (along with many other municipalities, see NRC 2014) there are plans to regulate the back door through a social cannabis club model (College van B&W 2011). Despite repeated statements by the Minister of Security and Justice that such experiments would contravene international frameworks of control (see Tweede Kamer 2011a), there is a drive to place the issue upon the policy agenda. At the very least, this represents a symbolic attempt to confront the national approach, with Utrecht serving as a ‘spokesman’ of resistance:

‘…we are the spokesman to at least put this on the table again and again and again, and even making progress in our own way to see if something could be done… I am responsible for health issues in my home town and there is nobody who can say if I have to do this or that. That is my way how I can go forward if I still have the majority in the city council who is supporting me.’ (D’66 Alderman, Utrecht)

Thus, the development and unfolding of cannabis policy in the Netherlands is rather complex, with a series of factors which grants the subnational level significant scope in contesting, resisting and advocating alternative policies. Importantly, whilst the ability to rework policy is related to the size and geo-political power of municipalities, the decision to do so is also related to a set of contingent relations such as political representation and gravity of perceived problems. However, it is important to reiterate that this does not automatically mean policy at the subnational level assumes a more ‘tolerant’ and lenient approach, but that there are greater options in how policy is contingently interpreted and performed.

*England & Wales*

The spread of power and responsibility of the Netherlands contrasts somewhat with England & Wales where the control of cannabis and other illicit drugs is heavily centralised within the Home Office. This is not to ignore the fact that other departments are involved in the wider drugs strategy, such as the Department of Health and Department of Education, but that policy is primarily driven through a criminal justice lens in a notoriously stringent and centralised department which holds most of the power.

The closing off of alternative narratives is not only performed by actors and agencies operating at a national level, but was found to be apparent at a subnational level. Due to partially devolved governments and local authorities lacking fundamental ownership of the problem, this reduces their ability and willingness to officially negotiate and resist nationally-instigated criminal justice measures.

This signifies an important characteristic of subnational political culture in England & Wales. It has been described as ‘hypercentralised’ in comparison to European norms (Loughlin 2001; House of Commons 2009), with a ‘history of distrust’ between central and local governments (Chandler 2001). Arguably, given the particular histories of the constituent members of the United Kingdom, the political influence and resistance of Wales towards Westminster has traditionally been more passive than Scotland or Northern Ireland.

Such factors are especially prevalent in the area of criminal justice where the Home Office remains a bastion of centralised control. Whilst efforts to decentralise and defer responsibilities were made during New Labour’s tenure, most notably in the shape of statutory local partnerships, they still revolved around heavily centralised targets (Hughes 2007) which perversely incentivised the policing of minor cannabis offences in England & Wales (see Sosa 2012; Shiner 2015).

Since the removal of such targets in 2010, it is arguably more feasible for pragmatic strategies of cannabis control (at least for low-level offences) to flourish at the local level:

‘…more focus then went on finding cannabis factories, finding who the farmers were, who was financing it, how the money was being laundered from it and tackling it that way… cannabis warnings are easy, they’re easy pickings, whereas managers in the police would rather an officer properly and thoroughly investigate a burglary and get a detection with that.’ (Inspector, South Wales Police)

Thus, these manifestations of policy at the subnational level, which evidence divergence from the national level through a form of pragmatic adaptation, are facilitated within the particular ‘geo-historical contexts’ in which it occurs (Edwards and Hughes 2005).

In the setting of the partially-devolved Wales, the use of cannabis and other illicit substances is officially constructed in a more ‘sympathetic’[[16]](#footnote-16) way than in England, with the emphasis of Welsh drug policy centring upon harm reduction through the dominant narratives of health (WAG 2008). Arguably, this has been shaped by the technical inabilities in criminal justice matters which has led to the sharpening of those areas in which policy movement is attainable. Moreover, the emphasis on harm reduction also chimes with the social-welfarist political traditions of Wales which emphasise social inclusion (Drakeford and Gregory 2011).

In some ways, this policy rhetoric has become embedded at the local level, which in combination with varying degrees of centrally-driven pressures, has an impact on how practitioners conceptualise problems and mobilise resources. For example, without the burden of centrally-defined performance indicators, police participants articulated alternative narratives about suitable approaches, with preferences given to more humane and pragmatic responses:

‘…in many areas drug policy can be murky, clear messages will always come out of the Home Office, stamp all over these people, and the reality is, how would you like your kids to be dealt with? And that’s how we try to police.’ (Inspector, South Wales Police and Welsh Government)

It is perhaps unsurprising then, that despite tough rhetoric surrounding the 2009 reclassification the perceived impact on police practitioners, at least in respect of users, is extremely minor. However, despite signs that policy does have the potential to be reworked through practitioner adaptations, the ability to shape policy at a subnational level in England & Wales is heavily conditioned and limited by broader sets of values and structural constraints. As noted earlier, the dominant articulation of problems and consequent formal manifestations of policy which occur at a national level take place within a broader structure and paradigm of prohibition. The findings suggest that there is little appetite to ‘rock the boat’ in this area, either by the local authority or by Welsh Government. In the latter case, there is an important dynamic present in that the relatively newly established Welsh Government is seeking to prove to Westminster that it is a legitimate enterprise:

‘…we have a series of difficult discussions that go on between ourselves and Westminster Government, would we choose to add this one [substance misuse] to the list?… you always worry that if you introduce another argument into that you will lose ground on some more important ones… How could you possibly give those people those powers to do that when they’re asking for this mad thing over here?’ (Senior Political Figure)

In this context, drug policy falls prey to the same fears and political pressures as it does in the wider UK context, with Welsh politicians unable and unwilling to look beyond policy changes determined in Westminster. In relation to the 2009 reclassification, there was no political appetite to challenge the decision.

Discussion

A key assertion of this paper is that the genesis and performance of cannabis policy is mitigated by a set of dynamics which are embedded within political institutions, organisational relations and cultural tendencies. In both England & Wales and the Netherlands, there has been some degree of convergence towards non-adaptive strategies in cannabis control.

However, this paper has endeavoured to illuminate the ‘empirical particulars’ of cannabis policy-making, demonstrating the (continued) influence of political institutions, cultures and relations that shape policy processes in each jurisdiction at national and subnational levels. As such, policy responses are constantly performed and reproduced, diversifying and mutating across varying structure-agency relations.

Significant differences were found across a range of structural and cultural dynamics which either facilitate or off-set overly punitive manifestations at different policy levels to varying degrees. To reiterate these for clarity, this predominantly refers to the ownership of the problem; the (dis)empowerment of the local and political representation at this level; political institutions and culture which provides a more inclusive/exclusive and incremental/reactive policy environment; the role of expertise and the mass media; and relatedly, socio-historical values concerning cannabis which produce varying degrees of support and opposition towards cannabis (and coffeeshops).

It is pertinent to note that whilst these features facilitate divergence, there is also an element of ‘convergent-divergence’, in the sense of a necessary ‘structured ambivalence’ in policy responses. In both jurisdictions, but for differentially experienced reasons, the policy process served to limit radical and meaningful change whilst reproducing existing approaches in modified forms. Within both contexts, political pressures, generated both internally and externally, and notwithstanding international frameworks, have constrained available policy choices and movements within existing templates.

In the Netherlands, desires to find a middle-ground between deeply polarised political positions has resulted in a broadly incremental style towards cannabis policy. Although this may have prevented dramatic knee-jerk reactions, it has led to the slow corrosion of coffeeshops. Politically available options to respond to increasing problems associated with cannabis have become largely constrained within an overriding framework of prohibition. Whilst there is no genuine dominant political desire to abolish the *gedoogbeleid,* in full wariness of the deficits of criminalisation, there is also little perceived feasibility or political attraction (for centre-right parties) to embrace more regulatory approaches, in full wariness of the political ramifications of appearing soft on issues of law and order towards both internal and external opponents. The result is an enduring, but slightly more stringent, coffeeshop system, with relatively little changes experienced in most municipalities in comparison to the more punitive and symbolic policy talk.

In England & Wales, a major factor is the dominance of two political parties who share largely similar public values on drug policy. With the propensity and ability to quickly act upon emerging projected problems, this has led to the proliferation of reactive and symbolic policy expressions which call for more punitive action to be taken against cannabis offenders. However, such punitive tendencies are met with the outstanding reality that full application of the law would create an unrealistic administrative burden upon the criminal justice system. Alongside contingently-dependent factors which further facilitate adaptation in subnational settings, there are possibilities for negotiation and resistance of policy.

However, how the subnational level addresses problems and carves policy responses is dependent on a number of interlinking factors, both structural and cultural, which vary over time and space. The intersection of political values with relations of power are clear indicators of opportunities and constraints for meaningful policy activity. Although the local case site in England & Wales did exhibit signals that it was subtly adapting to the realisation that ‘….the fight in respect of cannabis is lost’[[17]](#footnote-17) through a pragmatic shifting of resources away from possession offences, it is not clear whether such patterns exist in other subnational spheres. The waters become muddied in England & Wales given the apparent lack of governance capabilities in this area, whereas in the Netherlands there can be greater certainty that political representation at the subnational level is an important mechanism. When triggered (in this case from perceived counterproductive national policy initiation), the authority and power granted to the municipal level can react and rework policy in a more meaningful way than in England & Wales, where in the latter case it was somewhat of a submissive observer.

In sum, this piece of work has brought empirical attention to the motivations, pressures, negotiations and power manoeuvres involved in agenda-setting, policy development and their unfolding across different geo-political spaces. As demonstrated, these facets are necessary for producing a more nuanced account of the way in which different national and subnational policy spheres react to many of the same fundamental structural shifts associated with late-modernity.

The development of punitive responses is not something objectively determined, but is the result of particular interests and situated decisions within broader structural constraints. However, the illumination of divergence from such responses, and the identification of conditions which support alternative modalities of control, opens up possibilities for progressive change. Set within the broader context of increased liberalisation of Western states towards the particular issue of cannabis control, the findings of this study would suggest that the political dynamics present in the Netherlands would make it more amenable to adopting a more liberal framework than in England & Wales.

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1. ‘Nuisance refers to a collective of public order incivilities. With regard to coffeeshops, this predominantly relates to parking, noise, and loitering, but can also be extended to include drug dealing and other illicit activities taking place in the vicinity of coffeeshops. [↑](#footnote-ref-1)
2. Rutte I was comprised of the VVD (Conservative Liberals), CDA (Christian Democrats) with parliamentary support by PVV (populist extreme-right). [↑](#footnote-ref-2)
3. Rutte II was comprised of the VVD (Conservative Liberals) and PvdA (Social Democrats/Labour). [↑](#footnote-ref-3)
4. Under the Criminal Justice Act 2003, the Police and Criminal Evidence Act was amended to make possession of cannabis (as a Class C drug) an arrestable offence as well as increasing the maximum penalties for Class C trafficking offences to 14 years, the same as Class B offences. [↑](#footnote-ref-4)
5. In England & Wales, there were 18 participants at the national level and 9 at the subnational level. In the Netherlands, there were 24 participants at the national level and 11 at the subnational level. [↑](#footnote-ref-5)
6. Home Office (2008a); Home Office (2008b); Home Office (2009); House of Commons (2008a); ACPO (2009); Tweede Kamer (2011a); Tweede Kamer (2011b); Tweede Kamer (2011c); Tweede Kamer (2012). [↑](#footnote-ref-6)
7. In the Netherlands, this included the Ministry of Health, Welfare and Sport; the Ministry of Security and Justice; and the Public Prosecutor’s Office. In England & Wales this included the Home Office. [↑](#footnote-ref-7)
8. Member of Van der Donk Commission. [↑](#footnote-ref-8)
9. Academic Expert, Criminology [↑](#footnote-ref-9)
10. Senior Political Figure. [↑](#footnote-ref-10)
11. Labour MP. [↑](#footnote-ref-11)
12. Former Chair of the ACMD. [↑](#footnote-ref-12)
13. Former Senior Civil Servant, Home Office [↑](#footnote-ref-13)
14. ‘Big Four’. This refers to the four largest cities: Amsterdam, Den Haag, Rotterdam and Utrecht. [↑](#footnote-ref-14)
15. During the period of 2010-2014 the municipal coalition was comprised of GroenLinks (Green Party), D’66 (Social Liberals) and PvdA (Social Democrats/Labour). [↑](#footnote-ref-15)
16. Senior Political Figure, Wales. [↑](#footnote-ref-16)
17. Neighbourhood Team Supervisor, South Wales Police. [↑](#footnote-ref-17)