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The war on antisocial behaviour rationeles underlying antisocial behaviour policies : comparing British and Dutch discourse analyses

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The war on antisocial behaviour

Rationales underlying antisocial behaviour policies.

Comparing British and Dutch discourse analyses.

The war on antisocial behaviour

Rationales underlying antisocial behaviour policies.
Comparing British and Dutch discourse analyses.

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I dedicate this book to Benk, Taco, Niels and Gerard. They know why.

Monique Koemans
November 2011

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Preface

Once upon a time, young people were terrorising the streets, ...

Sometimes a single quote can be an inspiration for a comprehensive research project. This came about on June 14th, 2007. On that particular day Dutch parliament discussed antisocial behaviour (ASB) by young Moroccans. Local council chairman Arco Verburg was invited to represent his borough in Amsterdam.¹ He suggested introducing the British Antisocial Behaviour Order (ASBO) in the Netherlands. Verburg stated that, in the UK, the measure has been successful in reducing ASB in inner-city areas. "The ASBO helps in the fight against young people terrorising the streets", he said.² He referred to the new British laws "as the best way to respond to problems in the public domain".³

This statement by Verburg in the spring of 2007 raised a lot of questions. When did ASB become street terror? Are young people indeed terrorising the streets? Why does Verburg think a fight against them is needed? Do more politicians agree? What do the media say? And what does the public think? What exactly is a fight against problems in the public domain? Are new measures required to fight this problem? What is the ASBO and is it actually successful in the UK?

The *theme* of these descriptive questions fits within the recent criminological debate on shifting crime policies. Influential criminological theories, notably those of Garland (2001), Young (2007) and Simon (2007), stress the idea of a Western increase in more repressive and controlling policies towards deviant behaviour and crime. Although there are differences in phrasing and focus, in essence they agree that there is a general trend away from social policies towards expanding regulations. These studies aim to describe macro societal developments. This approach in criminology often results in interesting ideas and useful theories. However, there is a risk of overemphasising the evidence of these trends. The study of crime policies can benefit from a complementary approach which not only focuses on general trends but also zooms in on local developments and can potentially identify divergent currents.

1 The *Baarsjes*.

2 <http://www.nicis.nl/nicis/dossiers/Zorgenwelzijn/Jeugdzorg/verrijkt dossier/Jongerenoverlast_1132.html> (accessed May 30 2008). <http://www.baarsjes.amsterdam.nl/@51326/pagina/>

3 As reported in *De Volkskrant* (June 13, 2007).

As Garland (2004) argues, once the large-scale patterns are evident, studies of their presence and operation in defined locales is a crucial next step; especially since small-scale studies can turn up evidence of structural patterns. The present Dutch study of 'the response to ASB' is an example of this next step. Only fifteen years ago, measures against ASB on the street were on the fringe of crime policies. Now it is this kind of behaviour that appears to be the focus of many new anti-crime actions. Society is perceiving this kind of behaviour as a bigger, more pressing problem than before (van Swaaningen, 2005; Pakes, 2004; Bauman, 2006; Tonry, 2004; Beck, 1998; Garland, 2001; Buruma, 2005; Devroe, 2008). If this sort of sub-crime is indeed addressed as a major security problem what does that say about the current crime policy climate? The dialectics of such general and wide-angle views on the one hand and an in-depth focus on the other, is vital for criminological research.

The *amount* and *depth* of the questions justified the start of an extensive PhD-research project. The general concern of this project is to develop a critical understanding of the practices and discourses of ASB control. Detailed empirical research into media reports, public debate and political climate directed at ASB will answer the questions raised. A comprehensive discourse analysis is essential in order to understand the development of the discussed policies. This is especially so, because Garland applied the same methodology in his *The Culture of Control; crime and order in contemporary society* (2001).

The *nature* of the questions requires an approach from different perspectives. To obtain a rich picture of the policies addressed in this thesis, four essential discourses will be analysed. First, the legal⁴ discourse is unravelled. Policies, laws and measures (the net result of the discourses) that were introduced to fight ASB will be discussed. Then, the political discourse (the breeding ground of policies) is studied. The rationales behind the policies will be examined. Third, the media discourse is investigated. The media can be the prime mover of new policies but at the same time be the interpreter of political views (the seeds of the policies). Finally, the public discourse is analysed. The views of the public are often used as a justification for crime policies (the roots of the policies).

The analyses will ultimately result in a *history* of the *present* Dutch position in controlling ASB. As an historian and criminologist, I think a symbiosis of the two disciplines will help in these analyses. Garland (2001, p. 23) advocates an identification of the rules of thought and action that shape crime policies. To do so requires mapping out these four essential discourses that underlie contemporary crime control.

Garland (2001) argues that the Culture of Control has come to characterise a number of contemporary societies, notably those of the US and the UK. To assess the current Dutch crime policy climate within the context of the Culture

4 Legal in the broadest sense of the word, not only referring to laws (making) but also to policy formulations and the issuing of instructions and rules.

of Control, drawing a parallel with one of the two countries is vital. In this thesis the focus will be on the UK. Almost every single Dutch discourse will be compared to its counterpart in the UK. Often, our overseas neighbour sets the example in terms of crime control. As became clear with the earlier reported quote, Dutch politicians regularly refer to British crime measures as a recipe for success (Koemans, 2010a). By comparing the UK with the Netherlands, an opportunity for a deeper understanding of Dutch crime policies is created.

Thus, in short, the aim of this thesis is to uncover the implicit and more explicit rationales for policies repressing ASB on the street. The motivations, assumptions and rationales for the policies will be analysed. The ultimate goal is to answer the question *which rationales underlying the policies to address antisocial behaviour by youngsters on the street can be identified within the Dutch discourses and how can these rationales be assessed within the context of a Culture of Control?*

This concise introduction tells the story of a single quote by a politician that resulted in this thesis. The remainder of this Chapter is organised as follows. Paragraph 1 presents different definitions of ASB and paragraph 2 provides the basic ideas of the concept of the Culture of Control. In paragraph 3, the main research questions are presented in relation to the theoretical debate. Paragraph 4 discusses the data sources for the empirical studies and justifies the chosen research strategy. Finally, paragraph 5 outlines the rest of the book.

1 Introduction

1 DEFINING THE RESEARCH OBJECT

1.1 ASB by youngsters on the street: a social construct

It is often argued that in order to perform meticulous research, a definition of the research subject should be agreed upon first. In this thesis, however, defining the subject of the research question is part of the project. Antisocial behaviour by youngsters on the street, or in this thesis ASB in short, is to some extent a social construct that leaves room for debate and uncertainties.

To qualify as ASB, a particular act must be socially recognised and defined as such (Harradine, 2004). Whether a case is classified as ASB ultimately depends on the sum of processes like communication, negotiation, conflict and rhetoric (Hacking, 2000; Muncie, 2006). This social construction perspective is part of an impassioned dialogue in the academic world. It assumes that people create a reality based on individual knowledge and from information derived from social interactions with other people (e.g. Kuhn, 1962; Berger & Luckmann, 1966; Rorty, 1999; Foucault, 1994; Gergen, 2003).

The social construction angle is relevant for criminology as well. For many criminologists, crime (as a reality) does not appear as an established object that is the same for all societies and for all times. Rather, it is seen as an historically and socially constructed concept (Muncie, 2001). Some even push this idea further and state that “there are no absolute standards” (Wilkins, 1964, p. 46) and “there is not one behavioural entity which we can call crime” (Phillipson, 1971, p. 5). Although the dust in the criminologist field on this subject has not settled, this thesis does not embrace this extreme relativistic view.

Nevertheless, as will become clear in the following paragraphs, the reality of ASB is different for different people in different places and in different times. A social construction perspective makes it possible to examine the constantly changing and contested nature of crime in general and ASB in particular (Hacking, 2000; Noaks, 2004; Matthews, 1986).

It is essential for this kind of research to distinguish the different discourses in which the construction process takes place. The four most relevant discourses are identified as policy, political, media and public discourse (Philips, 2002; Muncie, 2005; Van Dijk, 2009; Hajer, 2006; Robbers, 2005; Reiner, 2002; Gergen, 2003; Surette, 1998; Brants, 2002). Other classifications are possible,

but as was explained in the preface to this thesis, these four different discourses are the most relevant for understanding the development of crime policies (see p3). In the theoretical debate on the Culture of Control, as will become clear in paragraph 1.4., these discourses are of overriding importance as well. In the following Chapters of this book these discourses will be analysed further.

Of course, this division in discourses is a heuristic device. In reality, these discourses are not homogenous but encompass a variety of ideas. They also overlap and are intertwined. Players within the discourses like politicians, journalists and city residents constantly react to each other's statements and influence one another. In this thesis, their interrelated reactions and underlying power relations are not examined, except when necessary for identifying the rationales within the discourses.

On the other hand, these players all have distinct roles in the construction of the problem of ASB, although their roles can constantly fluctuate in terms of importance. On some occasions, politicians are the primary actors in the construction process; in other instances they react to a public outcry. Sometimes the media rely on one major institutional source, for example the police; in other times they investigate events independently.

It is possible to overestimate the scope for political action, because there is a tendency to focus on politicians as the prime movers in bringing about penal change; however as Garland also argues, they are often the final movers rather than the primary ones (2004). Their choices are conditioned by institutional structures, social forces (public debate) and cultural values. To concentrate on this political discourse alone is to ignore the long chain of interdependence that link the politicians to the interests of other social actors and debates.

To conclude, in this thesis social construction is defined as the 'building process' of a social problem within different discourses. The rationales (in the sense of the underlying ideas and motivations) behind the policies to tackle ASB within these discourses will be analysed. As a consequence of this building process, defining ASB by youngsters on the street is quite an undertaking, as will become clear in the following subparagraphs.

1.2 Youngsters on the street: definitions

The focus of this thesis is on ASB *by youngsters on the street*. The new measures in the UK and the Netherlands to tackle ASB, concentrate specifically on this kind of ASB. In the political as well as in the media and public debate on ASB, the behaviour of youngsters is at the centre of attention, as became clear in the preface (e.g. van Swaaningen, 2005; Pakes, 2005; Rodger, 2008; Cachet, 2008; Burney, 2009). Unfortunately, an unambiguous definition of the term 'youngsters on the street' is difficult to obtain. Sometimes politicians refer to

young teen-agers, sometimes even younger than twelve (the so-called , ‘12-minusses’); in other discussions the category is used for young adults.

As Garland (2004) rightfully says, a specific conceptualisation of a research subject employed for one study may not be appropriate for another study. Complex phenomena have many different aspects and can be viewed from different angles. However, the conceptualisation of a research problem calls for pragmatic decisions. Thus, for the sake of this thesis’ readability the term *youngsters* will be used to refer to young people in the age bracket between 10 years and early twenties. When referring to ‘youngsters on the street’, it basically means kids spending time on the streets.

Even a concept like *the street* is open to interpretation. Does a street include a schoolyard, public park or parking lot? In itself, a term like public space would be more appropriate, but ASB on the street is becoming the common term in the media and the political debate. Along these same lines, here *the street*, in the widest sense of the word, is used to denote where the research is conducted.

1.3 Antisocial behaviour: definitions

1.3.1 Academic definitions

While analysing the different academic definitions of ASB, the difficulty of formulating objective criteria for this kind of behaviour soon comes up. Living in close proximity to each other generates all kinds of inconveniences, but the point at which these issues turn into ASB is different for each of us. This is not only on account of the subjective individual experience, but also because the tolerance of a community as a whole is subject to change. Social interaction gives ASB its shape, content and meaning (Van de Bunt & Bijleveld, 2003). Concepts of ASB change in time and in connection with biographical and social developments (Buruma, 2007). What the concept comes to mean has to do with society’s level of tolerance. Four decades ago, hippies were still part and parcel of life at the Dam, a famous square in downtown Amsterdam, but nowadays youngsters hanging around there are no longer accepted.

One inevitable result of the lack of a comprehensive definition is that ASB covers a wide range of inconveniences. Dog dirt, aggressive conduct, graffiti, loud music, litter on the sidewalk are all manifestations of ASB. Researchers acknowledge the problem of defining and describe ASB as a meaningless container concept (Devroe, 2008; Ashworth, 2004; Bannister, 2006; Burney, 2005 & 2009; Bright & Bakalis, 2003; Brown, 2004). Some researchers try to formulate working definitions, such as “objectionable, offensive behaviour” (von Hirsch & Simester, 2006) or “disorderly conduct” (Squires, 2008). Devroe (2008) notes that the public character, the citizen and the government are the three main

elements defining the concept of ASB. Features like quality of life, mobility and well-being play a role in this connection.

To create some kind of footing, a distinction is drawn in the international academic discourse between *social* and *physical* ASB (Pleysier, 2006; Lippens, 2008). Social ASB is mainly maladjusted conduct within a social context such as drunkenness and threatening language. Physical ASB is related more to signs of degeneration in a neighbourhood such as vandalism, graffiti and litter on the sidewalk (Sampson & Raudenbush, 2005). In the Netherlands, this distinction can also be found in national surveys on the feelings of safety (Veiligheidsmonitor (CBS), 2011).

In the Dutch academic literature ASB has become a broad label too that is attached to a seemingly endless range of nuisance behaviours. For example, Buruma (2007) refers to *incivilities* and adheres to the widely used definition of *inadmissible conduct* formulated by the Academic Council for Government Policy (Academic Council for Government Policy (WRR, 2003). Pakes (2005) in line with the British example speaks of *social* ASB on the part of youngsters. Furthermore, the term *nuisance* (as a literally translation of *overlast*) is regularly used (see Chapter 2). Van Swaaningen (2008) applies this term for instance in his article on the issue of local safety and the politics of banishments, but also uses the phrase antisocial behaviour on the street. He refers to groups of (mainly Antillean and Moroccan) youngsters, drug addicts, beggars and homeless people who (according to a Rotterdam survey) constitute a nuisance in the public domain, but does not explicate the terms (see Chapter 5). Other authors describe ASB by the annexation of public space by a certain group that can be perceived as threatening (Elffers & de Jong, 2005). Van Stokkom (2007) too draws a link between ASB and a sense of insecurity in the public domain but does not explicitly define ASB.

So also in the Dutch academic debate ASB stays a rather vague term. To avoid the definition problem, academics often cite several examples of conduct covered by the term ASB such as bothering people on the street, intimidating and offensive conduct, noise, littering, graffiti, loitering, vandalism and urinating in public.

1.3.2 Legal¹ definitions

Certainly, the short academic overview given above is not exhaustive, but it does demonstrate how well nigh impossible it is to define ASB. The European Commission (2008) has reflected on official guidelines for an unambiguous definition and concluded that “antisocial conduct is conduct that, without being

1 Legal in the broadest sense of the word, not only referring to actual laws but also to policy formulations and the issuing of instructions and rules.

a criminal offence, can by its cumulative effect generate a climate of tension and insecurity".²

The Dutch legislature only partially concurs. One aim of the new law Measures to Combat Soccer Vandalism and Severe Anti-Social Behaviour Law (*Wet maatregelen bestrijding voetbalvandalisme en ernstige overlast*) enacted on 1 September 2010, is to address ASB.³

This new law⁴ gives more power to local authorities (Gemw art 172a). Dutch mayors can issue restraining orders to people who have displayed ASB, without the interference of a judge. The restraining order can be issued for a year (in phases of three months) and must be revised every quarter.⁵ If the order is breached, it becomes a criminal act (on the basis of *the already existing* article 184 Sr (see appendix III), as addressed in the informative memorandum on the Law) and the case can be brought before a criminal court (Chapter 2 for more information). A prison sentence up to three months or a fine can be the end result. So, it is a combination of administrative and criminal law (see appendix III for an overview). In Chapter 2 the development of the law will be discussed further.

Relevant for the issue of defining ASB is the way the legislator described this kind of behaviour. Gemw art 172a reads 'A person who repeatedly, as an individual or in a group, disturbed public order' (*persoon die herhaaldelijk individueel of groepsgewijs de openbare orde heeft verstoord*). Disturbing public order is not further defined in the law. In the informative memorandum on the Law, this behaviour is described as repeatedly (also as escalating) disturbing conduct that has consequences for the safety and people's well-being in neighbourhoods.

This definition fails to clarify the behaviour in detail. This is not uncommon in Dutch law (for example, assault (*mishandeling*) article 300 Sr). In those cases the legislator leaves the concept open for interpretation by the judge. Assault means deliberately inflicting physical pain or injury. Deliberately harming somebody's health is equated with this behaviour (paragraph 4). Through the latter provision, the concept is deliberately given wider scope (Cleiren & Verpalen, 2010).

As a guiding tool, ASB is specified in the informative memorandum on the Law as varying from disturbing hanging around in a manner that bothers people and has no purpose, whistling or spitting at passersby, intimidating people, urinating on the street, pasting things on walls, being drunk in a way that bothers people to persisting vandalism and breaking windows.⁶ The long

2 European Commission (2000). The Prevention of Crime; EU Reflections on Common Guidelines, p 4.

3 The Measures to Combat Soccer Vandalism and Severe Anti-Social Behaviour Law (31 467).

4 Gemw art. 172a; WSV art. 50ghh & WvS (141a & 184a). Relevant for ASB are the first two articles.

5 Or one can be ordered to report at certain times.

6 Some of these actions are already be prosecuted.

list of examples illustrates again the wide range of possible sorts of conduct that can be sanctioned. On April 4th 2011 the new law was first applied. In Utrecht a seventeen year old boy received a restraining order (3 months) for frequently and severely disturbing public order. He was said to be a ringleader of a group of youngsters, and for three months he was barred from entering De Meern, a neighbourhood in Utrecht.

1.3.3 Political definitions

This new Law was in keeping with the policy of the former Balkenende IV Cabinet on combating ASB. In early March 2008, former Cabinet Ministers Vogelaar, Hirsch Ballin, Rouvoet and Ter Horst published a joint plan of action, *A Tough Approach to Bad Behaviour*.⁷ It pertained to ASB in the residential environment. What this ASB exactly was, is not defined in detail in the plan of action. Nonetheless, distinctions were drawn between various types of ASB: drug-related conduct, bad behaviour by groups of youngsters, graffiti, aggressive conduct in traffic, speeding, unnecessary beeping of horns, damaging street furniture, littering the streets and even dog dirt.

Both these official documents suggest the possibility of defining ASB. The empirical study conducted for this thesis among Members of the Dutch Lower House demonstrates that politicians, including those from ruling parties, nonetheless often do not want to define ASB. The empirical results are discussed further in Chapter 3.

In 2008, 101 City Councils were asked to define ASB. The Centre for Crime Prevention and Security (CVV, 2010) conducted a survey among them.⁸ The results of this survey confirmed the earlier analysed notion that ASB by youngsters has come to serve as a container concept (Dubbeld, 2008). This term often extends to include a wide range of conduct and phenomena that are often not further specified. An analysis of the responses of the cities produced 21 categories ranging from graffiti, shooting drugs and urinating on the street to illegal motorcycle racing and littering. More than half the respondents indicated that in their cities, the ASB of youngsters consists of groups of youngsters making noise and making a mess. So, according to the CVV, politicians in these cities are mainly confronted with “irritating groups of youngsters” and “groups of youngsters that bother people”.⁹ The irritating group is defined as youngsters who make noise and maybe damage property and exhibit early alcohol and drug problems.

7 *Parliamentary Documents II* 2007-2008, 28 694, no. 130, see www.minbzk.nl//onderwerpen/veiligheid/veilige-samenleving/nieuws--en/110943/kabinet-en-gemeenten.

8 In the end, 44 cities filled in and returned the questionnaire.

9 This is a classification that was formulated earlier by the Beke Advisory and Research Group (Ferwerda 2004) and is widely used in municipal policy papers.

1.3.4 Public definitions

In reference to ASB on the street in their neighbourhood, Dutch respondents indicate that they perceive this behaviour as a problem. If the respondents are asked to mention specific types of ASB, *leaving dog dirt on the street* is mentioned the most frequently. A little over 30% of Dutch respondents indicated that this conduct occurs a lot in their neighbourhood. Numbers 2 and 3 on the list of most frequently mentioned types of ASB are *speeding* and *loitering*. Hanging out on street corners is in a shared 6th place of the 14 types of ASB that are mentioned (CBS, 2008, 2011). A little over 10% of the Dutch respondents said that this conduct occurs a lot in their neighbourhood. The CBS survey provides respondents with a pre-defined list of possible *social* and *physical* kinds of ASB. The problem with this method is that respondents are not free to describe the forms of ASB they experience. This may lead to a distorted picture of events. In Chapter 5, further empirical evidence will show that residents of inner-city neighbourhoods find it harder to define ASB than the CBS-surveys might suggest.

1.3.5 Media definitions

Empirical research for this thesis shows that the press defines ASB in many different ways (for detailed information on the research, see Chapter 4). For example, urinating on the street, intimidation, vandalism, drug-related conduct, bothering people and graffiti are referred to by the press as ASB. So once again, defining ASB is no simple matter. Especially because the media often substitute the term ASB with 'street terror'. In this thesis it is acknowledged that the phrases can mean different things, in different contexts and that the connotation of *terror* is of a different order than that of *antisocial*. However, in the media debate (and for that matter also in the public and political one) *ASB* and *street terror* are used alternately. It makes defining ASB even more complex.

For example, the Dutch headline '*State education needed to counter rising street terror*',¹⁰ refers to an article on ASB on the street but only the term street terror is used. It implies that the problem of ASB is such a pressing problem that the expression 'street terror' is a better characterization for this phenomenon.

This and other Dutch headlines suggest that recently ASB in the form of street terror became an urgent matter. It implies that in the Netherlands ASB (in Dutch *overlast*) is on the rise. However, ASB is definitely not a *new* phenomenon (Van Weringh, 1978). This kind of behaviour has been a reality at different times in history. Thinking of the last two decades the problems

10 (Binnenlands Bestuur, 12-4-2010)

with ASB of squatters and drugs tourists spring to mind. There have always been concerns for incivilities in local areas at certain times.

Hughes (2007) rightly emphasized in *The Politics of crime and community* that social scientists should be ware of assuming the newness of this problem and the responses to it.

Also the phrase 'street terror' is not a *new* description of problems in the public domain. In the Netherlands the term 'street terrorism (straat terreur)' can be found in the media and political debate as early as 1934. In that year the *Algemeene beschouwingen over de Rijksbegroting* called for effective measures against street terror (Rijksbegroting, 1934). At that time the wrongdoers were the socialist workers who demonstrated on the street. The depression created social unrest which led to political concern.

Again in 1966, the phrase was used in the media (Parool, 1966). The so-called Provos were labelled as such. Provo was a Dutch counterculture movement that focused on provoking violent responses from authorities using non-violent bait. The Provos borrowed their name from criminologist Wouter Buikhuisen, who, in a 1965 dissertation, talked about 'young trouble-makers' as 'provos'.

The term street terror is common property now and generally used. A quick scan of all the Dutch news articles published last year (28-8-2009 until 28-8-2010) shows that in 211 articles the term was applied.¹¹ All items dealt with problems of youth hanging on the street. Merely a decade ago, the term street terror appeared only in 37 items (28-8-1999 till 28-8-2000). Half of the times, the term referred to terrorists attacks of ETA, only in eight articles *street terror* meant troubles with youngster on the street.

Street terror as a term is now even linked to plans for a special police force. The PVV, the second largest political party, proposed in June 2010 a new force of a 1000 policemen that should act on special request by mayors of major cities and carries the name 'street terror police'.¹²

Consequently, the additional complexity with defining ASB in the media (and for that matter also in the political and public debate) is that it is connected with the even more confusing concept of street terror.

1.3.6 Translating ASB: an additional problem

The term ASB on the street, is apart from being difficult to define, also difficult to translate. In the Netherlands, often nuisances or disorder (*overlast*) is used instead of ASB. In Germany the media mention difficult (*hinderlich*) behaviour, in France the focus is on maladjusted youngsters (*les jeunes inadaptées*) and in the UK the term ASB or incivilities are used (Koemans, 2010c; Burney, 2009; Cobb, 2007; Cachet, 2008; Hörnqvist, 2004). In the UK, ASB and especially the

¹¹ In Lexis Nexis @ Academic.nl

¹² 4th June 2010 at www.Nu.nl and www.RTL.nl

ASBO are generally accepted concepts. The latter became such a strong symbolic label that a punk band from Brighton proudly used the term as part of their name: the *ASBO retards*.

The differences in translation make comparative research somewhat complicated. Thus, to enable a comparison between the UK and the Netherlands (as explained on page 4, the two countries examined throughout this thesis), the terms *ASB on the street* and the Dutch version of 'overlast' (nuisance) and 'street terror' are equated with each other.

1.3.7 Conclusion on defining ASB

It is clear that in subjective terms and depending on the particular context, discourse and time, ASB by youngsters on the street is defined in diverse ways. Is the lack of a binding definition of ASB something we should be concerned about? No, in itself the lack of a strictly delineated and generally valid definition of ASB is not an insurmountable obstacle. The French philosopher Jacques Rancière, even suggests abandoning the whole pursuit of fixed definitions. He argues that words are not there to compose definitions out of them. In fact, he feels words are there to discuss. After an animated process of thinking and debating, in the course of time behaviour can be formulated. Not so much as definitions, but as social constructs that can be worked with within a society (Rancière, 1999).

Then one can ask oneself; why focus so extensively on the various definitions of ASB? The answer is relatively simple; because the diversity leads to vagueness on the part of politicians, the people who make and carry out policy, and private citizens. The British Economic and Social Research Council (2009) concludes that this vagueness leads to inconsistent policies (for further discussion see Chapter 2). What is more, evaluative research in the UK is impeded by the fact that ASB falls under various legal categories (see appendix II and III).

In conclusion, for the sake of comprehensive research and of the feasibility of this thesis a common denominator of the issues above is chosen. As a result ASB in this case is defined as persistent, un-acceptable, non-criminal criminal behaviour by youngsters on the street. Of course, this definition is still disputable. Therefore, the examples given in the informative memorandum on the new Law (as discussed in paragraph 1.3.2) will also function as a guiding tool for this thesis. To clarify further, other sort of incivilities or nuisances on the street like, drugs related behaviour, dog dirt or road rage, will be left aside.

This research concentrates on the construction of the problem of ASB. Feelings of unsafety of the public will be mentioned but not examined. They will be addressed through the different surveys (British crime survey and CBS-surveys) and will only be brought into play when deemed necessary. The theoretical discussion on the causes, the extent and consequences of ASB will also be left out of the analyses. So the question is not why and how ASB

develops but how the term is constructed and how policies for this kind of behaviour mature in society.

2 DISCUSSING THEORY

2.1 Garland: The Culture of Control

At first glance, the described reactions to ASB appear to confirm the influential Culture of Control theory of Garland. David Garland explained in *The Culture of Control: crime and order in contemporary society* (2001) a Western rise of more repressive and controlling policies towards deviant behaviour and crime. Social problems are re-interpreted as security threats and met with strong measures. Although there are differences in emphasis (i.e. *Governing through crime* (Simon, 2007) and phrasing, like *Culture of fear* (Furedi, 2005) or *Justice in the risk society* (Hudson, 2003) there is a large body of literature that focuses on these developments (Newburn & Sparks, 2004; Wacquant, 2001; Crawford, 2009; Furedi, 2005; Young, 2007; Simon, 2007; Hudson, 2003; Zedner, 2007; Bauman, 2006; Ericson, 2007; Devroe, 2008) .

While various of the above mentioned authors added interesting notions to the debate, the focus in this thesis will be on Garland's leading study of the Culture of Control. Garland (2001) was one of the first to analyse the shifting crime policies on such a large scale. In his study he analysed how discourses and practices of crime control have developed in the last two decades of the twentieth century. He identified a turn in crime policies in the US and the UK towards more repressive measures and described these as a Culture of Control. In his much discussed (e.g. Zimring, 2001; Braithwaite, 2003; Hudson, 2003; Hörnqvist, 2004; Young, 2003; Melossi, 2004; Loader & Walker, 2004; van der Woude, 2010) study Garland (2001, p. 106) takes 'the normality of high crime rates' and 'the acknowledged limitations of the criminal justice state' as points of departure. He described the high crime rates and low criminal justice effectiveness in America and the UK as social facts (a statement that is often criticized as will become clear later on). He argued that this awkward predicament led to a shift in crime policies.

2.1.1 Currents of change

In these so called 'high crime societies' in the UK and the US, Garland indicates twelve currents of change (from 1970 till 2000). For the sake of conciseness not all indices of change will be discussed here. The ones related to the ideas on punishment (reinvention of the prison, re-emergence of punitive sanctions and the decline of the rehabilitative ideal) are not considered. Also some elements concerned with the transformation of criminological thought and new management styles will be left out.

Only the ones that are of importance for a better understanding of the Dutch discourses on ASB policies will be debated. These indices of change were never meant to be used as a kind of checklist. Garland (2001, p. 21) argues that these are not subject to confirmation or disconfirmation by the study itself, but form a basic presupposition for further research. As Daems (2009, 119) correctly states, they are indications of change, not guiding principles, to verify to what extent the Culture of Control is applicable for other societies. Having said this, five of these indications are of importance for this thesis since they especially relate to the process of (crime) policy-making. Not as a manual, but as a the basis for the structural analyses made later on.

1. Changes in the emotional tone of crime policy

Garland identified a change in the public discourse about crime. He did not define the concept of a public discourse but in his overall explanation he refers to a fearful, angry public that had a large impact upon the style and content of policymaking in recent years. The 'proof' for this fear of crime as a prominent cultural theme is according to Garland, delivered by public opinion research that showed a large majority of the public think that crime rates are getting worse whatever the actual (declining) patterns. He concludes that the new discourse of crime policy consistently invokes an angry public, demanding strong measures.

2. Protecting the public as a perennial concern of crime policy

Garland states that in an age (he does not explicate the period) when crime rates were low and fear of crime not yet a political motif, protecting the public was not a motivating theme of policy-making. Now, he argues, there is an emphasis upon the need for security and the containment of danger.

3. Politicization of crime policies and the new populism

Crime became a highly charged election issue. For this thesis, especially the statement that policy measures are constructed in ways that appear to value political advantage and public opinion over the views of experts and the evidence of research, is relevant. Criminological knowledge is downgraded, 'common sense' is the norm. It is not one political party that moved away from the old views on crime but as Garland states: they all have. 'Tough on crime' and 'concerns for public safety' are not longer only favourite topics for right oriented political parties. The sound bites like 'zero-tolerance', now appear to dominate the public and political debate.

4. Expanding infrastructure of crime prevention and community safety (including civil society)

Within this context, especially Garland's statement that national crime control strategies are accompanied by ongoing, low key local efforts to build up the

internal controls of neighbourhoods and to encourage communities to police themselves, is considered important for this thesis.

5. *A continuous sense of crisis*

Garland identifies a volatile pattern of policy developments, because there is a growing sense that the structure of the criminal justice state may no longer be adequate to the problem of crime. So, high crime rates are seen as signs that crime control is based upon a model that is inappropriate for its tasks. Consequently, the public has lost confidence in the criminal justice system and the politicians that are held responsible for it.

2.1.2 *Different responses to changes*

According to Garland, as a reaction to the indices of change, two kinds of crime policies were created. On the one hand adaptive (*acknowledging the changes and adjusting to them*), on the other non-adaptive (*denial and acting out*) responses.

Garland described six main types of adaptation (like rationalization of justice, redefining success and the commercialization of justice). In short, these policies face up to the described predicament and introduce pragmatic new strategies. The agencies involved (for example the police) acknowledged the changes over time and responded by revising their practices and building new institutions. A relevant type of adaptation for this thesis is, *the responsabilization strategy*. Garland's describes this approach as the effort to extend the reach of state agencies by connecting them with practices of actors in the private sector and the community (see Chapter 2 of this thesis).

Furthermore, the focus shift *to the consequences of crime rather than to its causes* is deemed significant. So there is a new (political) emphasis on tackling the effects of criminal conduct, for example the fear of crime (see Chapter 3). In addition, the adaptive process of *defining deviance down* is relevant. In the sense of lowering the degree to which certain behaviours are criminalised and penalised. Garland gives examples like, lower fixed penalties for offences that before were prosecuted and community sentences for offenders who earlier would have gone into custody. The measures were slowly expanding, therefore making them hard to detect from outside the judicial institutions. At the same time Garland acknowledges the conflicting so-called misdemeanor arrests and the broken-window approach but states that these are very public exceptions. As will become clear later on, these ideas have been criticised.

These adaptive responses co-exist with the non-adaptive ones. Garland argues that these two approaches of contemporary crime control occur simultaneously; but that they are taking place in different policy domains (2001, p. 38). While the first relates more to the administrative machine of the state (for example, the street level bureaucrats who are faced with various forms of deviance on everyday basis and have more pragmatic approaches to crime

control (2001, p. 112), the latter more to the state's political machine. According to Garland this second line of policy development (of non-adaptive responses) is a more politicised, populist regressive one, focusing on restoring the public trust in criminal justice. One of the two non-adaptive strategies is *the denial of the described predicament*. The government tries to reinstate the myth of the strong state by re-imposition of control, usually by punitive means. Politicians repeatedly deny evidence that crime does not respond to severe sentences or new police powers (although these limitations are recognized by their own administrations). Instead, they seek to expand state power. For example, criminalising more behaviour (see Chapter 2). This in contrast with the earlier described process of defining deviance down. So in short, a sovereign state dealing with its limitations by denying they exist.

This *denial strategy* is possible, argues Garland, because the groups that are most affected by these policies lack political power and are widely regarded as dangerous and undeserving and the groups least affected could be assured that 'something is done'.

Garland states that the other non-adaptive measures can be best described as 'the government *acting out*'; with for example, symbolic police actions to impress. The very fact of acting is enough. The capacity of the government to control crime, however doubtful, is constantly emphasised.

This idea of 'acting out' can be analyzed within the concept of a moral panic. Garland does not mention this in *The Culture of Control* but described it later on in his article *On the concept of moral panic* (2008). He argues, in line with the ideas on a Moral Panic as defined by Stanley Cohen (1973), that in times of transitions in the social, economic or moral order of society, moral panics can develop. According to Garland the Culture of Control can be seen as an example of a moral panic, which was partly caused by the impact of social change upon established ways of life; the breakdown of previously existing structures of control and the threat to existing hierarchies. In times of great public outrage and anger with crime (moral panic), with this reaction of 'acting out' the state demonstrates it is in control. Garland argues that policymaking becomes a form of acting out that downplays the complexities and long-term character of effective crime control in favor of the immediate gratifications of a more expressive alternative (2001, p. 140).

As discussed, these contradictory responses to the predicament have co-existed. Garland describes this structured ambivalence of state responses, but does not give a very clear explanation for it. He explicitly states that it is not policy of bifurcation (a two sided approach which on the one hand higher sanctions for serious offences/ milder ones for lesser) but its the political ambivalence resulting from a state confronted with its own limitations that lies at the basis of these developments. However, on the remaining question, how these policies came about, he is less clear.

Garland does acknowledge that the two different policy approaches are on bad terms with each other. The acting out strategy has the effect of under-

mining the more preventive adaptive strategy. He argues that *penal welfarism*¹³ (1890 – 1978's) has been increasingly dismantled, but is not completely replaced by the new politics of crime control. Thus, the different policies co-exist. On the one hand the adaptive, defensive tactics of everyday crime prevention and the other more aggressive call to act out.

Often aggressive media attention and opportunistic politicians are blamed for this complex, ambivalent system, but Garland explicitly avoids pointing the finger only to them. He states that the reasons for the rise of these schizophrenic crime policies has more to do with the 'new social fact of high crime rates'. These lead to the governmental responses discussed above (the governmental story) and the adaptations society in general makes (the cultural story). *"They (high crime rates, MK) changed how people think and feel, what they talk about and how they talk about it..."* (Garland, 2001, p. 163). The media and politicians did not produce this change but tapped into it. Garland states the media then dramatized and reinforced this new public experience and in doing so has institutionalised that experience.

In the end, Garland (2001, p. 23) concludes that crime control is a reconfigured complex of interlocking structures and strategies that are themselves composed of old and new elements, the old revised and reoriented by a new operational context.

2.2 Reactions to Garland's Culture of Control

Different authors subscribe (e.g. Crawford, 2009; Furedi, 2005; van Swaaningen, 2005) to these general ideas of Garland. They endorse to the analyses of the rehabilitative ideal falling out of favor and the failing of a penal welfare complex to protect the public from risk associated with crime. Thus, they agree that there is a reemergence of punitive sanctions, expressive justice, the return of the victim and politicisation of crime issues. Furthermore, they state that there is empirical evidence to confirm these theories (see, e.g. Simon, 2007; Hörnqvist, 2004; Edwards, 2005).

On the other hand, Garland ideas have also been criticized (see, e.g. Young, 2003; Hudson, 2003; Zedner, 2007; Zimring, 2011; Daems, 2009; Hughes, 2004). Garland's critics argue that he tends to ignore the different approaches to the crime problem and exaggerates the level of social acceptance of 'high crime rates'. In the end, concluding that Garland draws an incomplete picture of the developments.

The critical comments sometimes overlook the fact that Garland does mention the complexity of the process. He did observe various developments that were not reducible to a singular process. For example, he identified a

13 Community based solutions to the crime problem, rehabilitating offenders, indeterminate sentences creating tailor made solutions to each deviant unique qualities.

bigger criminal justice state, but also a state that was more aware of its limitations than ever before (2004, p.169). Garland wanted to stress the complex, contradictory character of the field of crime policies. He identified a complex pattern of change; the rise of the so-called schizophrenic crime control complex.

Garland is aware that he understates the importance of the actors in the policy process whose divergent preferences and policies were lost out in the overview of the current debate (2004). He agrees with his critics that he did not pay enough attention to the policies that failed to gain support and he admits that he focused more on the established policies (Garland, 2004). However, he states that it was a necessary choice in order to study the developments on a more structural level and to explain the transformations that had occurred.

This present study on the Dutch reactions to ASB will pay attention to the details of this complex process and will also analyze the counter voices and the struggles within the policy process (see paragraph 1.5). In order to create a more complete picture of the wide field of fully settled practices and not so firmly established ideas (that can still influence policies). As Jones and Newburn (2002; 2007) argue, an in-depth study of crime policy processes is desirable.

Other forms of critique are that Garland did not address in detail the differences in crime control strategies between the US and the UK (Hogeveen, 2003; Young, 2003; Hagan, 2004). In a reaction Garland (2004) argues that he did pay attention to the differences between the two nations; most of scale and intensity. For example, the US rate of imprisonment is five times higher than in the UK and capital punishment was abolished in 1965 in the UK and is still present in several American states. However, Garland argues that despite these differences, the focal points as mentioned above were remarkable the same. Thus, even though they operated through different legal and political institutions, the structural forces were the same. In this thesis the rationales in the current Dutch crime policy climate and the British strategies in crime control will be assessed within the context of these structural forces, so a more complete picture of possible differences can develop.

In addition, there are more reasons for studying the different discourses more thoroughly. Garland provides no empirical evidence for his statement on the level of influence of the media and politics. Also his basic assumption of 'high crime rates becoming a social fact' is difficult to judge on an empirical level. Therefore, in this thesis, the discourses are not only analysed on an abstract, structural level but also on a more down-to-earth one. Figuring out how people, politicians and media talk about, discuss and construct views on ASB. As addressed in the preface, Garland (2004) himself states, once the large scale patterns are evident, conducting studies of their presence and operation in defined locales is a crucial next step.

2.3 Dutch version of a Culture of Control?

Garland (2004) described the Netherlands as a country that unlike the similar social and economic disruptions as the US did not develop the same strategies and levels of control. Nonetheless, several foreign observers (Nelken, 2002; Tonry, 2004; Edwards, 2005) did perceive some harsher aspects of crime control associated with the Anglo Saxon model in the Netherlands. For example, Edwards (2005, p. 357) observed a 'dramatic' and 'rapid transformation' of the Dutch Culture of Control, one of tolerance to one of punitive populism. Jones and Newburn (2007) studied a policy transfer of the ideas of zero tolerance from New York to Great Britain (see Chapter 4) and suggested a move to continental Europe as well.

Several scholars from the Dutch-speaking region (e.g. van Swaaningen, 2005, 2008; Devroe, 2008; Boutellier, 2002; van de Bunt, 2003; Buruma, 2004; Pieterman, 2008; van Stokkum, 2007; Pakes, 2005; Muller, 2010; van Noije & Wittebrood, 2008, 2009; Noorda, 2006; Daems, 2009) also identified elements of a Culture of Control in the Netherlands. They described the existence of a safety-mantra and suggested that Dutch policies towards crime in a way mimic these Anglo-Saxon developments. Although arguably, these trends (like longer prisons sentences) were more pronounced in the two countries Garland analysed and were observable later in the Netherlands.

In this paragraph, two Dutch articles in reaction to Garland's study will get more attention. First Pakes' work because it focuses on the relation between the UK and the Netherlands, which is relevant for this thesis and secondly the work of Van Swaaningen because he studied the supposed Dutch version of a Culture of Control with the most scrutiny.

Pakes described an emerging Dutch-style Garlandian social discourse of crime and security (2004, p. 284). He argues that the two main components that constitute this discourse are the 'realignment of crime as an issue of security rather than of justice' and 'a reappraisal of a variety of policies of non-enforcement' (in Dutch *gedogen*). The shift in discourse is, according to Pakes, best summarised as a conversion from one of crime and justice to one of crime and order in which crime became public concern, rather than one exclusively for professionals within the institutions of the criminal justice system. Although this not (yet) resembles the American or British crime complex, Pakes argues changes have occurred at an unprecedented pace. So, he does mention a shift in discourse but does not study the various discourses at a more empirical level. A consequence of this form of inquiry is that it possibly tends to understate the counter voices and practices that can still exist. Therefore, his statements can benefit from more in-depth discourse analyses.

Van Swaaningen studied the supposed Dutch version of a Culture of Control most intensively. He sees the Dutch situation as a exemplary case study of governing through safety. Van Swaaningen states that earlier the Netherlands were generally characterized as a tolerant, liberal country: per-

missive towards vices, foreigner friendly and a mild penal climate. The Dutch were sober-minded, research led. Downes (1988) earlier described this idea as well, in his often cited comparative study of the Netherlands and England and Wales.

Van Swaaningen (2005, 2008) argues that at the beginning of the new century the Netherlands turned into a rather confused, intolerant and punitive country. Central to the punitive turn has been the rise of populist parties like the LPF (list Pim Fortuyn) and the PVV. He studied the local development of ideas on prevention of crime into a merely exclusive politics of public safety and described the creation of a safety discourse (integral safety policies) and identified fear as a major political advisor. Van Swaaningen refers to the popular idea of zero tolerance that Dutch politicians took home from their visits to New York. In line with Jones and Newburn (2007) he described this 'largest policy transfer in criminological history' (2005, p. 292).

He further argues that the current Culture of Control should be seen in relation to an alleged 'lack of control' in the preceding decades. First crime prevention was primarily supposed to take place outside the realm of criminal justice and to focus on tackling the (mainly) social causes of crime. Now fears of law-abiding citizens are the driving force behind the new politics. The uniqueness of the Dutch case according to van Swaaningen lies in criminalisation and stigmatisation of ethnic minorities. He correctly points to the fact that although crime figures have been falling for a quite a number of years, rather a large percentage of the ASB on the street indeed does involve ethnic minority youth. On the other hand, van Swaaningen does not examine the (media) construction of the problem of ethnic youth in combination with ASB at an empirical level. Determining how the link of ASB to ethnic minority youngsters is constructed in the media and political discourse could shed light on the (unforeseen) effects on the groups in question (youth & immigrants), such as isolation and criminalisation. This present thesis will therefore examine a wide range of construction processes regarding ASB.

2.4 Conclusion

The above described signs (new repressive measures, tougher political talk) seem to confirm a Dutch version of a Culture of Control. Indeed there is much that appears to be in common. The point of this thesis is not to deny a Western trend of a Culture of Control. This study does not concentrate on identifying macro developments. It aims at providing an additional perspective by means of an in-depth study of 'Dutch discourses on ASB', with the primary focus on uncovering the implicit rationales for policies repressing ASB.

As a result of this focus, it will become clear whether this exchange of policies related to ASB did indeed take place or that there is more to it. It could be that in the Netherlands the shift from prevention to repression is from a

different order. Some scholars point to the fact that the Dutch did not completely left the idea of combining 'restraint and tolerance' towards deviant behaviour. For example, Uitermark and Duyvendak (2005) see that local authorities have continued to use social politics contrary to their tough talk. Others (van Noije & Wittebrood; 2008, 2009; Doorten & Rouw, 2006; Fiers & Jansen, 2004; van Steden & Jones, 2008) also describe wide-ranging policy plans. Several mixed strategies seamlessly overlap in these plans; from strong law enforcement to community prevention.

This thesis will unravel the rationales for these mixed policies. As Garland (2001) described himself, the Culture of Control, is a complex pattern of change. By identifying possible divergences of a tougher approach on deviant behaviour, a more complete picture develops.

To study the constantly changing and contested nature of social problems in general and crime in particular, a social construction perspective serves this purpose best (Hacking, 2000; Matthews, 1986). American criminologist Gregg Barak (2007) states that when a researcher analyses the dynamics of law, crime and law enforcement, he should be aware of the constructions of these phenomena. Also Hillyard (2004) and others (Flyghed, 2005; Donoghue, 2008; Muncie, 2006; Garret, 2006) argue that criminologists must not stand back, but that they ought to think critically about the criminal justice system, its rationales and the possible disruptive social effects of criminal justice expansions.

In this thesis, these ideas will be followed through. In the hectic dynamics of the creation of crime policies sometimes there can be little room for contemplation. Therefore, the assumptions that guide these crime policies will be entangled in this thesis. Crime policies are in general a result of public views, media attention, political debate and scientific evidence, as was discussed in the preface (paragraph 1.1.). A more in-depth analyses of these four essential discourses is necessary, as will be carried out in this thesis. In the end aiming at uncovering the implicit rationales for policies repressing ASB.

Special attention will be paid to typical Dutch developments as van Swaeningen among others identified. Such as the link of ethnic minorities to the problem of ASB. As argued earlier, the possible complex pattern in the Dutch situation up till now, did not get the full attention on an empirical level it deserves. It should be imperative that Dutch scholars, students, politicians and policymakers are aware of how the different discourses on ASB came about. Studying the construction of the phenomenon in detail will add more depth to discussion. Only then variation and complexity are liable to be most visible.

To round off this paragraph, the theoretical concept of the Culture of Control functions primarily as means rather than as ends. So this study does not focus on the falsifiability of the Culture of Control but the theory will be applied as a tool for analysing the identified rationales rather than as topic of analysis.

Table 1.1. List of main assertions paragraph 1.3 & 1.4

Research Street terror	Goal	Why?
<i>Theoretical & Scientific relevance</i>	<ul style="list-style-type: none"> - Develop broader vision on current crime policy climate (Culture of Control?) - Contribute to knowledge on policy development ASB - Create better understanding of construction phenomenon through discourse analyses 	<ul style="list-style-type: none"> - Little progress in debate on current Dutch crime policy climate - Possible incorrect assumptions as basis for policies ASB - In-depth studies in crime policies are rare
<i>Social relevance</i>	<ul style="list-style-type: none"> - Develop nuanced and critical view on policies for ASB 	<ul style="list-style-type: none"> - Salient issue in politics, media and social life - Possible unforeseen effects on groups in question (youth & immigrants) like isolation, criminalisation.

3 DISCUSSING RESEARCH QUESTIONS

As mentioned before, the central research question is; *which rationales underlying the policies to address antisocial behaviour by youngsters on the street can be identified within the Dutch discourses and how can these rationales be assessed within the context of a Culture of Control?*

To answer this coordinating question, a comparison between the UK (often the example in terms of crime control) and the Netherlands will be made. The choice for the UK will be further justified in paragraph 6.

For every discourse a different research question was derived from the literature. It should be noted that the sort of sub research questions is by no means exhaustive. Many other questions could have been asked as well. The present questions, however, are of specific importance for the discourses that are under consideration.

- In Chapter 2, the legal discourse is analysed. The question *what kind of measures are taken to tackle ASB in the Netherlands and the UK, and what are the potential effects*, will be examined.
- When studying the political discourse (Chapter 3) the leading question is *what are the rationales of Dutch and British politicians for tackling ASB?*
- In Chapter 4 the media discourse will be analysed and the question *how the discourse on ASB and minority ethnic youth developed in the British and Dutch media*, will be answered.
- The analyses of the public discourse in Chapter 5 focuses on the question *to what extent the supposed retreat from condoning ASB is supported by the public?*

In every separate discourse specific assumptions are made. Only when considering the individual motivations and premises of players in the field a better understanding of the whole domain of policies controlling ASB will develop.

4 DISCUSSING METHODS

As was discussed in the preface, gathering in-depth evidence is essential. Only detailed empirical research can clarify the issues raised. The general trend in criminology is analysing quantitative and secondary data. A recent review finds that such research (especially statistical survey research) regularly leaves 'eighty or ninety percent of variance unexplained' (Weisburd & Piquero, 2008; Ferrel, 2008). To reproduce the endless discussion between the 'soft' and 'hard'¹⁴ social scientists, is not relevant for this thesis. As Silverman (2001) argues, the dichotomy of qualitative versus quantitative is risky because it tends to place researchers in opposing groups, whereas combining the two enrich criminological research.

In this thesis some quantitative data are collected and analysed in the different Chapters, but the main focus will be on qualitatively oriented discourse analyses. Because as is explained on page 17 qualitative analyses in general best explain social events, cultures and relationships in a social and temporal context (May, 2000; Meuser, 2002; Noaks, 2004; Goodwin, 2002). In order to be able to ascertain the Dutch version of the Culture of Control a qualitative discourse analyses is the most suitable. Also Garland (2001) analysed how discourses and practices of crime control have developed in the last two decades of the twentieth century. Similar methods will be put into practice in this thesis.

Furthermore, internal validity¹⁵ is a strong point of this qualitative approach (Kalikin-Fishmen, 2001; Coffey, 1996; Wester, 2004). It produces more rich data that can lead to a deeper understanding of what is going on. For example, when crime politics are analysed criminologists write about the possible rationales but seldom ask politicians in person for their motivations or media representatives for their role in the process of policy-making.

By addressing the ways in which ASB now features in the thought of different members of society, this thesis will pay attention to these voids in research. The following paragraphs will provide an overview of the applied methods.

¹⁴ *Soft* referring to the qualitative research and *hard* referring to the quantitative approach.

¹⁵ The truthfulness of evidence.

4.1 Discourse analysis

Discourse analysis deals with perceptions of reality, meaning and power, therefore it can be a valuable tool for this kind of criminological research. It addresses issues like, to which extent does a certain policy includes people views, which presumptions guide crime policy decisions and what are the interests behind the discourse. Though having ancient roots, discourse analysis is by no means a consolidated school of thought. Over time, the method has been described in very narrow as well as very broad ways. As a result, discourse analyses cover a multitude of rather different approaches and research methods (Hammersley, 2002; Hajer, 2006; Philips, 2002; van Dijk, 2009; Wester, 2006; Levi, 2006; Krippendorff, 2004).

Having said this, there is a common denominator in discourse analyses; the notion that a problem can be understood, constructed or narrated in various ways. In line with Hajer (2006) a discourse is defined as an ensemble of ideas, concepts and categorisations through which meaning is allocated to a social phenomenon. A discourse analysis can therefore be considered a research tool, providing insight to a confusing situation or development. For example; dead trees as such are not a social construct. The point is how one makes sense of dead trees. Or to relate to the research topic; street terror is only deviant behaviour because people understand it as such. Therefore a discourse analysis is the appropriate method to figure out the complex construction of this phenomenon.

As was discussed earlier, strong point of this method is rich results. These results can reveal to what extent a certain policy includes people views, which presumptions guide policy decisions and the interests behind the discourse. These revelations are important for examining the relevant elements of a Culture of Control like repressive policies and intolerant attitude towards ASB.

Weaknesses of this method are the issues of reliability and generalisability of the results. First, the problem of reliability is addressed.¹⁶ Often the criticism is that anything goes. To counter this critique, it is important not to analyse simply by spotting features. Since the method requires the researcher to pass judgment on possible motivations and interpretations, the fear of subjectivity is realistic. This can partly be resolved by being explicit in the selection of texts and transparent about ones choices on themes (Silberstein, 2004; Coffey, 1996; Wester, 2006).

Another possible solution is triangulation (e.g. Noaks, 2004; Wester, 2006; May, 2000). In this way, the results can be compared and crosschecked by a variety of methods. Noaks (2004) argues that utilising as many diverse methods as possible is the right way to answer a research question. On the other hand, one should be aware that constantly adding new research techniques does not automatically mean a better thesis (Kalekin-Fishman, 2001; Noaks, 2004).

16 Here reliability is qualified as *unobtrusive* measurement.

In this thesis the idea of a ‘mild’ form of triangulation will be followed. Different research techniques were used.

Table 1.2 – Overview of applied methods

Discourse/Chapter	Method 1	Method II	Method III	Data refer to
1. <i>Legal discourse</i> Administrative measures in crime control	Analyses of memoranda of new laws	Analyses of academic judicial literature		1999-2008
2. <i>Political discourse</i> The war on street terror. Why tackle ASB?	Semi-structured interviews politicians	Content analyses political documents		1998-2008
3. <i>Media discourse</i> White trash versus Moroccan street terrorists	Content analyses of printed news	Semi-structured interviews journalists		1990-2008
4. <i>Public discourse</i> Down these mean streets	(In)formal interviews with the public and key-figures	Observations in neighbourhoods	Surveys among public	September 2008 - January 2009

In the next paragraph only the content analysis will get explicit attention, because this method is the dominant method throughout the whole thesis. In the different relevant Chapters the other methods will be discussed further.

The remaining question is how to make the connection between the specific and the general. Researchers usually address this problem by conducting comparative research in order to develop more general explanations (Goodwin, 2002). This strategy will be followed here as well. For example, the case of ASB will be compared to the reactions to organised crime (Chapter 2). In addition, as stated earlier, in almost all the Chapters the situation in the Netherlands will be compared to the one in the UK.

The British situation in underprivileged neighbourhoods is only to some extent comparable to the Dutch. In the British class society, the social disadvantages in certain neighbourhoods are greater than in the Netherlands (Downes, 1988; see also, Pakes, 2005). What is more, the structure of the problems is different (Punch, 2005; see also Waiton, 2008). These differences make a comparison between the two countries difficult but not impossible and certainly no less interesting. Especially because Dutch politicians often cite British measures and refer to the ASBO as a recipe for success (Huisman & Koemans, 2008).

Thus, it is not so much a detailed comparative study of the UK and the Netherlands. To do so more thorough research would have been required, for example, on the differences between the two judicial systems. Instead, the focus will be on developments that might occur in both places, despite the obvious differences in law, culture and politics.

As argued earlier Garland (2004) suggests, in order to find out whether or how the Culture of Control in other societies developed, further comparative investigation is necessary. Only then the extent to which the Anglo-American patterns of adaptation are exhibited elsewhere, can be examined. Garland expects that despite a certain level of unique detail, a rather limited variety of adaptive patterns has occurred. Because, as he argues, a nation's welfare regime will be a good predictor of the crime control that is likely to emerge. He presumes that European nations typically have state bureaucracies that are less exposed to popular pressure, and less susceptible to punitive populism. Furthermore, Northern European countries, exhibit multiple-party political systems that are less inclined to populist politics, according to Garland. He explicitly mentioned the Scandinavian countries and Germany in this context, but given the multiple-party political system in the Netherlands, this observation is relevant for this thesis as well. The comparative research done in this thesis will shine new light on these ideas (as far as the UK and the Netherlands are concerned).

4.2 Content analysis

Some researchers consider discourse analysis to be part of a content analysis, while others take the opposite view (Neuendorf, 2002; Gubrium & Holstein, 2000; Hammersley, 1997; Blommaert, 2009). This thesis chooses the latter perspective. This means that, to describe and explain a particular discourse, content analyses of texts (e.g. media reports & policy documents) form part of the broader analysis. Other parts are for instance interviews and surveys.

The criminological scientist Meuser (2002)¹⁷ among others (Larsen, 1997; Vasterman, 2005; Hammersley, 1997) states that the best way to approach a text for criminological study purposes is a content analysis with a constructivist view rather than a more standard quantitative content analysis. In defending his statement, he argues that his preferred method gives more room for patterns of interpretation of reality. This *specific* form of content analysis aims to uncover the way in which *social reality is constructed*, as is relevant for this thesis. So how is this method put into practice?

The focus will not so much be on the coding of a large number of texts, as is customary with the general content analysis (so a system of automated coding of documents, for example ATLAS.ti, will not be utilised).¹⁸ Instead,

17 These ideas are opposed by scientists who believe that (criminal) law defines crime and that it is not a social construct.

18 Silverman (2001) emphasises the importance of limiting data to that which is manageable. The scale of the project is a key consideration. Noaks (2004) states that a small-scale project, (like this thesis) is not suitable for a computer coding system, since too much time might be spent sorting and retrieving data at the expense of writing.

the main focal point of this method, involves organising a number of texts into themes (see for example Chapter 3) and ideas (see Chapter 4). On its own, the act of categorisation does not constitute an analysis. It is the process of 'going beyond the data' as Noaks suggests (2004, p.133) and generating theories and frameworks that the stage of interpretation should involve (see Chapter 5 and 6).

Of course, with this approach there are limitations as well. It tends to understate the importance of actors whose preferences and policies failed to gain support. Furthermore, there is the possibility of *overemphasizing* the degree of interpretation. With analyses of four different discourses and with triangulation this problem can be overcome. Results can be compared and crosschecked by the variety of methods used. For example, a series of interviews with key participants in the policy process like Dutch elected officials, Dutch spokesman of political parties and British and Dutch civil servants. The interviews will result in rich first hand-accounts of the Dutch policy process compared to the British situation.¹⁹ This kind of comparative ethnography can be very useful for the study of policymaking in the sphere of criminal justice, but it is not often done (probably because it is time consuming). Other methods used are observations and surveys. They will be discussed further in Chapter 6.

The results were collected in a period of a little over three years. Starting in January 2007 and ending in April 2010. The data cover a decade; from the beginning of 1998 until April 2009. The starting date was chosen because in 1998 the ASBO was introduced in the UK and the end was set by the majority vote in Dutch parliament on the new bill *Measures to combat Soccer vandalism and severe antisocial behaviour* (see table 1.2.).

5 OVERVIEW OF THE BOOK

The four discourses, legal, political, media and public were analysed in four different articles, starting from four different research questions. In every article, the choice for that specific question is further justified. This research structure resulted in the following Chapters.

Chapter 2 discusses the legal discourse and especially the new administrative measures in crime control. It is argued that potentially these new laws criminalise more everyday behaviour. Chapter 2 explores the introduction of British and American initiatives in relation to recent developments in the Netherlands concerning ASB and their possible paradoxical net-widening results. Content analyses of a selection of policy-documents and memoranda of the new laws

¹⁹ In total N = 18.

are carried out. Also academic literature and legal reviews (secondary sources) on this subject are interpreted. In addition new policies concerning organised crime will be discussed, as a method of comparison. In the end, providing an overview of the current policy debate.

Published: Huisman, W. & M.L. Koemans (2008). Administrative measures in crime control. *Erasmus Law Review*, 1(5), 121-145.

Chapter 3 focuses on the political discourse. The central question here is, why do Dutch and British politicians want to tackle ASB? Is this simple evidence of a punitive turn or is there more to it? This question is answered with means of content analyses of political documents and speeches. To complete the picture nine members of Dutch parliament were interviewed as well as several policymakers and city counselors in the UK and the Netherlands.

Published: Koemans, M.L. (2010). The war on 'street terror'. Why tackle anti-social behaviour? *Crime, Law & Social Change*, 53(5), 477-491.

Chapter 4 examines the media discourse on ASB and young migrants. The Dutch press often associates ASB with Moroccan teenagers. Based on a comparison of Dutch and British political and media discourses starting around 1990, this article demonstrates that the British media do not systematically link ASB to ethnic minority youngsters, rather to white teen-agers. The question then is how this issue of ASB and ethnicity is constructed in the Netherlands and UK in their political and media discourses. And does this construction differ in accordance with the actual problems?

Published: Koemans, M.L. (2010). 'White trash' versus 'Marokkaanse straat-terroristen'. *Tijdschrift voor Criminologie*, 52(2), 201-217.

In *Chapter 5* the public discourse on the local support for new ASB policies is studied. The article is based on interviews with social workers, policemen, troublemakers themselves and residents of eleven so-called 'problem neighbourhoods' in four major Dutch cities. Questions such as how can this kind of behaviour be defined and how can the problems best be addressed, were raised. As a result an insight was obtained into the public reactions towards this shifting policy landscape.

(Under review) Koemans, M.L. & J.P. van der Leun (2011). Down these mean streets. Tackling antisocial behaviour: local Dutch support? *Urban Studies*.

In *Chapter 6* the main findings of the foregoing Chapters are discussed. This will lead to an assimilation of the results, discussion of theoretical implications and an answer to the overarching question *which rationales underlying the policies to address antisocial behaviour by youngsters on the street can be identified within the Dutch discourses and how can these rationales be assessed within the context of a Culture of Control?*

Legal discourse

2 | Administrative measures in crime control[■]

Abstract

We want to discuss several new administrative measures that were introduced into the Anglo-Saxon world and that have been copied in part in the Netherlands. One is aimed at tackling nuisance¹ in the public domain and the other at the prevention of organised crime. These new measures have been praised by Dutch politicians as effective methods to reduce crime levels without bringing criminal law into play.

At first glance, these administrative measures indeed appear to tackle deviant behaviour without applying criminal law. However, the recent reforms can have unexpected and paradoxical consequences. This paper argues that potentially these new laws do more to criminalise everyday behaviour. This can lead to an increase in criminal cases and in the end adds an extra burden to the criminal justice system instead of lightening its load. By eroding the division between administrative law and criminal law through the introduction of certain administrative measures, one can actually increase the scope of the criminal justice system. However, these negative effects are generally ignored by Dutch policy-makers. This article explores the introduction of British and American initiatives in relation to recent developments in the Netherlands concerning anti-social behaviour² and organised crime and their possible paradoxical net-widening results.

■ Published: Huisman, W. & M.L. Koemans (2008). Administrative measures in crime control. *Erasmus Law Review*, 1(5), 121-145.

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1 In this chapter, first published in 2008, the term nuisance and ASB are both used. Later on in the research project the term ASB was singled out (see chapter 1 for the explanation of this choice).

2 In this chapter the abbreviation ASB for Anti-social behaviour on the street is not applied. This chapter was first published in 2008, at that time I did not yet use the term ASB as such.

1 INTRODUCTION

A decade ago, the British New Labour government claimed a general failure of the judicial system (Garret, 2006). In England and Wales, courts were overloaded with cases, people in inner-city neighbourhoods felt unsafe, and crime rates increased each year. It was asserted that crime and behaviour closely related to crime could no longer be controlled by the state alone. As a result of this system failure, local authorities and civil society were given more responsibilities in order to help in the fight against crime and public insecurity. Garland identified this system failure as the 'predicament' with which the authorities currently have to cope (Garland, 2001).

In addition, new administrative and civil laws were introduced: for example, the anti-social behaviour order (ASBO). One could argue that civil and administrative law – in addition to criminal law – became a tool for crime control in the UK.³

Another example of using administrative law as an instrument for crime control is found in the US. Under former prosecutor and then mayor Giuliani, New York authorities realised that applying criminal law simply resulted in members of the Mafia being put into jail but not out of business. Alongside an intensive application of criminal law, the city administration introduced administrative measures to attack the positions of power that criminal organisations had build up in several of the city's legitimate economic sectors.

Such steps can be seen as examples of the strategy of situational crime prevention that has been popular in crime control during the last two decades (Clarke, 1997). The theoretical assumption of this approach is that the level of crime is determined by the presence of facilitating situational factors: for instance, the presence of attractive targets, a low level of supervision, and a low risk of apprehension (van der Bunt & van der Schoot, 2003). Situational crime prevention is not aimed at altering the state of mind or motivations of criminals by issuing jail sentences or behavioural treatment. Its goal is to limit the opportunities for criminal activities or to remove incentives. Following the idea of responsabilisation,⁴ actors other than the traditional agents of criminal justice are called upon to reduce the facilitating role of situational factors. For example, civilians are encouraged to protect their houses and valuable assets against burglary and theft, and financial institutions are pressured to prevent money laundering. This paper focuses on administrative authorities and the measures they can take in the fight against crime.

Developments in the UK and the US have quickly followed in the Netherlands. New administrative sanctions have been created here as well, such as the administrative fine, but existing measures under administrative law are also used now for a new purpose: to fight crime.

3 Scotland introduced the ASBO as well in 1999.

4 In short, the policy of making more people in society responsible for reducing crime.

We considered it of interest to examine the consequences of these developments. Accordingly, the application of administrative measures in two shifting domains of criminal policy will be discussed: nuisance in the public domain and the prevention of organised crime. These domains are particularly interesting because here several new administrative laws are being introduced and proposed, thereby copying foreign developments like the ASBO in the UK and the administrative approach to organised crime in New York.

After a short introduction of the administrative measures applied in each domain, the following questions will be discussed: Why were these measures introduced? What are the main objectives of these new policies? And what are the consequences of these new approaches, especially with regard to the crime problem and the relation of administrative law to criminal justice? Although for the Dutch cases it is too early to assess the impact of the introduction of these measures, it will be argued that certain net-widening effects⁵ can already be identified (Steventon, 2007). Furthermore, administrative measures can be introduced either as an addition or as an alternative to criminal law. In the Netherlands, the latter was to a certain degree the rationale behind the *de iure* decriminalisation of prostitution and the retail selling of marijuana. This step was defined by Brants as 'regulated tolerance' (Brants, 1998). The main idea was that by regulating these activities, criminal elements in these markets could be more effectively targeted. However, this article will argue that by eroding the division between administrative and criminal law through the introduction of administrative measures, the scope of the administration of criminal justice is widened. The consequence is that these new laws potentially criminalise what can be seen as everyday behaviour.

2 NUISANCE IN THE PUBLIC DOMAIN

2.1 The UK

The new British measures tackling anti-social behaviour are a significant example for Dutch policymakers. Therefore, before we address recent developments concerning anti-social behaviour in the Netherlands, we will first discuss the situation in the UK. Although the British setting differs considerably from that in the Netherlands,⁶ this consideration will be shown to be highly relevant.

5 In short, the effect that has been demonstrated that both adult and juvenile diversion practices are being applied largely to clients who were previously not subject to justice system insertion.

6 For instance, the developments concern civil law rather than administrative law as a crime fighting tool.

With the introduction of the Anti Social Behaviour Order (ASBO⁷) by the Crime and Disorder Act 1998, the New Labour government hoped to remedy the 'serious problem' of the judicial system failure, as identified in the Introduction. Police and local councils were given more power to respond to all kinds of anti-social behavior (Bright & Bakalis, 2003). The then Prime minister, Tony Blair, stated that if traditional criminal law processes in cases of antisocial behaviour continued to abide, the rights of victims would be allowed to be routinely trampled upon and would leave courts 'fighting 21st century crime with 20th century methods'. He claimed that the use of control orders were the best available means for protecting the public.⁸

The primary intention of this introduction of the ASBO was to protect those people in society who are most vulnerable to the results of human disorderly behaviour: in short, to protect them from their neighbours from hell (Burney, 2005; Home Office, 2004).

The ASBOs have a minimum duration of two years, can last indefinitely, and contain prohibitions considered necessary to prevent the repetition of a person's anti-social behaviour. In the law, the conduct is defined as 'behavior which caused or was likely to cause alarm, harassment, or distress to one or more persons not of the same household as him or herself.' The ASBO is a civil order. Restraints of certain behaviour can be imposed by a civil court (phase one), and breaching is a criminal offence (phase two).

The idea behind this is that in civil court a person does not have to give direct evidence against his/her neighbour, thus diminishing the fear of retaliation. Accordingly, hearsay evidence is allowed (Bright & Bakalis, 2003; MacDonald, 2003; van Stokkum, 2007).

One can go to a civil court – via, for example, the Social Landlord⁹ – and ask for an ASBO (Burney, 2005; Home Office, 2004; MacDonald, 2006). This is an unmistakable example of a 'responsibilisation strategy' in which other agencies, such as Social Landlords, help in the fight against insecurity (Bright & Bakalis, 2003). Some large cities in the UK greeted the new order with enthusiasm. In the period 1999 to 2005, around 7000 ASBOs were issued (Home Office, 2004). Greater Manchester issued 1045 ASBOs that led to its nickname ASBO city, while others used it more as a last resort. For example, Greater London 'only' issued 745 ASBOs. As Ashworth stated, the introduction and the use of the ASBO seem reasonable (Ashworth, 2004). One could even argue that the ASBO serves a noble cause: to make neighbourhoods more liveable

7 The ASBO has been effective from 1999 onwards and was altered in 2004, giving authorities more power. In addition, the ASBO was no longer limited to persons aged 16 or over. Sheriffs can now grant an ASBO against a child aged 12 or more.

8 <<http://www.pm.gov.uk/output/Page11769.asp>>.

9 Registered Social Landlords (RSLs) are independent housing organisations registered with the Housing Corporation under the Housing Act 1996.

and to fight feelings of insecurity in the public domain. However, many pitfalls can be identified.

2.2 Defining the crime problem

One of the first problems to manifest was the sheer endlessness of the list of things people can be forbidden to do (Garret, 2006; Pakes, 2005; MacDonald, 2006). For example, boys were not allowed to use their skateboards in a particular area, or they were given an ASBO because they kicked balls against garage doors. Other ASBOs were imposed when youngsters continuously listened to loud music on the streets, or when they were verbally abusive to people in their neighbourhood. Of course, some of this kind of conduct is indeed disturbing to a number of people and it can be an enormous problem in inner-city neighbourhoods. Yet, the lack of definitional specificity leaves room for the inclusion of an extensive range of behaviours (Burney, 2005). This can lead to draconian uses of ASBOs: for instance, a suicidal woman was forbidden to be around certain bridges and railway roads; an 87-year-old man was prohibited from making sarcastic remarks to his neighbours; a car thief was not allowed to enter a car park in England or Wales; and a prostitute was prevented from carrying condoms (MacDonald, 2006; Steventon, 2007). The enormous scope of this list can be partially explained as a result of the vague definition of anti-social behaviour. Hudson defines the ASBO as an act of frightening vagueness because a term like feelings of distress in the definition of the ASBO is extremely subjective (Hudson, 2003). In these examples, an ASBO is disproportionate, since it not only prohibits the anti-social behavior but it also imposes restrictions on forms of behaviour that are themselves not anti-social. Steventon points out that such a wide interpretation can encourage intolerance to all kinds of petty nuisance, or simply towards individuals who behave oddly (Steventon, 2007). The second reason for the length of the list of 'forbidden conduct' is that different actors are allowed to ask the court for an ASBO: namely, local councils, the police, and Social Landlords. For this last non-legal actor, the primary aim is to help the complainer, not to defend the accused (Hodgkinson & Tilley, 2007). This can lead to awkward situations. For instance, a 17-year-old was forbidden to use his front door, while a 13-year-old boy was ordered not to use the word 'grass.'

Ashworth considers the ASBO – although part of private law – as an individual crime law for the reason that almost anything can be called anti-social behaviour (Ashworth, 2004). So in a way, the ASBO was introduced to enable people from 'problem neighbourhoods' to act and thereby increase their feelings of security. However, in the end it appears to work the other way around. It enhances the power of the British State in the sense of a net-widening of the law (Steventon, 2007). It appears that more problematic

behaviour is being addressed by the law instead of by social policies.¹⁰ Recent research and publications confirm that constructive preventive measures to address the root causes of antisocial behavior, such as parenting orders, seem less likely to be used (Hörnqvist, 2004; Burney, 2005; Cobb, 2007; Matthews & Easton, 2007; Donoghue, 2008). Even though it is most probable that support and social work programmes are more likely to succeed in the initial stages of nuisance behavior by young people, it appears now that the law (civil and criminal) is used as a dragnet. All kinds of nuisance behaviour that is otherwise lawful can now be trawled by the law.

Pakes addresses another problem: the idea of net-deepening of the law (Pakes, 2004). He refers to the example of prostitution. In general, prostitution in the UK is not a criminal offence as such, but because of an ASBO (a restraining order that can prevent a person from standing on the corner of a street) it can be criminalised when the term is breached. As a result, more behavior is being criminalised. This criminalisation of otherwise regular anti-social behaviour can lead to other problems as well. For example, in 2006 the Youth Justice Board addressed the problem of what was termed badge of honour.¹¹ Its one-year study in England and Wales revealed that many teenagers viewed the ASBO as a 'diploma' that boosted street credibility. Hence, the ASBO can have a reverse effect when it is seen as glamorous.

Research performed by the Policy Research Bureau identified another problem.¹² Teenagers who are given ASBOs can be publicly named and shamed in the local press. Since 2004, pictures of ASBO children have been printed in leaflets and sent to all the neighbours. Therefore, such youngsters are labelled criminals and are treated as such at school and in their neighbourhoods (Cobb, 2007). As a result, according to some critics the ASBO system is 'demonising' young people (von Hirsch & Simester, 2006). Home Office minister Tony McNulty reacted to these concerns and said ASBOs were used sparingly and only as a last resort to change behaviour that badly disrupted communities.¹³

3 ADMINISTRATIVE MEASURES AND THE EXECUTION OF CRIMINAL JUSTICE

Phase two of the ASBO is probably the sting in the tail: if a person breaches any term – which 50 percent do – he/she can go to prison (with a maximum sentence of 5 years), as 50 percent do.¹⁴ Hence, although the ASBO is a private

10 Steventon argues that it has been demonstrated that both adult and juvenile diversion practices are being applied largely to clients who were previously not subject to justice system insertion.

11 <http://www.yjb.gov.uk/en-gb/> (accessed May 30, 2008).

12 <http://www.prb.org.uk/> (accessed May 30, 2008).

13 BBCnews, Asbos viewed as badge of honour <http://news.bbc.co.uk/2/hi/uk_news/6107028.stm>.

14 (Home Office, 2004) the case of the aggressive beggar who 'got' 3.5 years imprisonment.

law measure, breaching it is a criminal offence and a criminal court decides over it. The problem here is the admissibility of hearsay evidence in these proceedings. The initial idea was that the ASBO (by keeping offenders out of court) could enable local authorities to act quicker in a problematic situation (Ashworth, 2004). However, in some cases this intention has been used in an improper manner. For example, authorities sometimes choose to place an ASBO on a criminal act, such as burglary, rather than to prosecute before a criminal court, because it is easier and much quicker: no criminal evidence is needed and hearsay evidence is allowed. However, the problem is that the 'offender' does not have the same 'safeguards' as he/she would have had in a criminal court. This problem was addressed in a procedure in the House of Lords.¹⁵ The outcome was that indeed the ASBO should be considered civil in nature and that, therefore, hearsay evidence could be admitted. One of the reasons given by their Lordships was that if the ASBO was criminal rather than civil in nature, '...it would inevitably follow that the procedure for obtaining anti-social behaviour orders is completely or virtually unworkable and useless', given the problem of witness intimidation.¹⁶ Hence, the House of Lords did not reclassify the ASBO as criminal, although in practice it often is. In 2005, the Council of Europe on Human Rights expressed concern about the way in which the ASBO was being used. In a report, the Council suggested ASBOs be screened by a responsible authority to 'guarantee against excessive use'.¹⁷

Notwithstanding the academic concerns, the British public appears not to mind. Eighty-five percent of the people support the existence of the ASBO (Mori, 2005). According to Blair, the ASBO is the best solution for the problem of anti-social behaviour (Blair, 2005). He said: 'Our critics, who usually do not live in the communities most affected by crime and anti-social behaviour, often describe these measures as overly punitive and a threat to basic legal principles. (...) But the basic liberties of the law-abiding citizen should always come first.'¹⁸ Other countries were inspired by the use of the ASBO. In 2006, Ireland became the first common law jurisdiction outside the UK to introduce it. And recently, in 2007, the New Zealand government, as well as the Australian government, announced proposals for the introduction of their own ASBO. Identical developments can be detected in the Netherlands.

15 McCann and others v. Crown Court at Manchester.

16 McCann and others v. Crown Court at Manchester.

17 Council of Europe, *'Preventive Legal Measures against Organized Crime- Organized Crime – Best Practice Survey n°9'* (Strasbourg: 2003) PC-S-CO (2003) 3 E.

18 <<http://www.number-10.gov.uk/output/Page8745.asp>>.

3.1 The Netherlands

In October 2004, the Dutch Minister of Justice, Hirsch Ballin, was pressured by parliament to adopt the British anti-social behavior order. Extra heat developed due to a widely publicised case in which a couple had been 'forced out' of their house by harassment from a group of Moroccan youths. In short, the couple no longer felt safe in the Diamantbuurt in Amsterdam because they were tormented and called all sorts of names by these youngsters (van Stokkum, 2007; van Swaaningen, 2008). The group had ended up throwing stones through the couple's window, and the two moved out of the area. Many politicians called for tougher measures to tackle 'street terror' and they referred to the British ASBO. In the end, the idea was withdrawn because the Minister expected the costs of introducing this new measure to be too high and he feared an extra strain on the already over-populated prisons.

In 2007, discussion of the ASBO in the Dutch parliament was rekindled. In June of that year, two chairpersons representing local boroughs in Amsterdam¹⁹ suggested introducing the ASBO in the Netherlands. They stated that in the UK it was successful in reducing anti-social behaviour in inner-city areas. 'The ASBO helps in the fight against young people terrorising the streets, before criminal law comes into the picture,' said local council chairman Arco Verburg.²⁰ He referred to the new British laws 'as the best way to respond to problems in the public domain'.²¹

But it was never mentioned that in the UK the ASBO was controversial, to say the least (it is unclear whether this omission was the result of ignorance, wishful thinking, or negligence). These statements of success are especially remarkable because up to the present the actual effects of the ASBO on reducing anti-social behaviour are not yet clear.²² Nonetheless, the ASBO continues to inspire Dutch politicians as they consider implementing similar legislation.

The most recent example is of a proposal by the current Dutch cabinet. At the beginning of September 2007, the cabinet presented a plan to deal with the problems of forty probleemwijken (problem neighbourhoods), and the council of ministers agreed on a proposal for a new act (article 172a Gemeentewet). The law, titled in short 'severe anti-social behaviour',²³ gives more power to local authorities. For instance, mayors can issue restraining orders to people who have displayed anti-social behavior, without the interference of a judge and for a longer period of time than the current law allows. Although the ASBO

19 Resp. Slovervaart and de Baarsjes.

20 http://www.nicis.nl/nicis/dossiers/Zorgenwelzijn/Jeugdzorg/verrijkt dossier/Jongerenoverlast_1132.html (accessed May 30 2008).

21 As stated in the *Volkscrant* (June 13, 2007).

22 At the end of 2008, the Home Office in England will publicise an effect study.

23 'aanwijzingen ernstige overlast.'

is a mixture of civil and criminal law rather than administrative and criminal law, as is the case with the Dutch proposal, the ideas behind it are very similar.

This new law is designed so that the mayor can act quickly when he considers the anti-social behavior to be a serious problem. A precise definition of anti-social behavior is not given in the proposal, but it declares that the behavior should be 'persistent and grave.' Information on the case can come from partners in the judicial system, like the police, but also from administrative authorities, like social services and the local Department of Education. The restraining order can be issued for a year and must be revised every three months.²⁴ If the order is breached, it becomes a criminal act (article 184 Sr) and the case can be brought before a criminal court.²⁵ Thus, like the ASBO, it is a multi-stage approach.

In the Netherlands, mayors have more power than their British counterparts. According to current law, they can also issue restraining orders, but with the new law they can prolong this period and couple it to 'a duty to report.' In addition, the public prosecutor has more authority as well.²⁶ The Minister of Justice gave examples of disorder caused by animal rights activists, hooligans, and rowdy youth, and stated, '[I]t is a very important expansion of the ability to act in a case of anti-social behaviour.' Prime Minister Balkenende added that the new law would help 'to create safe communities.'²⁷

The notion behind this administrative measure, according to the explanatory memorandum, is that anti-social behavior in the public domain adds to the feelings of insecurity in inner-city areas. This proposal is part of the government's strategy to make the Netherlands a safer place to live in and to reduce criminal conduct, as can be read in the memorandum.²⁸

Of course, it is still a proposal and so the results can not yet be evaluated, but the political rhetoric surrounding the new law in the Netherlands is similar to that in the UK. Both the Dutch proposal and the ASBO have been introduced as a supportive element for the overburdened criminal justice system and as an additional weapon against crime and feelings of public insecurity. Local authorities are accorded more responsibilities, and in both cases the definitions of anti-social behaviour are very broad (Brown, 2004).

Whether the Dutch proposal will also lead to a net-widening and a net-deepening effect of the law, and to the stigmatisation of youngsters, will remain a crucial question. At first glance, however, it appears that certain anti-social behaviour, often not criminal in itself, is being approached as a security threat rather than as a social problem. Furthermore, it is consequently

24 Or one can be ordered to report at certain times.

25 A prison sentence up to three months or a fine can be the end result.

26 Restraining order, duty to report, contact injunction.

27 *NRC Handelsblad* (September 8, 2007).

28 Wetsvoorstel (2007) Dutch title: maatregelen bestrijding voetbalvandalisme en ernstige overlast (31 467).

addressed by the law instead of by social policies. It would be interesting to see whether administrative law in the other domain, the prevention of organised crime, is also exercised as an instrument for crime control.

4 THE PREVENTION OF ORGANISED CRIME

The administrative approach to organised crime is another example of that was inspired by a purportedly successful method from abroad. According to the biographers of the New York City authorities' fight against organised crime, this battle was successful partly due to the introduction of administrative measures alongside a very intensive criminal policy:

... the mobilization of local regulatory authority to attack organised crime is a New York City-specific innovation. Until recently, mayors viewed organised crime control as the responsibility of law enforcement agencies. The Giuliani administration accepted responsibility for cleaning up racketeer-ridden industries, arguing that they impeded the city's growth and prosperity. The city's regulatory initiatives have significantly expanded the repertoire of organized-crime control strategies (Jacobs, Friel & Radick, 1999).

The Giuliani administration introduced screening procedures and licensing systems to end the power positions that five Italian-American crime syndicates had built up in several legitimate economic sectors in the city. The applicant had to be screened to obtain a licence, and if any connections to organised crime were found, the licence was refused. A similar pre-qualification procedure was used to prevent building contracts from being given to Mafia-controlled construction firms.

Dutch police and justice officials were introduced to the New York approach to organised crime at the Dutch-American Conference on Organised Crime in The Hague in 1990. According to its organisers, this conference caused a major turnaround in Dutch thinking about combating organised crime (Fijnaut & Jacobs, 1991). During the conference, policy-makers became convinced that this type of crime could also be tackled by an administrative approach (Fijnaut, 2002).

Not only was it this conference but also the rise – and assassination – of the first 'Godfather' of Dutch organised crime, Klaas Bruinsma, that led to a white report from the Dutch Minister of Justice on organised crime and its containment (Ministry of Justice, 1992-1993). The report addressed the risk of the infiltration of criminal organisations into legitimate sectors of Dutch society, such as branches of industry and local administration. The report stated that administrative authorities should not cooperate with this infiltration, and that they had a responsibility in the prevention of organised crime. However, the report did not provide administrative authorities with any tools to adhere to this responsibility. It was the Dutch Ministry for Internal Affairs that com-

missioned a study into the extent to which certain public regulations could be equipped with grounds for refusal so that the abuse of these regulations by criminals could be prevented (Struiksma, 1994).²⁹

The awareness of the problem of organised crime and the increase in unregulated investigation methods applied by the Dutch police led to a parliamentary inquiry in 1995. To assess the threat of organised crime and its interlacing with legitimate society, the inquiry committee commissioned four leading criminologists to study the nature and the scale of organised crime in the Netherlands (Fijnaut, 1998). This study partly focused on its prevalence in four cities – among which the capital city of Amsterdam – and several branches of industry. The selection of branches was clearly inspired by American examples: car sales, transport, seaports and airports, waste management, construction, and the catering business. Based on the findings of this study, the parliamentary inquiry committee also stressed the importance of administrative prevention, and it called for regulation of the exchange of criminal intelligence between law enforcement agencies and public administration, as well as the possibility to refuse and withdraw licences, grants, and public contracts on grounds of suspicions of connections with criminal activities (PEO, 1996).

The conclusions and recommendations of the parliamentary committee led to the development of administrative responses to organised crime on two levels: national, for which the BIBOB Act was drafted, and local, for which city administrations set up their own action plans.

The goal of the BIBOB Act – which came into effect in 2003 – is to provide administrative authorities with tools to prevent the facilitation of organised crime.³⁰ The BIBOB Act allows the refusal or withdrawal of licences and subsidies and the refusal of participation in public tenders or contracts. This is applicable if there is a serious risk that the favourable decision will also be used to utilise any benefits that have been or are to be gained through criminal acts and that have a financial value, or that it will be used to commit criminal acts. Administrative authorities decide on the refusal or withdrawal after asking advice from the national BIBOB bureau located at the Ministry of Justice, which conducts the risk assessment by using confidential data. The application of the BIBOB Act is limited to a selection of branches of industry, in which one recognises those branches assessed before the parliamentary inquiry: the hotel and catering industry, brothels, construction, transport, and waste management.

While the BIBOB Act was being drafted, several initiatives on the local level were taken. Border towns in particular, such as Venlo, Almelo, and Maastricht,

29 This study was appropriately titled 'Gewapend Bestuursrecht', which can be translated as 'Armoured Administrative Law.'

30 BIBOB is an abbreviation that stands for *Bevordering Integere Besluitvorming Overheidsbeslissingen*, which is translated as 'Law for the promotion of integrity assessments by the Public Administration', 216 *Bulletin of Acts, Orders and Decrees* (2003).

embraced the idea of taking administrative measures against organised crime problems related to the cross-border 'drug-tourism' that is attracted by the lenient drug policy in the Netherlands. A local project that even received international recognition as being a best-practice in the prevention of organised crime was the Van Traa project in Amsterdam.³¹

The outcome of the study by the parliamentary research group on the organised crime problem in Amsterdam was the immediate cause for the administrative approach. The conclusions came as a shock: Amsterdam is a 'centre' of both national and international organised crime, and both foreign groups and native criminal groups, have – mainly in the inner city districts and especially in the Red Light district – built up economic positions of power in the hotel and catering sector, the gambling sector, the prostitution business, and the property sector. Furthermore, it was noted that criminal entrepreneurs set the boundaries within which the city administration and the police can still freely operate, and this has apparently occurred without local authorities having taken the necessary measures to prevent it (PEO, 1996).

A consequence of these findings was that the city of Amsterdam, as an administrative authority, decided to develop a policy to prevent the facilitation of organised crime. In 1997, a Red Light District manager was appointed at the request of the city council with the objective to improve the prevention of organised crime in the Red Light District. The manager and his team were asked to develop a methodology for the administrative approach to organised crime. Since 2000, this methodology has also been used in other city districts and in specific economic branches. The project was renamed the Van Traa project, after the aforementioned late chair of the parliamentary committee (Fijnaut, 1998). After an experimental phase, the Van Traa approach has been implemented as a regular policy of the city administration (Huisman, 2005).

The methodology developed in the Van Traa project has many similarities to the BIBOB tool: (1) it provides for a screening by assessing data from several sources, including confidential data from the police and the tax department; (2) the outcomes are used to take administrative measures; and (3) the application of this methodology is also limited to selected areas and sectors in which a vulnerability to organised crime influences is suspected. However, differences exist as well. First, the Van Traa approach is more integrated. Different agencies work together, and so a wider range of measures can be taken; these vary from the refusal or withdrawal of licences and permits, the levying of taxes, the closure of certain establishments, to the instigation of a criminal investigation, and, under certain circumstances, the acquisition of real estate by the city itself, all in order to prevent criminals from investing their money in specific objects. Second, it has a more pro-active nature. While the BIBOB instrument is used when there are specific indications of organised crime

31 Council of Europe, *'Preventive Legal Measures against Organized Crime- Organized Crime – Best Practice Survey n°9'* (Strasbourg: 2003) PC-S-CO (2003) 3 E.

connections in individual cases, in the Van Traa approach, all businesses and persons in selected areas can be subjected to screening, regardless of whether there are previous indications of such connections (Huisman, 2005).

A central premise of both the BIBOB Act and the Van Traa project is that services or facilities of the public administration can be exploited to carry out criminal activities or to invest illegally acquired capital. When criminal organisations can be excluded from public contracts or from receiving subsidies or licences for certain activities, the investment of criminal capital and the infiltration of the legal economic sectors will be to a large extent hindered. For this purpose, administrative bodies have become involved in combating a form of crime that previously had been the sole reserve of the police and the judiciary. Therefore, this approach can be seen in the light of both responsibility and situational crime prevention strategies.

4.1 Defining the crime problem

Although serious organised crime problems were the immediate reason for introducing both the Van Traa project and the BIBOB Act, the application of the latter is not limited to organised crime. The goal of the BIBOB Act is to fight organised crime, but its tools are applicable to the broader notion of 'criminal activities'. And although its reach is limited to economic sectors that are vulnerable to forms of organised crime, in the operationalisation of this vulnerability, the explanatory memorandum of the Act states that this not only involves sectors where organised crime interference has already been observed but also those that fulfil certain criteria that indicate a vulnerability to crime in general. This means that the BIBOB Act is initially aimed at organised crime, yet not to the exclusion of other crime (van der Schoot, 2006). However, the legislator did not want the application of the BIBOB Act to be open-ended. Therefore, it aligned itself with the view of the parliamentary research team on organised crime, which listed as the most vulnerable sectors transport, waste disposal, construction, hotels and catering, and coffee shops. The research team based this selection partly on hypothetical criteria for the vulnerability of sectors to crime and partly on experiences abroad, particularly in the US. In addition to this justification of the selected branches, the team explicitly stated that other branches might have been selected, given other criteria (Fijnaut, 1998). Furthermore, no indications of organised crime were found in several of the investigated branches. This has led Van der Schoot to the conclusion that the basis for the selection is not as solid as it is probably assumed to be (van der Schoot, 2006). Moreover, the evaluation study report regarding the application of the BIBOB Act calls for a re-examination of the criteria for the selection of sectors that fall within the scope of the BIBOB Act.

The result of the selection is that branches of industry in which no clear indications of organised crime influences were found are brought within the

reach of instruments that have been designed to fight organised crime. This also means that these sectors are publicly related to organised crime. In fact, if the BIBOB instrument had been restricted to the sectors in which penetration of organised crime was actually observed, the instrument could have been applied only to the hotel and catering industry, including the involved real estate. Nevertheless, a survey among all administrative authorities that can make use of the BIBOB Act found that 24 percent are in favour of expanding the scope of the BIBOB Act to new sectors, such as public phone booths, employment agencies, and real estate transactions (de Voogd, Doornbos & Huntjes, 2007).

To conclude, it is plausible that the BIBOB Act has a net-widening effect and, as a result, a *de facto* criminalisation effect. The same tendency not to limit the application of an instrument that aims to prevent organised crime to situations where its influences are actually observed can be identified in the Van Traa approach. In the formulation of the target of the Van Traa-project in official documents, the term 'organised' was usually placed between brackets. According to a statement by the mayor and aldermen during the presentation of the project plan for the Red Light district to the city council, this was a deliberate choice.

'The administrative approach to (organised) crime is aiming at a broader spectrum: the prevention or repression of crime, excluding high volume crime'. ... For this reason, the word 'organised' will always be put between brackets.' (B&W, 1998).

As a result, the target and limits of the project were not clear and so created the risk of net-widening. And while the Dutch legislator formulated – although questionably – criteria for the selection of sectors subject to the BIBOB instrument, no such criteria were formulated in the Van Traa project, thus creating an even greater risk of net-widening. As a result, the connections to organised crime remained unclear in some of the selected areas and sectors. And in the end, no such organised crime was found. (Huisman, 2005).

There are also other reasons that the administrative approach to organised crime has a net-widening effect. The approach is not aimed at the core activities of organised crime as it manifests in the Netherlands: the trafficking of illegal goods and services (Kleemans, 2007). This trafficking occurs in illegal markets that are not regulated by formal laws. Instead, the approach is aimed at the interfaces between organised crime and the legitimate environment that provides services that facilitate criminal activities. This means that the approach is expanding the struggle of organised crime against this legitimate environment. Actors from this legitimate environment were theoretically already subject to criminal investigation, but these white-collar relations to organised crime were given a low priority in criminal policy (van de Bunt & Huisman, 2007). This has changed through the application of the administrative approach to organised crime.

Because whole economic sectors are subjected to preventive measures such as BIBOB screening, entrepreneurs in these branches feel criminalised (Huisman, 2005). Entrepreneurs in the Red Light District in Amsterdam even banded together to publish a half-page ad in the local newspaper complaining about the proportionality of the administrative measures taken to fight organised crime and about their sense of being criminalised.³²

Interestingly, some of the entrepreneurs who feel criminalised by the BIBOB and the Van Traa approach work in sectors that have recently been decriminalised in Dutch criminal policy: namely, prostitution in licensed brothels and the coffee shops in which consumer quantities of marihuana and hashish are sold. The intention of this decriminalisation and of the regulation of these former illegal activities was to deprive organised crime of illegal markets, and to make these markets accessible to legitimate entrepreneurs (Brants, 1998). However, in recent policy plans of the city administration of Amsterdam, based on the reports of the Van Traa team, these branches are labelled as 'criminogenic' and are seen as part of a 'criminal infrastructure' that, therefore, has to be suppressed. From a criminological point of view, it could be naïve to think that legalising markets that have traditionally been vulnerable to organised crime would render them crime-free after legalisation (Naylor, 2007). On the contrary, it could be expected that organised criminals would transform their business from vices – providing goods and services in illegal markets – to racketeering – illegally exploiting legitimate markets – as they are familiar with these markets. Therefore, the analysis of the Van Traa team makes sense. However, it is also understandable that entrepreneurs who were attracted by the city administration's search for bona fide businessmen, or those who took the chance to blot out the stains of illegitimacy, feel betrayed by the shift in policy.

In addition, the policy theory of the Van Traa project assumes that run-down neighbourhoods and marginal economic sectors are breeding grounds for organised crime. Although this assumption is hardly affirmed by empirical research, theoretically connecting these neighbourhoods and branches to organised crime also creates a net-widening effect (Huisman & Nelen, 2007). Situations and activities that had previously been qualified as 'marginal', 'irregular', or 'non-compliant' are suddenly connected to organised crime. And they are subjected to far-reaching screening and crime-control measures when the Van Traa team targets such a neighbourhood or sector for action. And again, a self-fulfilling prophecy of this de facto criminalisation can be identified. While one of the goals of the project is to up-scale the selected run-down neighbourhoods and the marginal economic activities, the media attention that is – often deliberately – generated by the start of such projects underlines the dubious reputation of these neighbourhoods or sectors. This leaves the

32 *Het Parool* (October 6, 2007).

remaining legitimate entrepreneurs feeling stigmatised and it discourages bona fide businesses from investing (Huisman, 2007).

4.2 Administrative measures and the execution of criminal justice

The administrative approach to organised crime is a clear example of a responsabilisation strategy. Administrative authorities are called upon to safeguard their integrity by not facilitating criminal activities, thereby – in close cooperation with other actors – contributing to the combat against organised crime. This means that the administrative approach should be seen as an addition to the more traditional criminal law approach. However, the evaluation of the Van Traa project in Amsterdam showed that the judicial authorities actually used the administrative approach as an alternative to criminal law enforcement (Huisman, 2007). Cases that were dealt with unsuccessfully by the police were handed over to the Van Traa team. To a certain degree, the administrative approach became a panacea for various regulatory problems.

The evaluation of the administrative approach to organised crime illustrates that responsabilisation is not an easy process. The common interest in fighting organised crime that is assumed to be present is not experienced by all actors involved (van der Schoot, 2006). In Amsterdam, the establishment of a special team responsible for the new approach became an excuse for other agencies to be less active and aware (Huisman, 2007). A recent evaluation of the application of the BIBOB Act still showed that a large percentage of administrative authorities were reluctant to apply it (de Voogd, 2007).

Furthermore, while the administrative approach is presented as an addition to criminal law, the success of its application is largely dependent upon criminal intelligence. The evaluation of the Van Traa project demonstrated that although the team had the authority to match city administration data with criminal intelligence, an assessment of the risk of facilitating organised crime proved to be very difficult. When can indications of money laundering or other organised crime-related activities be inferred from an overview of property, leasing and letting, and the financing and exploitation of properties? It was anticipated that the analysis of databases managed by the city administration (for instance, the land register) would provide a first assessment of risks of organised crime-related activities. However, the format and structure of these databases give only limited insight into the actual property relations. It was usually information from the police and judiciary concerning the person involved that was decisive in determining whether an organised crime case could be assumed. An analysis of the BIBOB cases that have been brought to court gives the same impression: Criminal intelligence is crucial for assessing serious risk. Therefore, the result of administrative analysis relies to a great extent on the availability of criminal information. Administrative authorities

are unable to check the origin and reliability of this information, but they do have to act on the basis of it (Huisman, 2007).

Partly as a result of this dependency and partly because of the limitations of criminal justice to diminish opportunities for criminal opportunities, the Council of Chiefs of Police decided to introduce an 'administrative file' in large criminal investigations. In such a file, all data that is not directly relevant to a criminal conviction, but that could be relevant to the making of the decision to take administrative measures, are stored. After the closure of the investigation, this file is handed over to administrative authorities for follow-up actions (Nauta & van Soomeren, 2006).

Due to this dependency upon criminal intelligence and the refocus of criminal investigation for the benefit of administrative measures, the distinction is blurring between administrative law and criminal law in their fight against organised crime. Although the impact of an administrative measure can be quite harsh (e.g. losing a licence and thus being out of business), the person subjected to such a measure does not enjoy the same rights as a suspect in a criminal trial. For instance, the principle of presumption of innocence does not apply to administrative law, and therefore a criminal suspicion is sufficient to assume there is a serious risk for criminal activity. Moreover, the BIBOB Act limits the possibilities to receive information about reasons for the refusal or withdrawal of licences when this is confidential (Bitter & Veldhuis, 2006). For these reasons, legal scholars argue that a BIBOB decision should be equal to a criminal charge in the sense of Article 6 of the European Treaty of Human Rights (de Voogd, 2007; van den Berg & Heijnen, 2007). The first case was recently brought before the European Court of Human Rights.

Although in administrative law the burden of proof is much lower than in criminal law, efficiency reasons do not seem to be part of the motivation for the application of an administrative approach. Rather, the principles of not facilitating criminal activities and the responsabilisation to contribute in the fight against organised crime are the primary motivations. However, it is interesting to see what effects the administrative approach could have on the efficiency of the administration of justice.

It is difficult to assess whether the administrative approach has a 'staying out of court' effect, since that was not one of its aims. On the one hand, such an effect could be predicted. In contrast to Dutch criminal law, in Dutch administrative law no judge is needed to issue a measure or a sanction. This would reduce the number of court cases when suspicions of organised crime connections are not dealt with by criminal law but by using administrative measures. After all, an administrative authority does not have to initiate court proceedings to obtain approval to impose a measure. On the other hand, appeal procedures are open to the decision to issue such measures and fines: in the first instance, to the administrative authority that took the decision, and in the second instance, to the administrative court and finally to the Council of State. However, up until September 2007 only twenty BIBOB cases had been

brought to court. In all of these cases, the contested decision of the administrative authority was confirmed.³³

The administrative approach might not have led to an increase in formal court procedures, though it did generate efficiency costs in the form of increased bureaucracy. Screening and auditing instruments inevitably lead to more bureaucracy. This was also observed by Anechiarico and Jacobs in New York City (Anechiarico & Jacobs, 1996). They concluded that all instruments installed to safeguard the integrity of government operations had serious downsides in the form of costly inefficiencies. The evaluation study of the application of the BIBOB Act points to a considerable increase in the administrative burden due to extra paperwork that requires additional manpower and that also leads to longer periods needed for decision making (de Voogd, 2007). In Amsterdam, the collection and analysis of data relevant to taking administrative measures proved to be highly time-consuming. As a result, in some projects the participants seldom got round to actually taking measures (Huisman, 2007).

Perhaps because of this administrative burden the number of BIBOB cases fell short of expectations. Before the Act came into force, it was expected that 500 cases annually would be brought to the central BIBOB bureau. However, in the first three years, only 193 cases were filed (de Voogd, 2007). Perhaps because of this the application of the administrative approach has not resulted in many cases being brought before the administrative courts.

5 CONCLUSION

The administrative measures discussed above have been introduced as instruments for tackling deviant behaviour without applying criminal law. Nevertheless, these recent reforms and policy proposals can have unexpected and paradoxical consequences.

The objectives of the administrative measures reviewed are different from the outcomes. The primary principle of the introduction of the ASBO was to protect those people in society who are most vulnerable to the effects of human disorderly behaviour. The objective of the administrative approach seems to be twofold: on the one hand, the principle aim is to protect the integrity of the public administration by preventing the facilitation of organised crime; on the other hand, it is because of this prevention that the administrative approach is also being presented as a tool for combating organised crime.

Another objective of both instruments is the mobilisation of administrative authorities in order to take preventive measures. Although administrative approaches to crime are officially sold as preventative strategies, they appear

33 <<http://justitie.nl/onderwerpen/criminaliteit/BIBOB/wet-BIBOB/Jurisprudentie/>> (accessed 2 February 2008).

to have a repressive side. Measures are individualised and are based on information (suspicions of) regarding previous behaviour. The consequences of these administrative measures can also be more far-reaching than those of criminal sanctions, while the safeguards of due process are considerably less so. In 2004, the Commissioner for Human Rights, A. Gil-Robes, expressed concern about ASBO practice³⁴ (Koffman, 2006). Furthermore, Dutch legal scholars have predicted that the BIBOB measure will be viewed as being equal to a criminal charge, and that as a result the procedural rights of criminal law should apply. However, the first case still has to be brought before the European Court of Human Rights.

Rather than being autonomous instruments of crime control, the administrative measures discussed in this paper should be viewed as an extension of criminal justice. The British ASBO and the Dutch restraining order are respectively a civil and an administrative order, but to breach either one is a criminal offence. And although the application of the BIBOB tool is an administrative decision, the motivation is strongly dependent upon data obtained by means of a criminal investigation.

The ideas behind ASBO and BIBOB legislation appear popular across nations. Moreover, many similarities in political rhetoric can be identified. In the case of anti-social behaviour, run-down neighbourhoods and irregular or marginal economic activities are automatically linked – with little debate – to criminal behaviour. However, a direct causal relationship is difficult to identify. Moreover, the empirical sturdiness of this assumption and the effectiveness of administrative measures on organised crime or antisocial behaviour have yet to be tested.³⁵ Therefore, it is striking that the newly developed administrative approach to organised crime is being sold as a success internationally, and just as easily as was the British ASBO measure.

Furthermore, the definition of behaviour, activities, and situations that the measures aim to counteract is often vague, which can lead to a net-deepening and a net-widening of the law. In addition to these problems, in the UK the trend of staying out of court has resulted in certain paradoxical situations. Dutch politicians are also eager to stress that new administrative measures are necessary to fight the problems of inner city areas because existing tactics are not sufficient. These measures will increase the power of the state in controlling the public domain as well. In the end, one might wonder whether

34 A. Gil-Robes, the Commissioner for Human Rights, strongly criticised the anti-social behaviour strategy of the British government (Report by Mr Alvaro Gil-Robes, Commissioner for Human Rights, on his visit to the United Kingdom, 4th-12th November 2004, The Office of the Commissioner for Human Rights, Council of Europe, 8 June 2005, pp. 34-37. He was especially concerned about the use of the ASBO for children.

35 ASBOs appear to become less popular in England. Recent Home office figures for 2006 show a drop in ASBOs issued by a third. (Home Office, May 2008) available at <http://rds.homeoffice.gov.uk/rds/horrrpubs.html>.

this form of crime prevention is a Trojan horse, in the sense that the new measures increasingly criminalise what can be seen as everyday behaviour.

Political discourse

3 | The war on street terror. Why tackle anti-social behaviour?"

Abstract

This article examines the rationales of Dutch politicians for tackling the perceived pressing problem of anti-social behaviour (ASB) and the question did they copy the British approach? The first part will describe in short the concept of policy transfer and the recent British fight against ASB. The focus will be on the introduction of the Anti-social Behaviour Order.

The second part is an empirical study into the Dutch retreat from condoning ASB, consisting of interviews with Dutch politicians focusing on their ideas for tackling ASB. Those are compared with the British's rationales. This kind of comparative elite ethnography is not common in criminology, but this article aims at providing evidence of its benefits. By answering the research question an insight into the origins of policy in the sphere of criminal justice can be obtained.

1 INTRODUCTION

On September 14, 2008 the problem of anti-social behaviour (henceforth ASB) became front-page news in the Netherlands. In Gouda¹ several bus drivers refused to drive through a certain neighbourhood any longer, because of the ASB they encountered on their daily rounds. Especially young Moroccans were accused of terrorising the public transport routes. Their ASB in the form of yelling, spitting at other passengers and intimidating the bus drivers was no longer tolerated. The situation escalated when television journalists were threatened by the youngsters. A Dutch politician claimed the neighbourhood had turned into a no-go area.²

As a result an emergency debate in Dutch parliament on the problem of ASB was called. During the heated political discussion, nuisance in the public

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1 A small city of 70.845 inhabitants (www.gouda.nl).

2 MP Mark Rutte in *De Telegraaf* (October 3, 2008).

domain³ was labelled an 'acute problem' that pressed for 'a quick and harsh response'. This *Gouda-debate* generated some remarkable media quotes; 'ASO-terror damages public transport', 'Send the army', 'tough actions needed against street terror', 'tackle street terror today, not tomorrow', and 'anti-social behaviour wreaks serious havoc in many Dutch cities'.⁴ Although the perceived problem of ASB by Moroccan youth has been on the Dutch societal agenda for the last six to eight years, now (after recent incidents like Gouda) it appears more acute.

Of course ASB is hardly a new phenomenon (Van Weringh, 1978; Ramsay, 2008). Twenty years ago nuisance in the public domain was a reality as well. But in those days, the byword was to condone (turning a blind eye) (Devroe, 2008). But nowadays ASB has become a major policy preoccupation and it is directly connected to the problems of young immigrants from Morocco (Punch, 2005). For many Dutch politicians it is now self-evident that the government should act firm against ASB (Pakes, 2005; Van Stokkom, 2007; Van Swaaningen, 2008; Koemans, 2008).

In this article the Dutch retreat from condoning ASB is examined by identifying the underlying principles offered by politicians for tackling this kind of behaviour. These Dutch rationales are compared to the British ones.

First stage of the empirical study consists of a content analysis of British and Dutch key government and parliamentary documents (debates, votes, reports).⁵ In order to produce a brief narrative of the process of policymaking, the focus will be on the development of the Anti-social Behaviour Order (henceforth ASBO). The ASBO as a case study is an easy choice because of its political attraction. Dutch politicians often cite this English measure and refer to the ASBO as a recipe for success (Huisman & Koemans, 2008). It will be interesting to find out why the ASBO is so appealing for Dutch politicians.

The second stage consists of a series of interviews with key participants in the policy process.⁶ The actors involved are Dutch elected officials, Dutch spokesman of political parties and British and Dutch civil servants. The Dutch political landscape is quite diverse. In total eleven different political parties are represented in parliament. Interviews were conducted with the nine biggest. Furthermore four members of city councils of Amsterdam and

3 Both anti-social behaviour and nuisance in the public domain are contested concepts. Defining what is currently meant by them is not straightforward and is context-specific. In this article the concepts refer to persistent, un-acceptable non-criminal or minor criminal behaviour of young people in a public order context.

4 Debate on the 25th of September 2008, after incidents of anti-social behaviour in the city of Gouda lead to widespread public outcry (*AD, Telegraaf, NRC*).

5 Key documents are those papers that concern the tackling of ASB after the publication of the Dutch government paper *To a safer society* (2002). This document has been chosen as a point of departure because as also Pakes (2004) argues, this appears the formal beginning of the tougher approach on ASB.

6 The research has been conducted from July till November 2008.

Rotterdam and five high ranking policymakers were interviewed.⁷ The interviews resulted in rich first hand-accounts of the Dutch policy process and of the perceptions of key actors.⁸ Why is this kind of elite comparative ethnography useful for the study of policymaking in the sphere of criminal justice?

2 POLICY IN THE MAKING

There are different macro views on the international component of the origins of crime policies. Some scholars stress the differences in policy interventions between countries (Tonry, 1999; Melossi, 2004). A strong theme within this body of work is the focus upon the so-called American distinctiveness in the area of crime control (Jones & Newburn, 2007). One of the limitations of this approach is that some highly important globalising effects in policy making are overlooked.

On the other hand, there is a substantial body of academic work that stresses the similarities of criminal justice policies (Ericson, 2007; Edwards & Hughes, 2005; Furedi, 2005; Garland, 2001; Hudson, 2003; Pieterman, 2008). These academic works argue that the spread of democratic institutions and parallel social and economic forces have shaped related public policies. They highlight the emergence of a common risk society or a Culture of Control. To illustrate, Garland (2001) argues that crime policies in the UK and USA have become increasingly similar.

Indeed there is much in the Western cultures of control that appears to be in common. But again there are limitations to these studies.⁹ In general there is a tendency to overemphasize the trends that confirm this thesis and to downplay divergent developments.

The point of this article is not to deny a general trend of a culture of control or to suggest that differences between countries do not exist. This study does not focus on identifying macro developments. It aims at providing an additional perspective by means of exploring the *process* of policymaking on a meso-level.¹⁰

Policy represents the outcome of a complex set of processes. It is acknowledged that copying or (consciously) overlooking policies from abroad is part of this. But the significance of individual decisions and actions of political actors in this process is often underrated. That is why in this article their views will be studied.

7 In general I was successful in gaining access to senior politicians and policy-makers. Nonetheless at their request, their quotes have been impersonalized.

8 In total N = 18.

9 Most writers are aware of the problems of a broad perspective but aimed at understanding macro trends in penal policy (Jones & Newburn, 2007).

10 In this article the meso-level concerns the role of political actors in the policy make-up of their countries crime policies.

The concept of *policy transfer* can be useful in this study because it concerns individual political decisions. Policy transfer is defined as a process by which knowledge of policies, administrative measures, institutions and ideas in one political system, are consciously used in the development of policies, administrative measures, institutions and ideas in another political system (Dolowitz, 2003).

It is interesting to see whether policy transfer between the UK and the Netherlands has taken place or not. Thereby establishing a difference between *soft* transfer (including ideas, concepts, lessons and attitudes) and *hard* transfer (including actual policy instruments and legislation) (Evans, 2004).

Of course with this approach there are limitations as well. For example *overemphasizing* the degree of individual rationality in policymaking process. The respondents can be rationalising their choices after they were made, but during the process of policymaking they perhaps were less conscious of them.

Furthermore it is difficult to separate external influences from domestic policy developments and external examples can simply serve to confirm an already decided approach. Pollitt (2001) points out that labels are frequently borrowed (because of their legitimating power) but in actual action, policy can differ. And there is a tendency of exaggerated claims, assumed from similarities in policy rhetoric. Therefore it is important to look for evidence of *non-transfer* as well.

3 ENGLISH MEASURES AND RATIONALES IN SHORT

In 1998 the ASBO was introduced in England and Wales.¹¹ The then Prime minister, Tony Blair, stated that if traditional criminal law processes in cases of antisocial behaviour continued to abide, the rights of victims would be allowed to be routinely trampled upon and would leave courts fighting 21st century crime with 20th century methods. He claimed that the use of control orders was the best available means for protecting the public from ASB.¹²

ASBOs have a minimum duration of two years, can last indefinitely, and contain prohibitions considered necessary to prevent the repetition of a person's anti-social behaviour (Brown, 2004). In the law, the conduct is defined as 'behaviour which caused or was likely to cause alarm, harassment, or distress to one or more persons not of the same household as him or herself' (Home Office, 2008).

In most cases an acceptable behaviour contract (ABC) is issued first. It's a written agreement made between a person who has been involved in ASB and their local authority/landlord or police. ABCs are not legally binding and there does not have to be an ABC in place before an ASBO application is made

11 The crime and disorder act (1998) introduced ASBOs.

12 <<http://www.pm.gov.uk/output/Page11769.asp>>.

(Home Office, 2008). Then when the agreement is breached in most cases it can be followed up with an ASBO (Burney, 2005).

The ASBO is a *civil* order. Restraints of certain behaviour are imposed by a civil court and breaching is a criminal offence (Ashworth, 2004). It is a multi step prohibition, a civil order backed up by a criminal penalty (Crawford, 2008).¹³ As Millie (2008) pointed out, within a relatively short period of time, the ASBO became in regular usage and is now part of the common lexicon.

In the UK, the government is clear on the question why ASB should be tackled; "Anti-social behaviour ruins lives: It does not just make life unpleasant; it prevents the renewal of disadvantaged areas and creates an environment where more serious crime can take hold," as can be read in several governmental documents (Home Office, 2006).

So much is said in one sentence. Jacobson (2008) spotted three answers in this single sentence. They argued that this alone may suggest that there is 'room to take a critical view of the different rationales for tackling ASB'.¹⁴ Their study combined empirical research with a review of policy and research literature. They identified among others, the following rationales;

- *Quality of life*; ASB should be tackled because it is a serious problem that makes people miserable and fearful.
- *Broken windows rationale*; ASB should be tackled because if left unattended, it leads to serious crime.
- *Regeneration rationale*; action on ASB should contribute to the social and economic regeneration of local areas.

These British findings formed the starting point of this study. By comparing the English rationales with the underlying reasons of Dutch politicians it will become clear whether policy transfer has taken place or not.

4 DUTCH MEASURES

Recently, as was described in the introduction, Dutch authorities have stepped up their focus of attention for the problem of ASB. Nuisance in the public domain is coupled with war rhetoric and addressed with strong measures. But not so long ago the Dutch were famous for crime policies with a strong social-character (Punch, 2005b). This was combined with the earlier mentioned

13 The two-step prohibition structure can be placed in the tradition of the Statutory Nuisance Abatement Notice. It dates back into the 19th Century and would have been a familiar power to the local housing managers who invented the original proposal for the Community Safety Order (Ramsay, 2008).

14 Page 37.

Dutch practice of condoning (*gedogen*) also defined as regulated tolerance (Brants, 1999; Buruma, 2007).

But this history of tolerance was one of the first in 21-st century Europe to collide with the on-street realities of young Muslim immigrants (Vinocur, 2008). In particular around the rise of the populist politician Pim Fortuyn in 2001 there was an increasingly critical public reaction towards this idea of regulated tolerance especially towards young Muslims (Pakes, 2004). The general view was that *gedogen* had gone too far and that authority has lost authority (Punch, 2005a).

The Dutch government reacted with the publication of the paper *To a safer society* (Ministry of BZK, 2002). This document appears as also Pakes (2004) argues, to be the formal beginning of the tougher approach on ASB. It was for the first time that ASB was directly linked to crime and feelings of unsafety. In brief, the government aimed at more police on the street, tougher enforcement of existing rules and where necessary introducing new measures (Ministry of BZK, 2002).

Later on in October 2004, the Dutch Government was further pressurized to address the problems in the public domain. This heat developed due to a widely publicised case in which a couple had been forced out of their house by harassment from a group of Moroccan youths (Koemans, 2008). In short, the couple no longer felt safe in the *Diamantbuurt* in Amsterdam because they were tormented and called all sorts of names by these youngsters (Van Stokkom, 2007; Van Swaaningen, 2008). The group had ended up throwing stones through the couple's window, and the two moved out of the area. In a reaction several politicians called for tougher measures to tackle street terror.¹⁵ The Minister for Justice considered adopting the ASBO, but after counter-advise from the chief prosecutor the Minister decided against it (Burney, 2005). In stead the later discussed ABC-pilot in Rotterdam was introduced.

In 2007 after more incidents of ASB by young Moroccans,¹⁶ discussions in the Dutch parliament of addressing ASB were rekindled. In June of that year, two chairpersons representing local boroughs in Amsterdam¹⁷ suggested introducing the ASBO in the Netherlands. They stated that in the UK it was successful in reducing ASB in inner-city areas. "The ASBO helps in the fight against young people terrorising the streets, before criminal law comes into the picture," said local council chairman Arco Verburg.¹⁸ He referred to the

¹⁵ 0405tkkvr381. Tweede Kamer, vergaderjaar 2004-2005 (vraag 381).

¹⁶ In Amsterdam neighbourhoods (*Slovertvaart*) in Utrecht (*Kanaleneland*) and the Hague (*Transvaal*).

¹⁷ Resp. *Slovertvaart* and *de Baarsjes*.

¹⁸ <http://www.nicis.nl/nicis/dossiers/Zorgenwelzijn/Jeugdzorg/verrijkt dossier/Jongerenoverlast_1132.html> (accessed May 30 2008).

new British laws 'as the best way to respond to problems in the public domain'.¹⁹

In the last three years, there have been several pilots in Rotterdam, Utrecht and Amsterdam copying the ideas of the ASBO. For example the ABC-project in Rotterdam called, *knock off*.²⁰ This pilot was based, just like the ASBO, on a multi step approach. The first is an intervention in the form of a contract, issued by a welfare officer or street warden (*stadsmarinier*) and signed on a voluntary basis by the problem maker. When the contract is breached, an order is issued by the mayor. As soon as this order is violated the culprit will be brought before a criminal court. This is in line with the already existing article 184 Sr (*criminal code*) that prescribes ignoring an official order constitutes a criminal offence and may lead to a penal sanction. During one case in the pilot, a police court judge issued a fine, because a youngster breached a restraining order.²¹ The ASBO was a direct inspiration for this pilot, as can be read in the evaluation report.²² Some high ranking policymakers traveled to the UK and visited the Home Office to get information on the ASBO.

In addition to this pilot, the Dutch government is preparing to enact new administrative legislation that provides local authorities with more legal instruments (often called administrative sanctions) to react to and prevent ASB (Lippens, 2008). For instance there is a new law in the making; titled *severe anti-social behaviour* that in many ways is similar to the ASBO.²³ The proposed law²⁴ gives more power to local authorities. Mayors can issue restraining orders to people who have displayed anti-social behaviour without the interference of a judge and for a longer period of time than the current law allows.

This new law is designed so that the mayor can act quickly when he considers the ASB to be a serious problem. A precise definition of ASB is not given in the proposal, but it declares that the behaviour should be persistent and grave. Information on the case can come from partners in the judicial system, like the police, but also from administrative authorities, like social services and the local Department of Education. The restraining order can be issued for a year and must be revised every three months.²⁵ If the order is

19 As stated in the *Volkskrant* (June 13, 2007).

20 Translated as *ff kappe*.

21 The evaluation rapport concluded that the effects of the Pilot could not be measured. (Letter to parliament *Evaluatie Doe-Normaal pilot*, Ministerie van Justitie and Minister van BZK, (5554663/08)).

22 See notes in the Letter to parliament *Evaluatie Doe-Normaal pilot*, Ministry of Justice and the Home Office (5554663/08).

23 Others are, the 'minor nuisance at municipal level act' (still in draft), (Albers, 2006) and 'the public prosecution service settlement act' (Devroe, 2008).

24 Official title in Dutch; Maatregelen bestrijding voetbalvandalisme en ernstige overlast (31 467).

25 Or one can be ordered to report at certain times.

breached, it becomes a criminal act (on the basis of the already existing article 184 Sr) and the case can be brought before a criminal court.²⁶

Although the ASBOs are measures under *civil* law (with a local judge issuing the order) and the Dutch proposal is based within *administrative* law (mayor can issue order), the ideas behind it are very similar. Like the English counterpart this proposed Dutch law is a multi-stage approach, containing of two different elements (contract *and* order). Furthermore, breaches of the orders constitute a criminal offence and may lead to penal sanctions (including prison sentences).

In the Netherlands, mayors have more power in this respect than their British counterparts. According to current law, they can also issue restraining orders, but with the new law they can prolong this period and couple it to a duty to report. In addition, the public prosecutor has more authority as well.²⁷

So one can conclude by the measures taken that the English approach appears enormously attractive for Dutch politicians. Although this is not entirely a one-way traffic. In Britain the earlier discussed Dutch-style street wardens were copied (Burney, 2005). But still the attraction is for the most part one-sided. Especially the ASBO is seductive. This is remarkable because British scholars regularly criticise the ASBO (Hirsch & Simester, 2006; Garret, 2006). For instance, it has been condemned for potentially criminalising more day-to-day behaviour (the so called net-widening effect) (Brown, 2004; Hudson, 2003; Ashworth, 2004; Cobb, 2007; Donoghue, 2008). Furthermore because it has become a so-called *badge of honour*. Some teenagers are proud of their cool ASBOs (Matthews, 2007).

Tonry (2004) also criticised the ASBO sharply; 'by making ASB into a major social policy problem, and giving it sustained high visibility attention, Labour has made a small problem larger' (Tonry, 2004 p.57).

Also outside the academic world, there is criticism (MacDonald, 2003). For instance the European commissioner for Human rights expressed his great concern.²⁸ In Great Britain ASBOs can be imposed on children as young as ten. The European commissioner feared young children can be detained for breaching ASBOs and can incur a criminal record without actually having committed any recognisable offence (Bakalis, 2007; Crawford, 2008).

An other point of interest is the sharp decline in the use of ASBOs in England and Wales in 2006 (Burney, 2009). There appears to be a growing disillusion, on a political and practitioners level, with the measure.

26 A prison sentence up to three months or a fine can be the end result.

27 For example; Restraining order, duty to report, contact injunction.

28 Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to the United Kingdom, 4th-12th November 2004, The Office of the Commissioner for Human Rights, Council of Europe, 8 June 2005, pp. 34-37.

It will be interesting to figure out why these negative effects of the ASBO, academic criticism and recent developments appear not to be relevant for Dutch politicians and what the rationales are for the retreat from regulated tolerance.

5 DUTCH POLITICAL RATIONALES

To get a picture of the underlying reasons for tackling ASB, members of parliament (MPs) and members of the city councils of Amsterdam and Rotterdam²⁹ were interviewed. They were questioned on the basis of a topic list.³⁰ Addressing issues like the definition of ASB, the enforcement of current and new measures and reasons for tackling ASB. Subsequent to analysing the results, five rationales for addressing the problem of ASB have been identified.

1. *The assumed link between disorder and crime*

The often cited idea by the respondents is that ASB should be tackled because left unattended it leads to crime. Many respondents state that if minor incidents of ASB are left untouched, disorder can provoke fear, and fear in itself helps to create the physical and social environment in which real crime can develop. When people observe that ASB is not addressed, people will feel afraid and withdraw from public spaces; “they will not intervene when they observe crime”, as one MP stated.

The idea of a cycle of ASB, fear and crime is often mentioned. The *Broken Window Theory* is stated as the theoretical idea behind this. One of the MPs directly referred to this theory; “The *Broken Window Theory* has proven that minor nuisances in the public domain should be addressed by the government to prevent things from getting worse”.

Other respondents, upon being asked, say they are familiar with this theory but appear unaware that there is only a weak amount of evidence for this effect. They often state ‘this idea is very logical’. So the *Broken Window Theory* has a very intuitive appeal. In general ASB is perceived as a seedbed of a persistent criminal career; “If politicians do not treat ASB seriously this will definitely lead to problems in the future”.

Although some MPs state that the current arsenal of measures is enough to address the problems, the ASBO-approach of New Labour is often (85%) mentioned as the best way forward. One MP directly cited Labour’s vision; ‘tough on crime, tough on the causes of crime’. He claimed that; ‘We can learn from Labour’s ideas, because they have the same problems but on a larger

29 The respondents represent various political parties, only when there are notable *political* differences between the statements is this mentioned.

30 Topics on the list were; ASB definition, current measures, causes of ASB, reasons for tackling ASB, future, extent of ASB etc.

scale. So if the ASBO works there it will definitely work here'. Four politicians underlined the idea of the ASBO but argued that it should be coupled with existing social policies addressing the roots of the problems.

2. *Economic reasons*

The general idea among the respondents is that by tackling ASB, the cycles of economic and social decline in a neighbourhood can be reversed. Some MPs suggest that ASB threatens house prices and discourages investment. They argue that social disorganization and the associated lack of informal social control can lead to a spiral of neighbourhood decline: 'Social cohesion is declining, that is a cause of the increasing problem of ASB'.

It is not surprising that politicians mention this reason for tackling ASB. The economic theme is an important political issue for the current Dutch administration; they want to turn around the so called deprived Neighbourhoods into better-to-do areas.³¹ This urban renewal project is known as the *40 districts approach*.³² Over a thousand million Euro is invested to establish this turnaround.³³

The ideas of collective efficacy and its close relative the concept of social capital are of importance here. "People must feel connected to their neighbourhood. Tackling ASB will help in restoring community feelings", as a respondent explained. The ASBO is mentioned in this context although several respondents explicitly state that new measures for addressing ASB should be coupled with a social approach as well.

The ideas of Robert Putman appear especially alluring for the Christen Democrats; they often emphasize the importance of social cohesion in relation to ASB. One MP cited from Putman's book *Bowling alone* (2000); "Social capital can help to mitigate the dangerous effects of socioeconomic disadvantage".

3. *The idea of the quality of life*

All respondents state that ASB is a serious problem that makes people miserable and fearful. Regardless of their political background the politicians say that ASB makes people feel unhappy and unsafe. Quotes like 'security is a necessity

31 Translated in Dutch as *prachtwijken* or *Vogelaar-wijken*.

32 Objectives of GSB Urban Policy Programs are

- To improve objective and perceived security
- To improve the quality of the built environment
- To improve social cohesion within society as a whole
- Bind middle and higher income groups to the cities
- Enhance the economic performance of Dutch cities see <http://www.nicis.nl/kenniscentrum/binaries/nicis/bulk/publicaties/2008/10/engelstalige-factsheet-gsb3-en-krachtwijken.pdf>

33 *Kamerstukken II* 2007-2008, 28 684, nr. 130, te vinden op <www.minbzk.nl/onderwerpen/veiligheid/veilige-samenleving/nieuws--en/110943/kabinet-en-gemeenten>. And <http://www.nicis.nl/kenniscentrum/binaries/nicis/bulk/publicaties/2008/10/engelstalige-factsheet-gsb3-en-krachtwijken.pdf>

of life' and 'ASB can make people feel threatened' are mentioned more than once. So ASB has to be addressed because of the unhappiness it causes. "Even small incidents of ASB can spark a general feeling of insecurity. These incidents have signal value," as one respondent reacted.

Although this is generally a popular theme, some MPs question the feelings of unsafety, suggesting that maybe the *attention* for ASB is increasing and not so much the *actual problem* itself. And that the complaints of people are only evidence of an increasing intolerance of young people and minorities. This more sceptical idea is not restricted to one political party, but is mentioned by left wing as well as right wing MPs.

4. *ASB is closely linked to the problem of minorities*

The politicians generally emphasize that in inner city areas mostly young immigrants from Morocco are responsible for the nuisance in the public domain. It cannot be a big surprise that especially far right wing parties mentioned this problem, claiming that 'young Moroccans make the streets of big cities unliveable'. And that harsh measures like 'sending them back to Morocco' are the best solution.

However these ideas are not restricted to conservative politicians. All political parties link ASB in some way to the problem of minorities. A number of the MPs argue that because of low levels of social integration young Moroccans terrorise the streets. "Addressing their behaviour with strong measures like restraining orders, a curfew, or behavioural contracts could break the cycle of isolation and alienation of young immigrants", as one respondent suggested.

Also the respondent of one of the country's biggest left-wing party stated that politicians had for too long failed to acknowledge the problems of the integration process. "We focused too long only on welfare. Now is the time to introduce effective punishment for trouble-making young people".

Other politicians approached this subject in a more subtle way and raised the issue of enforcing morals. They state that concepts like responsibility, respect and tolerance and shared understanding of what kind of behaviour is and is not acceptable in Dutch society, should be promoted in general.

Among the different parties there is a universal belief that ASB is getting worse by the day. And that this kind of behaviour is starting at a younger age now, even 12-miners. "Above all, young Moroccans are a large part of this younger group. We have to tackle their ASB with for example contracts coupled with orders, at an early age to prevent things from getting worse. They have to be told that this kind of behaviour is not accepted in the Netherlands", as a member of the government party reasoned.

5. *Legitimacy of the government*

Broadly cited by politicians is the idea that ignoring the rising problem of ASB would undermine the credibility of the government. One MP described this

idea as follows; “ASB must be addressed, otherwise people will ask; ‘Why is this kind of behaviour accepted? And if the police do not act, people will’”.

Different respondents refer to the ideas of Pim Fortuyn and claim that after his murder people lost their faith in the government.³⁴ That is why it is believed the government has to act firmly when confronted with problems in society. It is generally accepted among the respondents that ignoring the problem of ASB can eventually lead to vigilantism. So tackling ASB is deemed necessary in order to keep the confidence of the people.

Some MPs question the reasoning that Dutch citizens only want harsher measures to address ASB. They are familiar with the results from recent research that once people were asked what their biggest ASB concern was, 35 % stated dog dirt.³⁵ But the MPs still thought that addressing ASB more firmly was a right route to follow. “No harm done when making the streets safer”, as one respondent reasoned. “From my own experience I know that stronger measures help”, reacted another.

Three politicians were familiar with a recent report on the effects of punishment. It concluded that there was no proof for the assumption that harsher measures will reduce levels of ASB (van Noije & Wittebrood, 2008). These MPs stressed the importance of social policy. “The government cannot act on every form of nuisance in the public domain. We must not create the expectations that we will. It is more important that the root problems of the troublemakers, like truancy are addressed”.

However in the end almost all respondents said that they still believed it to be true that harsher measures will tackle ASB. “I just know that addressing ASB is necessary and that the government should act firmly. I do not need scientific arguments to back up these facts”, as a respondent ended his interview.

6 DISCUSSING RESULTS

To sum up, the interviews confirm the earlier observation that the ASBO is extremely attractive for Dutch politicians. The same reasoning (measures are needed, ASB is increasing), the same ideas (quality of life, broken window, economic reasons) and the same solutions (behavioural contracts) are used in political arguments. In combination with the earlier described exchange of ideas (Dutch policymakers traveled to the UK to get information on the ASBO) and references to the ASBO in policy documents, it can be concluded that undeniably a *soft* transfer of policy took place.

Also the intention for *hard* transfer appears apparent. Both the pilot in Rotterdam as well as the new law in the making (*severe anti-social behaviour*),

³⁴ Thereafter a so-called revolt of the voters.

³⁵ Veiligheidsmonitor Rijk 2007.

refer to the example of the ASBO and the supposed success of the English approach. Although a milder version of the ASBO has been adopted (the ABC in the pilot), at least a form of hard policy transfer indeed did take place (Burney, 2005).

These results appear to confirm the idea of a *common* culture of control or risk society (Ericson, 2007; Furedi, 2005; Garland, 2001; Hudson, 2003; Pieterman, 2008). In short, indeed the two countries faced comparable problems that gave rise to similar (partly copied) solutions and politicians argued along the same lines (see rationales 1, 2, 3).

However these analyses can be misleading. As I stated earlier, in comparative research there is tendency of exaggerated claims, assumed from similarities in policy rhetoric. Therefore in order to get a complete picture, it is important to look for evidence of *non-transfer* as well. In the sense that dissimilarities in the policy rationales can be identified.³⁶

In contrast with the parallels, the empirical data also illustrate that Dutch society faces its own particular problems (see rationales 4 and 5). These own rationales can elucidate the Dutch retreat from the policy of turning a blind eye. All respondents coupled young Moroccans with the problems of ASB in inner city areas.

In Dutch inner cities there are troubled community relations with youngsters from minority groups. Especially the Moroccan youth groups are believed to behave in an anti-social manner. Ethnographic fieldwork in Amsterdam showed that this often concerns intimidating group behaviour. De Jong (2007) who followed a group of Moroccan youngsters over several years stresses their harsh street culture. Being part of a so-called 'Moroccan' street culture stresses their identity and their position in society, which is in turn reinforced by media attention and political worries. In the UK ASB is less coupled with the immigration issue. Perhaps this is not so surprising considering the English class society. The social problems in British inner cities are of a different order. On the notorious housing estates unemployment, crime and ASB trouble all sections of the population; British and immigrants alike. As also Lippens (2008) points out, the Dutch problems are not that severe as in the UK. Most Dutch politicians agreed that the British situation in British cities is worse. "But if the ASBO works even there, it certainly will here", as a city councilor argued.

Furthermore this comparative research shows that Dutch politicians stress 'legitimacy of the government' as a reason for tackling ASB. For the UK this appears a less acute problem. This difference is interesting because in their statements the respondents often use the ASBO as a legitimating power. The supposed success³⁷ of the ASBO operates as a useful myth that can work in the advantage of the politicians (Pakes, 2005). The fact that up until now there

³⁶ Besides the most apparent that there are two different judicial systems.

³⁷ There is not yet prove of positive effects of the ASBO. Ipsos MORI a research company will publish an evaluation at the beginning of 2009.

has been no objective evaluation report on the introduction of the ASBO available does not seem to influence the ideas of the Dutch policymakers. Parliament recently agreed to prolong the pilot in Rotterdam.³⁸

It is often debated that after the 'Pim-Fortuyn' revolt there is tendency among Dutch politicians to swiftly pick up new trends and catchphrases from abroad (Punch, 2005; Van Swaaningen, 2008; Pakes, 2005). Almost all the interviewees confirmed this idea of following trends in crime control. They feel that in order to keep (or restore) the faith of the people, *new* actions against crime and ASB are vital. This could be an explanation for the popularity of the ASBO as well. The British measure functions like a sort of policy umbrella that promises something new and effective. It furthermore legitimises the shift in Dutch policies from social to more repressive measures.

The ASBO is interpreted by the respondents the way they see fit. For instance some describe the ASBO as a preventive measure for 'avoiding things getting worse' or for 'the problems of immigration', others see it as a repressive measure for 'teaching them a lesson'. It is remarkable to see that the 'soft' practices of a strong social policy in neighbourhoods is not completely abandoned. The more left-wing politicians attempt to combine the ASBO with more 'social community work', stressing that the ASBO can only work when social agencies work together to address the root problems as well.

Equally striking is that most politicians do not need real evidence for the effectiveness of the ASBO. The myth of its success is enough. An explanation for this line of reasoning can be the idea of precautionary logic. As also Squires (2008) points out, the zero tolerance approach of ASB appears to be inspired by a precautionary principle,³⁹ where the lack of scientific evidence is not an excuse of inaction. Also Pieterman (2008) advocates such a view, arguing that the precautionary principle has become a governmental rationality in many Dutch policy processes. It is a perfect way of doing politics because you do not have to prove anything. Just as Squires (2008) argues, the success of the ASBO is not influenced by scientific research but is more an instinctive response.⁴⁰

The data presented in this article indeed suggest that the ASBO has in essence an emotive appeal for Dutch politicians as well. But does this confirm the idea of the precautionary principle as a dominant governmental rationality? It could be, but is it not equally true that the policy processes were never really backed up by scientific evidence? Tony Blair himself reflected upon the use of scientific research. "You can argue about statistics until the cows come home

38 Vote on *motie Anker*, 11-11-2008 (Tcm118-175522).

39 This is based on the precautionary principle used in environmental policies "Where there are threats of serious irreversible damage, lack of full scientific certainty shall no be used as a reason for postponing cost-effective measures to prevent environmental degradation (United Nations Conference on Environment and Development 1992: principle 15).

40 Earlier Morris (2000) also argued that scientific research is often not the bases for new policies.

and there is usually a very great credibility gap between whatever the statistics put out and whatever people actually think is happening, but the real point is not about statistics, it is about what people feel.”⁴¹

Also the interviewees confirmed the preference for action above thorough scientific research. In general they argued that tackling ASB both embodies a common-sense understanding and an appeal to popular sentiments. And that there was no time left for inaction. “Something has to be done to tackle street-terror”, as a MP stated. “And science is often inconclusive, so we cannot wait”.

Furthermore, the ASBO has simply a practical appeal. Some respondents claimed it basically fits the already existing set of instruments. For example if the proposed behavioural order is breached, it becomes a criminal act on the basis of the already existing article 184 Sr.

So the established policy transfer of the ASBO can be explained by many different factors. Ranking from the need for symbolic communication with the Dutch people after the populist revolt, being a convenient policy umbrella, to economic reasoning and problems with minorities. A *common* Culture of Control is just one of them.

7 CONCLUSION

This article empirically tested how much proximity in Dutch and UK policies towards ASB can be explained by intentional efforts to follow the UK Model. And after analyzing the results indeed it can be concluded that a form of policy transfer between the UK and the Netherlands occurred. But what does this mean? What is the relevance of the origins of policy ideas? Why should it matter if inspiration is drawn from another jurisdiction?

As concluded earlier, in criminology there is not much focus on the process of policymaking. This lack in policy research on a meso-level does sometimes lead to assumptions on a macro-level that are not empirically founded. For example in our era of globalisation it is often assumed that similar circumstances will almost inevitably lead to similar outcomes, and that similar policies have their roots in similar rationales.

But this article did not only look at the surface of apparent similarities, it also investigated potential for dissimilarities. By identifying elements of non-transfer it illustrated that the human agency is an important element in explanations of contemporary crime control trends.

This research showed translation of policies is not so straightforward and that it is embedded in a cultural context. It demonstrated that policy-making

41 Speech at a conference 10 February 2006, available at www.number10.gov.uk (last visited 15 December 2008).

is a messy result of intuitive appeal, traveling myths and unintended consequences. This approach of policymaking is also known as the policy of 'muddling through' (Parsons, 2002; Hogwood, 2001; Colander, 2004).

Although politicians often call for evidence-based policies, in this article it becomes clear that research evidence is often not a base for policies. More often assumed positive effects from abroad, assumed feelings of citizens and assumed proven crime theories form the basis of the policy. Policy transfer appears to be more a form of gaining inspiration, rather than real lesson drawing. This makes the policy making process, unpredictable and not evidence based. This article identifies a form of hyper activity of the Dutch government in creating new measures to tackle ASB. The question is, is such a messy policymaking process a bad thing for society?

The research shows that pilots and laws have advanced in such a frenetic pace as to leave too little space for considered reflection. I would like to argue that more time is needed to reflect on the normative and social implications of legal reforms and their effectiveness in regulating behaviour. The evidence from the UK suggests that the ASBO may end up being counterproductive, alienating young people who feel unfairly treated and stigmatised by such measures. A hard policy transfer of the ASBO can have a boomerang-effect; alienating young Moroccans from Dutch society. This could and should not be the desired result of new Dutch crime policies.

Media discourse

White Trash versus Moroccan Street Terrorists*

An Analysis of Dutch and British Discourses on Ethnic Minority Immigrants and Antisocial Behaviour

Abstract

The Dutch press often associates antisocial behaviour with Moroccan teenagers. Based on a comparison of Dutch and British political and media discourses starting around 1990, this article demonstrates that the British media do not systematically link anti-social behaviour to ethnic minority youngsters, but to white teen-agers. The question then is how this issue of anti-social behaviour and ethnicity is constructed in political and media discourses in the Netherlands and the UK. And does this construction differ in accordance with the actual problems?

'We need to send in the troops to deal with that Moroccan scum on the streets. Then they can finally be arrested and kicked out of the country' (*De Telegraaf*, 15 September 2008, p.1). If Freedom Party (*Partij Voor de Vrijheid*)¹ politician Geert Wilders had his way, the Dutch authorities would be a lot tougher on kids hanging around on street corners. The Freedom Party politician commented to this effect in September 2008 when bus drivers refused to take their fixed routes in a neighbourhood in Gouda because youngsters had been giving them such a hard time there.

Although his drastic solution is not widely supported in the Dutch Parliament, Geert Wilders is not alone in his call for a tough approach to the Antisocial behaviour (ASB) caused by Moroccan teen-agers.² On the contrary, most Members of Parliament view the ASB of Moroccan teen-agers as a serious problem requiring severe measures. The repressive tone of the political discussion is evident from headlines like 'Parliament Favours Tough Approach to Moroccan Trouble-makers' (*Algemeen Dagblad (AD)*, 18 October 2008). In a letter to

■ Published: Koemans, M.L. (2010), 'White trash' versus 'Marokkaanse straatterroristen'. *Tijdschrift voor Criminologie*, 52(2), p. 201-217.

1 The Dutch political landscape is diverse. Mentioned in this paper are PVV (populist anti-immigration party), VVD (right-wing party), CDA (party in the middle) and PvdA (Labour party).

2 When references are made to Moroccans in the Netherlands, they often also pertain to the second generation.

Parliament, Wim Cornelis, Mayor of Gouda, wrote that politicians tend to be overly negative about how Moroccan teen-agers in his city terrorize people on the streets, and the media publish 'increasingly alarming' items on the problems (letter dated 7 October 2008). Mayor Cornelis wrote that he would much prefer to hear a different tone 'with more normal proportions' in the public debate.

These statements evoke a number of questions. Has the Dutch media discourse on ethnic minority immigrants and ASB really become that much more negative? How do politicians feel about the link between ASB and ethnicity?³

As is noted below, the British media do not predominantly link ASB to ethnic minority youngsters, but to poor white teen-agers. Is the problem essentially different there, or is it constructed differently?

These sub-questions lead to the main research-question: How is the issue of ASB and ethnicity constructed in political and media discourses in the Netherlands and the UK and does it differ in accordance with actual problems?⁴ In an effort to answer this question, the political and media discourses in the two countries are analysed and compared and wherever possible, backed up by statistical data.

1 METHOD

Before to the main question can be answered, several terms need to be specified. Firstly, ASB. As various authors note, it is not easy to define objective criteria for ASB (van Swaaningen, 2008; van de Bunt, 2003; Devroe, 2008; Pakes, 2005). After all, the definition of the term depends in part on the level of tolerance in a society, which changes in time (Koemans 2008). The inevitable result of ambiguity about the definition is that ASB on the streets includes a wide range of acts such as refusing to curb one's dog, aggressive conduct, graffiti and littering. In this article, the definition formulated by the European Commission (2000) is used as the guideline. It pertains to behaviour that in itself is not punishable by law, but its cumulative effect can generate a climate of tension and danger on the streets.⁵ In the discourse comparison here, the Dutch term *overlast* is translated as ASB. Although it is not a literal translation,

3 The term ethnicity is used here to refer to an identity based on shared social and cultural norms, ideas and practices.

4 References to the UK also pertain to Wales. This is also the case in the British literature on the Anti-Social Behaviour Order (ASBO). In Scotland, efforts are being made to cope with anti-social behaviour but several of the measures are different. This is why Scotland is not included here.

5 Anti-social behaviour in public space might be more correct, but the media refer to anti-social behaviour on the streets.

which would be *nuisance*, in practice it is the term used in similar situations (Koemans, 2009).

In view of the dimensions of the concept of ASB, a discourse analysis is relevant. Whatever different meanings it might have can be addressed this way. In short, a discourse analysis is a method that examines the discussions and views in society, or in part of society, on a specific topic (Althoff, 2002). But for this concept as well, an unambiguous definition is no simple manner (Hijmans, 1996). The term *discourse analysis* is regularly a topic of discussion and has become a container concept that covers various forms of quantitative and qualitative research methods and techniques (Wester, 2006; Levi, 2006; Krippendorff, 2004). Some researchers see a discourse analysis as part of a content analysis, and others see it the other way around (Neuendorf, 2002; Gubrium & Holstein, 2000; Hammersley, 1997). The latter view has been selected here, in other words a content analysis that is a quantitative as well as qualitative text analysis. In this connection, the choice of words is examined and the structure of the text is analysed (Blommaert & Verfaillie, 2009).

A common denominator is that in a discourse analysis, the focus is on reconstructing the meaning structure of a problem. In this context, what needs to be investigated is the *natural material* of the actors representative of the meaning structure. In short, these are the actors of the politics-media-public triangle (Reiner, 2007; van Gestel, 2006; Althoff, 2002). Any distinction between these actors is basically artificial, since in the construction process of a concept like ASB, they constantly react to each other. The interaction and power relations are not part of this study. However, working from the idea that media and politics are the most dominant actors, this article focuses attention on these two actors.

In this article, first the media discourse is analysed.⁶ Since it is digitally so accessible, this is done by studying the written word. This can be justified by noting that although it is diminishing, the press still occupies a dominant position in the media landscape (Beunders & Muller, 2005). A quantitative (how often does the term ASB occur?) as well as a qualitative (what is the tone of the news item?) analysis are conducted.

The Dutch media discourse is studied based on 22,000 newspaper articles in two nation-wide daily newspapers, *De Telegraaf* and *de Volkskrant*. These daily newspapers have been selected in part for practical reasons and in part because they represent the Dutch political spectrum.⁷ To examine how the situation developed, the analysis focuses on five different years (1990, 1993, 1998, 2002 and 2008). The year 1993 has been selected because that is when

6 The research has been conducted with the help of G. Claessen, A. van Eijk, A. van den Enden, M. Heemskerk, T. Waasdorp, M. Wensveen, undergraduate students at the University of Leiden.

7 Daily newspaper on the right are *De Telegraaf* and *AD*, in the centre *NRC* and more on the left *de Volkskrant* and *Trouw* (both of religious origin).

the first Integral Safety Report (*Integrale veiligheidsrapportage*) was presented, introducing ASB as a safety problem. The year 1990 serves as starting point, making it easier to see whatever changes in tone there might have been after 1993. In 1998 a new *Purple Cabinet II* (Liberals and Social Democrats without Christian Democrats) was appointed to replace *Purple Cabinet I*, and although there was no essential change in its political composition, there was now more of a focus on matters of safety. The year 2002 is a watershed because as is clear from a study by van Noije and Wittebrood (2008), from then on the Dutch start to perceive ASB as less serious. Lastly, 2008 has been selected because that is when the incident occurred in Gouda.

The question remains as to whether this content analysis grants sufficient insight into the underlying processes shaping the image of *the anti-social immigrant* in the media. This is why in addition, three reporters and three editors-in-chief at three nation-wide daily newspapers (*NRC*, *Trouw* and *de Volkskrant*) are interviewed.

The Dutch media discourse is then compared with a somewhat similar situation in the UK. This type of comparative study produces supplementary data that not only make it possible to describe the discourse but also to explain it. In the case of ASB on the streets, it is relevant to look at the situation in the UK. Ever since 1998, the approach to ASB has been a spearhead of the British government. Particularly after the introduction of the *ASB Order* (ASBO) in 1999, a great deal of attention has been focused on the issue of ASB. After Gordon Brown became Prime Minister in 2007, there was less of a focus on it (Donoghue, 2008).

To get a picture of the British media discourse, for purely practical reasons a different plan of action has been adopted. The quantitative as well as qualitative content analysis was conducted from 2000 to 2009, since that was when digital archives became available via various search engines. The largest number of articles on ASB in general ($N = 1,000$) was published in 2004. Since not a single link was drawn with ethnicity in all those years, no comparison has been drawn over time. The study has however been expanded to include *The Guardian*, *Times*, *The Sun* and *The Independent* to do justice to the British newspaper landscape, which is characterized by greater extremes. In view of the limited scope of the study, unfortunately it was not feasible to conduct supplementary interviews with reporters there.

When the results of the two media analyses turned out to be so different, the decision was made to also analyse the political discourse in the hope of explaining the observed difference in the media discourses and gaining greater insight into the construction of the problem.

The information on the Dutch political discourse is based on a qualitative literature analysis of Parliamentary documents, Cabinet plans and speeches made in Parliament covering the period from 1993 (starting with the first Integral Safety Report) to 2009. To gain a complete picture, nine Members of

Parliament from nine different parties were interviewed in 2008.⁸ They were each their party's spokesperson on the ASB of youngsters. So the entire Dutch political spectrum got to have a say. What is more, interviews have been conducted with two City Council members, one from the People's Party for Freedom and Democracy (VVD) in Amsterdam and one from the Labour Party (PvdA) in Rotterdam, and two policy staff members, one from the Ministry of Justice and one from the Ministry of Home Affairs. They were selected because of their regular contributions to the public debate and central role in the policy-making on this topic. Other City Council members in other cities were also approached for an interview but either refused or failed to respond altogether. The topics discussed in the semi-structured interviews include how to define ASB on the streets and how the problem developed in the course of time.

The British political discourse is constructed on the basis of British academic literature and *White Papers* from 1998 to 2008. Government policy is elaborated upon in these public documents, as in the plans of action of the Dutch government (e.g. Lower House 2007-2008, 28 684, no. 130).

Unfortunately, British Members of Parliament are not as easy to approach as Dutch ones. Their assistants referred us on to the ASB Unit of the Home Office. The head of the unit, the official government spokesperson on this topic, was interviewed in June 2008. The opinions of various British politicians have been studied by examining official press releases. To supplement this information, there were conversations with various policy staff members at the national research conference *Situating ASB and Respect* in London on 22 April 2009.

After a comparison of the discourses in the two countries, the available statistical data have been studied. It is possible that the problems in the two countries really do differ, so it is only logical that the reactions should differ as well. To fill in the gaps in the statistics, semi-structured interviews have been held with fourteen academics, policy staff members and police chiefs. These respondents were selected via a snowball method.

2 THE MEDIA DISCOURSE

2.1 The Netherlands

In 422 of the 22,000 newspaper articles that mention ASB, the ethnicity of the individuals is registered or a link is drawn between ethnicity and ASB. This is only the case in 5% of the cases in 1990; by 2008 the percentage increased to almost 35%. However, in more than 60% of the cases, no mention is made of ethnicity.

⁸ Anonymity was agreed upon and they were all immediately willing to do an interview.

Press coverage on ethnic minorities and ASB has also become harsher. In the course of time, articles on ethnic minorities have more frequently come to have a negative headline, and the tone of the contents is now more negative. The contents are categorized as negative if a link is drawn between ASB and words like *fear*, *degeneration*, *danger* and *crime*, perhaps in combination with negative value judgements such as calling the people involved *scum* or *trouble-makers*. What is more, it is increasingly common for the articles to be illustrated. These results are relevant because the importance the reading audience attributes to a subject has to do with the articles' tone, headline and illustration. In establishing a certain image, it is also important where an article is placed in the newspaper. According to this study, the placement has remained more or less the same, with 10% on the first page and about 30% on the third page; these are the most prominent pages, where the most important domestic news is reported.

The qualitative analysis shows that in most cases, specifications of the ethnicity of perpetrators of ASB mainly pertain to people of Moroccan descent. Only three explicit references are made to youngsters from the Netherlands Antilles. In 2001 references are mainly made to ethnic minority youngsters in general without any further specification. A link can easily be made to the events around September 11 and the rise of anti-Islamic feelings (European Monitoring Centre, 2005). As Snel notes (2003), ever since then the debate on integration has become harsher. Particularly regarding incidents like those in the Diamant Street neighbourhood in Amsterdam and the Oosterwei neighbourhood in Gouda, explicit references are made to Moroccan youngsters, often in combination with comments about a tough approach and a zero-tolerance policy.

After the content analysis, supplementary interviews have been conducted with three reporters and three editors-in-chief.⁹ In concrete cases, they are the ones who decide whether or not to mention the ethnicity of people who engage in ASB. Generally speaking, in principle the respondents do not specify the ethnic descent of any individual in the articles. In *Trouw*, the rule is that ethnicity is only specified if it is an indispensable part of the story. The editor-in-chief gives examples such as race riots or honour killings. The style book of *de Volkskrant* states that ethnic descent is not specified unless it is necessary for the proper understanding of a story.¹⁰ As the editor-in-chief of *de Volkskrant* notes, 'This policy of ours implies that not specifying someone's background does not automatically mean that person is of ethnic minority descent. A person's ethnic descent is only mentioned if it is relevant.' But as the chief reporter at *NRC Handelsblad* rightly comments, 'What is relevant? In a society with relatively limited ethnic tensions, there won't be much reason to specify someone's ethnic background.' According to her, one possible explanation

9 These were the editors-in-chief who responded affirmatively to a request for an interview.

10 Public handbook for *de Volkskrant* reporters, stipulating spelling and linguistic rules.

for references being more frequently made to ethnicity in 2008 than in 2009 could be that greater ethnic tensions in Dutch society have indeed made ethnic specifications more relevant. The chief reporter at *NRC Handelsblad* notes that in an extremely mixed society, like in New York for example, there is often no reason to state a person's ethnic background since it does not add anything to the story. Most respondents see the danger of a vicious circle, with media references to ethnicity leading to more tensions in society. In deciding whether or not to include references to ethnicity, reporters take this into consideration.

2.2 The UK

What is immediately striking about the British media analysis is that not a single link is drawn between ASB on the street and ethnic minorities. The people exhibiting the ASB are 'lost boys' (*Guardian*, 2005), 'white hoodies' (*The Sun*, 2009), 'thugs' (*Independent*, 2007) and 'council scum' (*The Sun*, 2005). If any ethnic background is mentioned at all, it is white.

Even in an article on a study showing that a fifth of the ASBO (ASB Order) recipients are of ethnic minority descent, the ethnic background of the trouble-makers is not specified (*Times*, 2006). An article in the tabloid *The Sun* notes that the names and faces of ASBO recipients have appeared on posters and it is clear to see that they are all black, but this link is not drawn in the article (*The Sun*, 2009).

Flint (2006, p. 333) also notes that 'much of the imagery and discourse around antisocial behaviour has focused on white working-class communities'. Although several specific references are made to white youths, no continuous link to lower-class whites is evident from my analysis. Here again the failure to specify ethnic descent does not automatically mean the person in question is native British. It should be noted that ethnicity is also a concept that is difficult to categorize, which might be why no specification is noted (Prior & Spalek, 2008). A 16-point classification system has been in effect in the UK since 2003, though use is often made of the informal 5-point scale *black – white – Indian – Chinese – mixed*.

Although crime is not exactly the topic of this study, a quick scan of the digital archives shows that a link is not often drawn between crime (in this case the gun crime frequently in the news) and ethnic minorities. For example, in an article headlined 'Gun Crime Soars', *The Sun* does not make any mention of the statistical over-representation of young black perpetrators (*The Sun*, 2002). This over-representation is however evident from *The British Crime Survey* (Moon, 2009).

3 POLITICAL DISCOURSE

3.1 The Netherlands

Documents from The Hague irrefutably show that combating the ASB of youngsters on the street was a spearhead of the Balkenende IV Cabinet (which is no longer in power). Early in March 2008, Ministers Vogelaar, Hirsch Ballin, Rouvoet and Ter Horst published a joint action plan called Bad Behaviour and Degeneration (*Overlast en verloedering*). 'Come down hard on bad behaviour' was the accompanying slogan supporting the Cabinet's intention to reduce ASB by 25% in 2010 as compared to 2002 (Lower House 2007-2008, 28 684, no. 130).

Although ASB is not defined as a form of crime, the Cabinet does link it to the growing problem regarding safety in the large cities (Proposed bill: Measures to Combat Soccer Vandalism and Severe ASB, Lower House 2007-2008, 31 467). It is also striking that wherever mention is made in the action plan of the ASB of inner city youngsters, the issue is linked to underlying integration problems and specific references are made to Moroccan and Antillean youngsters (Lower House 2007-2008, 28 684, no. 130, 5). A NOS / NIPO survey conducted in 2008 in 23 municipalities shows that in two thirds of the municipalities, youngsters of Moroccan descent are over-represented in cases of ASB. The survey is based on a questionnaire presented to the Mayor and Aldermen Boards of nineteen medium-sized and four large municipalities. It should be noted that the questionnaire was sent to the respondents in the autumn of 2008, in other words at the time of the problems in Gouda. This might have influenced the responses.

Since ethnicity is not registered separately, these statements are based on estimates.¹¹ A reduction in ASB is however noted in seventeen municipalities, though half of them do speak of a small anti-social core group becoming even more problematic.

Almost all the Mayor and Aldermen Boards that were approached caution against the stigmatization of the Moroccan community and emphasize that the problems occur in all the segments of the population. It is specifically noted in ten municipalities that the tone of the political debate on the bad behaviour of young Moroccans has been unnecessarily harsh. The Mayor and Aldermen Board in Amsterdam says for instance that 'all kinds of claims are made in the Parliamentary debates on the ASB of Moroccans'. The Board in Leiden feels the problems are always exaggerated in the debates in The Hague to make them seem far more serious 'than the actual situation warrants'.

11 There is evidence of this problem in the Centraal Bureau voor de Statistiek (Statistics Netherlands) figures on anti-social behaviour, which also do not separately register ethnicity, though the *Veiligheidsmonitor* (Safety Monitor) does.

Interviews with Members of Parliament from nine different political parties confirm in part the observation of local politicians that a small core group of Moroccan trouble-makers is getting tougher. Although the interviews explicitly pertain to the broader problem of ASB on the streets, it is striking that all the interviewed politicians start talking about Moroccans and bad behaviour themselves. Regardless of their political affiliation, the Members of Parliament draw a link between ASB and Moroccan youngsters. As one of them says, 'I read in the mail I get from my constituents that groups of Moroccan kids on the street make them feel unsafe. As MP you have to speak to that, otherwise you undermine your own credibility.'

All the respondent note that it is no longer taboo to link ASB and ethnic minorities and it is time to call things by their name. One said; 'For a long time we tried to gloss over it, but young Moroccans really are a specific problem group. Let's not beat around the bush any more.'

The views on how to approach the problem are however politically tinted. As a right-wing Member of Parliament notes for example, 'It is important to register ethnicity in cases of ASB so the approach can be designed accordingly. Moroccans expect a more repressive approach, because otherwise they'll just think the police are a bunch of wimps.'

Some MPs qualify the *exaggerated* picture of 'Moroccan street terrorists' and refer to groups of white Lonsdale kids and soccer hooligans, who also exhibit ASB. But as one Member of Parliament states, 'The role of Moroccan youngsters in the problem of ASB is sizable. This is also because we pay more attention to it now. We have given it a name. The integration policy has been a failure.' Another MP explicitly accuses the media of stirring up problems. 'There is no leniency any more in the discourse on Moroccan youngsters and ASB. The media present a distorted picture.'

A few years ago Jan Stikvoort, Police Chief in Central Holland, accused Parliament of blowing up the problems with Moroccans. 'When people including politicians make rash statements without any qualifications and are quoted in the media, a whole unwarranted media hype is created. Things are improving and there has been a decrease in the number of criminal charges that are filed. We are not denying there is a problem, but it is not nearly as serious as people say (*de Volkskrant*, 4 October 2008).

3.2 The UK

As is noted above, ASB has mainly become an issue in the UK since the introduction of the ASB Order. The ASBO is a restraining order enforced via a civil judge for a maximum period of two years (Burney, 2005). If the ASBO is violated, the case comes before a criminal judge, who can sentence the perpetrator to a fine or a prison sentence of a maximum of five years (Squires & Stephen, 2005). As is the case in the Netherlands, ASB is viewed in the UK

as an urgent social problem that affects urban liveability and makes people feel unsafe (van Stokkom, 2007). This similarity is also evident from the interest on the part of Dutch politicians in the British measure. Various Dutch municipal and national politicians cite the success of the ASBO in combating ASB (Huisman & Koemans, 2008). The ASBOs are however regularly criticized in the UK, where references are made to 'violations of human rights' and 'encouragement of intolerance' (Pakes, 2004; Millie, 2006). Up until 2007, ASBOs were nonetheless issued in about 7,000 cases (Newburn, 2008). But it is unclear whether this means they are indeed effective (Harradine, 2004). Despite regular requests from Parliament, no large-scale evaluation research results are available on the ASBO (Waiton, 2008). Local differences in implementation and faulty registration make research into the effects of the ASBO extremely difficult to conduct (Prior & Spalek, 2008).

In the further study of the British political discourse, it is once again clear that nowhere in the documents is a link drawn to ethnicity. In the study by Jacobson (2008) on what motivates British politicians to address the issue of antisocial behaviour, not a single reference is made to problems pertaining to ethnic minority youngsters. They cite a need to improve the quality of life and renovate certain neighbourhoods. They also speak of problems pertaining to inner city youngsters and the danger of youngsters degenerating from antisocial to criminal behaviour. But the question of integration is not mentioned once in any of the political or policy documents (Garret, 2006). To supplement this information, the head of the ASB Unit is interviewed. She confirms that ethnicity does not play a role in any way in the political debate on ASB. The only way she can account for this fact is by noting that no data is available on ethnicity and ASB. It is clear that there are considerable differences between the British and the Dutch discourses on ASB. But as is noted above, there might well be differences in the problems themselves, so it is only logical that the responses should differ as well. And there is more than enough reason for a closer look at the figures on ASB.

4 REALITY CHECK

4.1 The Netherlands

The question remains as to the relation between the media and the political discourses described above and the available statistical data. Earlier studies on four national daily papers in 2001 and 2004 show that Moroccans are more frequently and more prominently referred to in the press in connection with crime than is justified on the basis of the police figures (Sibon, 2004). But does this also hold true for ASB?

The Integral Safety Monitor (*Integrale veiligheidsmonitor*, Netherlands Statistics et al. 2008) indicates a fall in the number of cases of ASB in the Nether-

lands since 2002. The figures have remained the same in the past two years. Ethnicity is not mentioned separately in this connection. In cases of anti-social and criminal behaviour, the police and the courts solely register a person's place of birth and nationality, so there is no way of identifying second and third-generation immigrants born in the Netherlands and with the Dutch nationality. And they are precisely the ones the media focus on the most. Several studies conducted by the Research and Documentation Centre of the Ministry of Justice (e.g. Blom, 2005; Jennissen & Blom, 2007) and combining various files¹² confirm that first and second-generation immigrants from Morocco are more frequently crime suspects than the native Dutch. But they also show that generalizing statements about the link between ethnicity and crime like 'people from ethnic minorities are more apt to be criminals' are often incorrect (see also Engbersen, 2007). These research data pertain to crime and do not include any specific information on ASBs.

In a supplementary long-term qualitative study, de Jong (2007) focuses on Moroccan boys who hang out on street corners and exhibit ASB. He concludes that they view their stigma as *fucking Moroccans* as something they will never be able to escape. This is why they develop a kind of heroic identity as boys who are tough and wild. With anti-social and criminal behaviour, they reinforce the sense of *us against the rest of the world*. Other studies show though how well integrated these boys often are and how strongly they identify with the Netherlands (Stevens, 2009).

After a talk with the Mayors of ten municipalities with many residents of Moroccan descent, Minister Ter Horst acknowledges that in general, there has been a reduction in the ASB of Moroccan-Dutch youngsters (*De Gelderlander*, 22 October 2008). However, a smaller group has turned from anti-social to criminal behaviour. This picture is also confirmed in the NOS/NIPO survey referred to above (2008).

In conclusion, ASB does appear to be linked to young Moroccans in the national Dutch political discourse. At the municipality level, the discourse is more differentiated and notes that ASB occurs among all the segments of the population. In the media discourse, Moroccans are more frequently referred to as trouble-makers nowadays than in the past. And these references are deliberate on the part of editorial boards. How much truth this construction of Moroccan trouble-makers has to it is not easy to say based on statistical data. But it does not appear to be a well-balanced reflection of the complex issues at hand. According to the figures, for instance, ASB is decreasing, though the number of news items continues to grow. As is noted above, in addition

12 This report describes for the first time the background features of people registered nationwide by the police as crime suspects. The data are the result of a joint research project by the Research and Documentation Centre of the Ministry of Justice (Wetenschappelijk Onderzoek- en Documentatiecentrum WODC) and Statistics Netherlands (Centraal Bureau voor de Statistiek CBS).

to a comparison with the official figures as a way of testing the present-day discourse, a comparison can also be drawn with the somewhat similar situation in the UK. What is most striking about the British statistical data on ASB and ethnicity is that they are non-existent (Garland, 2006).

4.2 The UK

Isal (2006) also notes the absence of any data on ethnicity in the registration of ASBOs. It is clear from the qualitative research on various police forces that they do record the age and sex of suspects, but not their ethnicity. In itself, this is striking because ever since 1999 (Race Relations Amendment Act), the government has been obliged to record the effects of its policy on various ethnic groups. Concern is expressed in the report about the possibility that ASBOs might be issued disproportionately often to members of ethnic minorities. An explicit reference is made in the report to the danger of police racism. Here trouble-makers are thus referred to as potential victims. A completely different approach than the one in the Netherlands, where the emphasis is on members of ethnic minorities as trouble-makers.

Prior and Spalek (2008) cite the possibility of an over-representation of ethnic minorities in the ASBOs that are issued. According to them, this might well be indicative of institutional racism. They feel it is something that should definitely be noted and a cause for concern that no statistical data is available on the ethnicity of people who file complaints or might exhibit ASB themselves. They have conducted interviews with experts and official agencies to address the question of whether official measures are used disproportionately on ethnic minorities. For example, because their *different* or *erratic* behaviour might be viewed as anti-social and measures can be taken without really being warranted. In view of the earlier accusation of institutional racism within the British judicial system (MacPherson, 1999) and their own results, the researchers deem it possible that measures against ASB may have further criminalized ethnic minorities. Since there are no statistical data, this line of reasoning can not however be empirically supported. This is why the researchers' conclusions, as they are quick to note themselves, are rather hypothetical. Based in part on data from the *British Crime Survey*, Fitzgerald and Hale (2006) note that members of ethnic minorities are more frequently stopped and searched and disproportionately over-represented in British prisons. Whether this is also the case for ASB is not recorded (Moon, 2009). In the Offending, Crime and Justice Survey, which does record cases of ASB, they are similarly not classified according to ethnicity. There has been a decrease though in the amount of what is perceived as ASB (Roe & Ashe, 2008).

One of the few statistical studies conducted on the ASB of ethnic minorities pertains to the King's Cross neighbourhood in northern London (Young, 2006). It is clear from this study that 37% of the ASBOs there were issued to men of

African or Caribbean descent, although they only constitute 8% of the population. The study does not show however whether this disproportional representation is due to discriminatory practices or simply to the fact that these men do indeed exhibit proportionally more ASB. A study by the *Youth Study Board* (see National Audit Office, 2006) examining the ASBOs issued in one year shows that 22% of the ASBO recipients are black or Asian, so they receive ASBOs 2.5 times as frequently as the rest of the British population. In summarizing, the over-representation of blacks in the British judicial system is statistically demonstrated and there has slowly come to be more of a focus on the possible problems involving ethnicity and ASB.

Several of the police managers who are interviewed note that in certain ethnic minority communities, ASB is perceived differently than in white neighbourhoods. 'They are more tolerant of ASB,' the head of the Safety Division at Leeds City Council notes. 'The kind of conduct people file complaints about in white neighbourhoods, they simply do not see as anti-social.'

The senior police officer of the West Yorkshire police has a different explanation for the lack of complaints filed about ASB. 'Some ethnic minority groups have absolutely no faith in the authorities. They have had traumatic experiences with the authorities in other places and would never file a complaint because they would not expect the police to actually be able to do anything.' This is why there are now *cold spots* where no complaints are filed, but it is unclear whether there really are no problems with ethnic minorities in these neighbourhoods. As the head of the Birmingham ASBO Unit notes, 'Very few complaints are filed about ASB in most ethnic minority communities, but we simply do not know whether this means there is no bad behaviour there or the tolerance level is lower or there is less faith in the police. This situation cannot go on any longer. Research is called for. Also to see whether there is any evidence of police racism.'

Another explanation is given by the former head of the Leeds ASBO Unit, who notes that in the British discourse, the ASBO itself is such a controversial measure that it is attracting negative attention. 'There simply is not any space for a discussion on the possible problems related to ASB and ethnic minorities.'

5 COMPARATIVE ANALYSIS, DISCUSSION AND CONCLUSION

What is immediately striking in the comparison is that in the UK and the Netherlands alike, politicians and the media view ASB as a big problem that is on the rise, even though the ASB that is actually experienced is decreasing or remaining at the same level. What is more, ethnic minorities are over-represented in the judicial systems of both countries, but there are no clear figures on a comparable situation regarding ASB. The studies that are available, particularly the qualitative ones, do indicate an over-representation. Of course it is true that the data given here have not all been collected using the exact

same methods. Due to practical problems (time and money) and differences in registration, one-on-one comparisons are not feasible but an effort has been made to create situations that are as comparable as possible. Daily newspapers of the same kind have been selected and whitepapers and plans of action in the political discourse have been compared. Supplementary triangulation (interviews and content analyses supplemented by available statistical material) has made it quite feasible to illustrate a certain discourse.

It is still striking how different the approach to ethnic minorities is in the two countries in the press as well as among politicians and policy-makers. In the British media and political discourse on ASB, ethnic minorities do not play any role at all. Instead a link is drawn between ASB and poor white youngsters. In the Netherlands though, the recent focus on Moroccan ruffians has mushroomed in the press and among national politicians.

This is very puzzling indeed. How can there be such a sizable difference between the British and Dutch discourses on ASB and ethnic minorities when the problems and policies are so similar? In the Netherlands, the explanation given by various local politicians, policy-makers and researchers is that the image that has emerged of ASB in the media and political discourses is an erroneous one. Moroccan youngsters are associated with ASB with disproportionate frequency. Moreover, Minister Ter Horst herself has observed a decline in the ASB of this group, although a small group has only become tougher.

The British respondents also been asked to explain the difference. All of them indicate that British institutions and media are afraid of being accused of racism. The reasons why are the above-mentioned report on institutional racism at the London police force and the British colonial history. Due to the collective sense of guilt about the plight of ethnic minorities in British society, trouble-makers from this group are treated more like victims than as a kind of folk devils, as is the case in the Netherlands according to some respondents. What is more, there is not a lot of focus on this issue in British politics or the media because the ASBO measure is controversial enough in itself and tends to attract most of the attention.

Of course there is nothing new about this observed sense of guilt. In the past, various researchers (Isal, 2006; Matthews, 2007; Mille, 2006; Spalek, 2006) have noted the great sensitivity in the UK when it comes to matters of ethnicity and crime and ASB. Frank Bovenkerk makes the same observation in an interview in *de Volkskrant* (6 June 2009): 'In the UK as well, political motivations determine what criminologists measure and what they don't. Because of the colonial past, they have an enormous sense of guilt towards anyone who is black. If there are figures that demonstrate a connection between ethnicity and crime, the only interpretation is that it is due to police racism.'

This explanation is interesting because of course the Netherlands has a colonial past as well, be it a more recent one with different flows of immigrants than the UK. So don't we have a sense of guilt any more, or didn't we ever have one? Racism barely plays a role of any importance in the Dutch debate

on crime and ASB. Only in very rare cases, like the judgment of the *Running coloured man* (1976), has a suspect been released because police officers at the Warmoesstraat police station were not permitted to apprehend him on the basis of the colour of his skin. Sometimes, for example with the expansion of preventive searching, the possibility is mentioned that youngsters who hang around street corners and look like they might be Moroccan are more apt to be checked than youngsters who look like they are native Dutch. A report by Jansen & Janssen, an agency that critically follows the police, devotes attention to this possibility (www.bureaujansen.nl). But this agency also observes that the Dutch police behave more properly than for example the British.

Another explanation can be that the British situation in the inner cities cannot be compared with the Dutch. In what has traditionally been a class society in the UK, the socio-economic differences between the neighbourhoods are much greater than in the Netherlands. Furthermore, the structure of the problems is not the same (Nicholas, 2007). There is a larger group of white people whose socio-economic position is poor. This is due in part to the de-industrialization of certain shipping and mining towns, resulting in mass unemployment. Another factor is that British cities are more segregated than Dutch ones. This leads to problems that go beyond ASB, as is evident from the race riots in the summer of 2001 in Coldham, Bradford, Leeds and Burnely (Waddington, 2007). Perhaps British institutions and media are aware of how explosive the situation can be in the cities and exercise a form of self-censorship. Or has the UK become such a mixed society that it is no longer relevant to mention ethnicity, as the editor-in-chief of a leading Dutch daily once said of New York? Although this seems unlikely since the European electoral success of the extremely right-wing British National Party in June 2009. It is clear from the vehement reactions that in The UK as well, immigrants and ethnicity are still important themes.

Having said this, it is still odd that the media and political discourses in the two countries differ so much. A riddle like this deserves further investigation. The study of less formal channels such as Internet forums gives a broader picture of the discourses. A comparison of the Dutch discourse with those in other European countries such as Germany or France could have an added value. It could enhance the clarity as to which of the two is unique, the Dutch or the British discourse. The additional information would bring us closer to a theoretical explanation of the mystery. Up until then, it is important to be aware of the Dutch barometer. Because the mercury might not be showing the right stand of today's society.

Public discourse

5 | Down these mean streets. Tackling antisocial behaviour: local Dutch support?*

1 ADDRESSING ANTISOCIAL BEHAVIOUR IN DUTCH URBAN AREAS

Public bus drivers who refuse to travel through certain residential, urban areas, terrified of misconduct by young immigrants, or people who are forced to move out of public housing after being frequently threatened by yobs. Incidents like these dominate Dutch headlines. Media reports in the Netherlands paint a notably grim picture of urban neighbourhoods in which social life is threatened and street life is impossible. Residents of these areas are quoted as fearful, desperate and calling for repressive government actions (Koemans, 2010). Their views on this kind of antisocial behaviour also referred to as 'street terror', is often used by politicians as a justification for tougher crime policies. In this article, we will analyse this public discourse on ASB in order to be able to figure out the extent of local support for these new policies. To what extent do residents of inner city areas demand a tough approach towards antisocial behaviour on the street?

According to the influential urban planning guru Jane Jacobs, a neighbourhood's social safety depends on its street life (Jacobs, 1961). Because of the incidents mentioned above, this behaviour, which is often dubbed antisocial behaviour, appears to be a pressing concern in the Netherlands. This applies even more since the government puts more energy trying to influence subjective safety or feelings of safety rather than focusing solely on enhancing 'objective safety' or decreasing registered crime as such. As criminological research shows, it is not only the actual crime rate that determines subjective safety, other signs of disorder like graffiti or intimidating yobs are often more influential (Markowitz, 2001; Vanderveen, 2004).

In addition, more than in other countries, the problem of antisocial behaviour in the street (henceforth also ASB) in the Netherlands is blamed openly on immigrants and their offspring. Over the last years tensions arose, resulting from the persistent weak socioeconomic position of certain (ethnic) groups combined with public concern with the feasibility of the prevailing tolerant approach to immigration (Pakes, 2004; Engbersen, 2007). Due to the fact that ethnic minorities are far from distributed evenly across space, tensions manifest

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themselves earlier and more intensely in specific urban areas than elsewhere in the Netherlands. Many of these urban neighbourhoods contain a relatively high share of low-income families including ethnic minorities and are also plagued by disorder and crime as well as by feelings of unsafety. Already in 1995 the Social and Cultural Planning Bureau concluded that the mere presence of ethnic minority groups in areas increased feelings of unsafety among the traditional neighbourhood residents and gave them the impression that the neighbourhood was deteriorating (SCP, 1995; Uitermark, 2003). Tapping into these fears, politicians claim that 'street terror', which has become a common term, has grown out of hand in deprived areas and effectively call for more repression.

There is very little evidence, however, to support the claims that (a) the situation with respect to ASB has gone out of hand and (b) that the call for repression is dominant amongst local inhabitants. The regular quantitative surveys among the public cannot fill this gap, as we will demonstrate below. Research in disadvantaged urban neighbourhoods which includes perceptions on policies of inhabitants and local key figures has so far been very limited.

The role of chief actors in the national and local political domain, like politicians and policymakers, who are responsible for promoting tougher ASB policies in the Netherlands has already been analysed elsewhere (Koemans, 2008, 2010a). Yet, more detailed insight into the situation on the ground is severely lacking and we aim at making an attempt to fill this void. On the basis of a series of intensive qualitative case studies in eleven problem areas in the four largest Dutch cities, this paper seeks to contribute to the knowledge of (and perceptions on) ASB and the degree of support for repressive measures to tackle it within the neighbourhoods concerned.

The qualitative study reported here is part of a broader research project in which the shift towards repression in the field of ASB (a form of sub crime) is studied in the context of recent criminological debates on shifting crime policies. In different terms, influential criminological theories, notably those of Garland (2001), Young (2003) and Simon (2007) all point to a marked rise of more repressive and controlling policies towards deviant behaviour, crime and sub crime. Therefore Koemans (2009, 2010a) investigated the policy level, political and media discourses and makes a comparison to the UK. Here we zoom in on the public discourse, because views of the public are often used as a justification for crime policies but are rarely studied.

After briefly discussing definitions of ASB, we will discuss recent policy developments and the rationales behind the policy transfer of the British Anti Social Behaviour Order (ASBO) to the Dutch context (section 2). With a summary of the scholarly debate, we will conclude that there are gaps and discrepancies in the debate on ASB (section 3). In section 4, the research questions and methods will be discussed. Thereafter, the results and conclusion will be presented (section 5 and 6).

1.1 Defining ASB on the street

Antisocial behaviour is not a Dutch invention, but a cause of concern across nations (cf. Burney, 2005; Hörnqvist, 2004). According to British law, ASB is defined as “acting in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as [the defendant]” (Home Office, 2003 p. 14).¹ In the United States it is defined as “a cluster of related behaviours, including disobedience, aggression, temper tantrums, lying, stealing, and violence” (Eddy & Reid, 2002 p. 20). In the Netherlands, the term ASB is relatively new and is imported from the UK. It is primarily linked to disorderly behaviour on the street and ‘problem accumulation areas’ within cities. The Dutch authorities do not provide a definition, but describe ASB as “behaviour systematically severely impacting on the wellbeing, and which is specifically targeted at specific persons” (Kamerstukken, 2007). Examples given in the policy memorandum, however, do not confirm the latter. Hanging around and littering which are common complaints, are in most cases not targeted at persons in particular. In 2000, the European Commission (2000, p. 4) concluded that ‘antisocial conduct is conduct that without being a criminal offence can by its cumulative effect generate a climate of tension and insecurity’. In this article we adopt the latter definition, because it discerns between crime and antisocial conduct, although, in practice, those dividing lines are less clear (see paragraph 2).² We note that in many discussions, vague boundaries are drawn between crime and antisocial behaviour if they are drawn at all.

2 THE REGULATORY CONTEXT

For decades, Dutch politicians turned a blind eye towards the (perceived) problems of disorder or ASB. This tied in with the traditionally strong social-character of crime policies. The Netherlands has often been characterised as a liberal and tolerant society, with an emphasis on pragmatic compromising and practices of *gedogen*, also dubbed regulated tolerance or condoning (Buruma, 2007). In 1985, a governmental committee explicitly advised the Dutch cabinet not to address nuisance or disorder in the public domain with criminal law, in order to avoid over-criminalisation and escalation.

Times have changed, however. In recent years, there has been a resurgence of interest in neighbourhood disorder as well in social sciences as in public debates (Sampson & Raudenbush, 2004). Although street terror as a pheno-

1 This is the most widely used definition from the Crime and Disorder Act (1998). New Labour in the UK introduced ASBOs under the 1998 Crime and Disorder Act and these were enforced in 1999.

2 For a more thorough discussion see Koemans (2009, 2010).

menon and a term are, in fact, not that new as nowadays is assumed, it is equally true that during the last decade society has perceived this kind of behaviour as a more serious and pressing problem than before (Pakes, 2004; van Swaaningen, 2005; Tonry, 2004; Garland, 2001; Devroe, 2008). The media discourse is also changing, as a quick glance into the national newspapers demonstrates. In 2009, eight times more newspaper articles were published in the Netherlands on ASB compared to 1998. In line with the general increase in (openly) anti-immigration sentiments among the Dutch public, these articles more often explicitly connected ASB to young immigrants (with a 35% increase).

2.1 Urban policy

The policy turnaround is most evident in the encompassing urban renewal strategy in 40 problem neighbourhoods, known as the *40 districts approach*. The Ministry of Housing, Spatial Planning and the Environment compiled a list on the basis of indicators of severe social problems (VROM, 2008). In order to turn around the deprived urban areas into more liveable areas, over a thousand million euros have been invested in urban policies which are geared towards these 40 problem districts. The urban policy programs are legitimised on the basis of a *regeneration policy rationale* (social and economic regeneration of local areas can reduce ASB) converged with the *Quality of life* (ASB should be tackled because it is a serious problem that makes people miserable and fearful) and the *Broken windows rationale* (ASB should be tackled because if left unattended, it leads to serious crime) (Koemans, 2010). First reports with respect to outcomes of this new program demonstrate mixed effects. Social investments like supporting residents' associations and community parties and community barbeques showed no measurable results. On the other hand physical measures such as regeneration projects (cleaning the streets, installing new street furniture) and building of new privately owned homes and putting social rent properties on sale did decrease the reported ASB in the areas. The most recent evaluation also has a positive tone. The level of trust among inhabitants has risen because of the improvements they observe and ASB has again decreased (Marlet, Poort & van Woerkens, 2009).

2.2 Criminalisation

Simultaneously with these local urban policies, ASB has been criminalized at a national level. Criminalising not only in the sense of penalizing behaviour but of also labelling behaviour as criminal. Inspired by British initiatives, the Dutch government of Prime Minister Rutte is preparing to enact new administrative legislation that provides local authorities with more legal instruments (often called administrative sanctions) to react to and prevent ASB. For example,

extending the term of a restraining order from three months to two years (as is the case with ASBOs).

Earlier in 2010 a new law has been enacted; titled *Severe anti-social behaviour* which in many ways is similar to the British Anti-Social behaviour Order (ASBO).³ The ASBO is a *civil* order. Restraints of certain behaviour are imposed by a civil court and breaching is a criminal offence (Ashworth, 2004). It is a multi step prohibition, a civil order backed up by a criminal penalty. As Millie (2008) pointed out, within a relatively short period of time, the ASBO became popular and is now part of the common lexicon.

Although the British ASBO was new in the sense of multi step prohibition, in the Netherlands this construction already existed. In the Netherlands, mayors have more power in this respect than their British counterparts. According to current law, they can also issue restraining orders, but with the new law they can prolong this period and couple it to a duty to report.

The introduction of stronger measures is coupled with war rhetoric and a repressive stance (Koemans & van der Leun, 2010). Several recent debates in Dutch parliament on ASB produced quotes such as; 'Send the army', 'tough actions needed against street terror', and 'anti-social behaviour wreaks serious havoc in many Dutch cities'.⁴

Although recent publications (Nixon, 2010) show that British policies are currently shifting away from an enforcement-focused approach to policies with a more communitarian approach, Dutch measures in this field are often legitimised on the basis of (a) their perceived success in the UK and (b) the fact that people in deprived areas want the government to act. The latest measures are evidently meant to sooth the sense of anxiety felt by the public (CCV, 2010). For many Dutch politicians, it is self-evident that national and local government should act firm against forms of ASB because it is a pressing issue (Pakes, 2005; van Stokkom, 2007; van Swaaningen, 2008).

3 DISCOURSES AND DISCREPANCIES IN THE DEBATE ON ASB

It is difficult to support or contradict the claims made by Dutch politicians who called for ASBO-inspired policies. Surveys with respect to disorder clearly do not paint a picture of increasing street terror or street wars. Between 2001 and 2005, the number of registered complaints about public nuisance even decreased, and since then it remained more or less stable (CBS, 2010; SCP, 2009). Reported problems mainly concern dog dirt, litter on the streets, vandalism

3 Others are, the 'minor nuisance at municipal level act') and 'the public prosecution service settlement act' (Devroe, 2008).

4 Debates, after incidents of ASB in the city of Gouda lead to widespread public outcry see for quotes national newspapers *Algemeen Dagblad*, *De Telegraaf*, *NRC Handelsblad*; 25th of September 2008).

and graffiti rather than bullying or intimidating behaviour by youngster on the streets.

In a recent municipal-level survey (Gemeentelijke Belevingsmonitor, 2009), these outcomes were confirmed, with the exception of traffic nuisance being a top priority. It is well known that people's perception of the level of ASB varies by gender, area and age, with people most likely to perceive high levels of ASB in areas of greatest social deprivation. Indeed, people in cities report higher levels of nuisance than those outside cities and people in deprived neighbourhoods report higher levels than those in more well to do urban areas; 71 percent, as opposed to 55 percent (CBS, 2010). Although the largest differences in reported experiences concern littering and vandalism and not street terror or related issues. The Netherlands Institute for Social Research (SCP), a government agency which conducts research into the social aspects of all areas of government policy, asks citizens specific questions about social nuisance. These surveys show a decline in the reporting of social nuisance between 2002 and 2006, in particular in derived neighbourhoods (SCP, 2009). So in sum: available data are ambiguous, but rather contradict than support the claims of politicians in this field with respect to rising street terror.

3.1 Explaining discrepancies

Several scholars agree that 'statistically unfounded' feelings of unsafety among the public and politicians alike can be accounted for by the general malaise in society and a lowered tolerance threshold (Terpstra, 2010; Boutellier, 2002, 2010). The government acts less tolerant towards ASB because actions to tackle this behaviour are demanded by the public (Koemans, 2010a). Although statistics and survey outcomes as mentioned above, show a decline since 2001 in both social disorder and crime, people became less tolerant and, therefore, demand more action. Rising expectations and risk avoidance are in the centre of these explanations (Pieterman, 2009). It cannot be denied that although these trends have often been observed, a certain level of circular reasoning seems to be present. The government acts less liberal towards ASB because actions to address this behaviour are demanded by the public, while at the same time statistics show a decline which has already started ten years ago. Still, because people became less tolerant, they appear to demand more action.

Moreover, certain elements are missing from the debate. Even though, in discussions about issues of disorder and ASB, issues of immigration and integration come to the fore quickly, these issues are not touched upon in most surveys. So it might as well be that worries about immigration and failed integration play a bigger role than worries about disorder or antisocial behaviour in general. Yet, also with respect to opinions on migration and integration, surveys do not clearly confirm the concerns which are often taken to be omnipresent. Even in a time with strong support for Wilder's anti-immigration

party (who received 20% of the national votes in 2010), in surveys with respect to international migration, the population is highly divided (Sopemi, 2010) and not overly negative.

It cannot be denied that the problems with ASB and integration are hot political topics and receive massive media attention. What exactly is going on the ground, in the relevant inner-city areas is difficult to decipher. As Garland (2004) argues, studies of local discourses are crucial for theory building because small-scale studies can find evidence of structural patterns. By studying the construction of the phenomenon in detail, variation and complexity of the studied problem become more visible. So, in order to analyse how people in the so-called problem neighbourhoods talk about and construct views on ASB, a discourse analysis is the most suitable method.

There are more reasons for studying the different discourses *more* thoroughly. Garland (2004) argues that the level of influence of the media and political debate on the policy developments is high. This argument and Garland's basic assumption in his influential *Culture of control* (2001) that 'high crime rates becoming a social fact', are difficult to judge on an empirical level. Therefore first, the discourses on street-level are analysed. Then attention will be given to the consequences at a theoretical level. The above-mentioned discrepancies and blind spots already indicate that Dutch scholarship on this subject is constrained by data availability and reliability. This concerns in particular the absence of direct observation of disorder in the relevant neighbourhoods and the difficulties of reaching certain parts of the population. In large surveys, the non-response within deprived neighbourhoods is usually high and selective (Stoop, 2005). Moreover, Taylor (2001) has argued, that in areas with high levels of actual disorder and crime, there is a higher threshold to be crossed before disorder is perceived as a problem, which can also influence survey data (van Noije & Wittebrood, 2009). In many ways, those urban areas appearing at the top of the list of a good quality of life bear little relation to those at the bottom in terms of demographic make-up, levels of local deprivation, size, and local infrastructure which makes survey outcomes hard to interpret (cf. Ipsos Mori, 2010).

Thirdly, worries about migration, integration and related issues which may influence survey outcomes are usually more implicit than explicit. In sum, it is very well possible that population surveys on disorder do not picture how ASB is perceived in different neighbourhoods. In response to these limitations, we have taken on the suggestion made by British scholars Donoghue (2008) and Jacobson (2008) argued that further research is required to establish the ways in which individuals, communities, housing practitioners and other professionals are experiencing ASB. According to them, local accounts of ASB should be fundamentally concerned with understanding and explaining individuals and communities lived daily experiences and realities. In particular in the Dutch case, it seems to be critical to conduct this research in deprived

urban neighbourhoods. These areas have the highest degree of immigrant population and are designated problem areas.

4 RESEARCH QUESTIONS AND RESEARCH APPROACH

4.1 Research questions

In line with the observations above, we aim at making two contributions in this paper. We have conducted extensive research directly in the context of disadvantaged neighbourhoods, with an emphasis on a low threshold with informal interviewing in the streets. Firstly, these primary and rich data enable us to answer the questions: how do local inhabitants and key informants perceive the problems in their neighbourhoods? To what extent do they observe different forms of ASB? A sub question is also to which social groups respondents link ASB, is it mainly to (certain groups of) immigrants? How does this compare to survey outcomes and to claims made by politicians, in particular with respect to street terror? Drawing on earlier local studies on feelings of unsafety conducted by Elffers and De Jong (2005) we can expect local issues to influence opinions of inhabitants of urban neighbourhoods. In some neighbourhoods, these concerns relate to a local drug scene, in others to youth hanging around, or to communication barriers between autochthonous inhabitants and inhabitants with a migrant background. If, however, in disadvantaged areas street terror is indeed the pressing issue that national politicians claim it is, this will be disclosed through our research strategy.

Our second contribution will be to attempt to respond to recent discussions about the call for repression. Politicians time and again claim to step in for 'ordinary people' in deprived areas who call for repression. Questions which so far are left unanswered are: to what extent are stronger measures indeed called for by the public and if so by whom and in reaction to which societal processes? How do residents and key figures perceive present measures and who do they hold responsible?

4.2 Research Approach

We have selected eleven research sites in the four largest cities (Amsterdam, Utrecht, Rotterdam and The Hague) from the official list of earlier discussed *40 districts approach*. By way of quota sampling we have explicitly included some neighbourhoods which have caught most of the negative media attention and some who did not. We have focused on the largest cities because they play a prominent role in the political and media debates. The areas can be seen as extreme cases where a concentration of ASB problems is expected to be found. Interviews with social workers, policemen, troublemakers themselves

and residents of eleven so-called problem neighbourhoods in four major Dutch cities were conducted and analysed, as explained in more detail below.

We aimed at collecting rich data on the (local) public discourse. In line with Hajer (2006), a discourse is defined as an ensemble of ideas, concepts and categorisations through which meaning is allocated to a social phenomenon. A discourse analysis can, therefore, be considered a research tool, providing insight to a confusing situation or development. Of course, it would be wrong to assume the existence of a single and omnipotent discourse (Uitermark & Gielen, 2010). Our goal is not to describe just one debate, but to investigate the different views. A discourse analysis is the appropriate method to figure out the complex construction of ASB on the street. The results can reveal to which extent a certain policy includes people views.

When conducting a discourse analysis subjectivity is a concern, since the method often requires one researcher to pass judgments on possible motivations and interpretations (Coffey, 1996). In this paper we partly resolved this issue by working with 55 Master students of Criminology who assisted us with the research and with whom we discussed the findings.

While analysing discourses, it matters not only what actors say but also how and where they say it. Actors in the public discourse in this article are field experts, social workers, residents, local businessman, government personnel (local policemen, school teachers, street wardens) and offenders with hands-on local knowledge. These actors were approached in the selected neighbourhoods through:

- Semi-structured interviews with individuals concerned with ASB in the selected areas.
- Informal interviews with inhabitants, often held in the streets.

Observations took place during different moments of the day, night and week in neighbourhoods. Under supervisions of the authors, the student- researchers conducted the observations and interviews over a period of three consecutive autumn months in 2008. The fieldwork resulted in 48 expert interviews, 257 interviews with local retailers and members of the public and 32 interviews with offenders (337 in total). Furthermore, researchers carried out observations in all selected neighbourhoods during ten weeks with a minimum of two times per week at different hours. Observations lasted between one and four hours, including weekends and nights, resulting in an estimated 500 hours of observations. Students were free in deciding where to go and what threads to follow. Although this may have resulted in a certain bias, an open approach is crucial in exploratory research. With this study we do not adhere to statistical notions of representativeness. Criticism has been levelled at 'convenience surveys' for their lack of representativeness and not without reason (Couper, 2000). The present study is an exploratory one, which aims at counterbalancing serious problems in the form of selective non-response in sample surveys of population frames (Stoop, 2005), which are otherwise less recognised. Therefore, a certain

extent of potential subjectivity is accepted as a trade-off for in depth knowledge.

Another drawback with the chosen research strategy could be that especially people who are the most fearful, seldom leave the house and are, therefore, difficult to reach. To overcome this selectivity we decided on various research locations, for instance shops, playgrounds, community centres and public transport shelters. We specifically instructed students to put energy into contacting hard-to reach categories of respondents.

Because of the relatively young population in the selected neighbourhoods, deploying students, – in many cases female students –, appeared to be an advantage in the research project. Most students were not familiar with the neighbourhoods concerned. They were aware that they had to act street wise and avoid dangerous situations. They usually went in pairs or small groups, but they were also stimulated to be open minded and use every opportunity to make contact. They often felt uneasy at the beginning of the research and they were widely noticed as not belonging in the selected neighbourhoods on the basis of their appearances. In most cases, they were quickly able to overcome barriers, especially when they had made clear that they were not journalists looking for sensational stories. A group of researchers experienced intimidation on the streets when were subjected to verbal abuse and physical threats by angry youngsters, but in the end gained trust. In one instance, another group decided to refrain from conducting a neighbourhood survey as a result of threats. Many students noticed that they had been looked up through Hyves or other social networks. Several students used the social media as well in order to contact respondents which they could not contact otherwise.

5 RESULTS: THE LOCAL PUBLIC DISCOURSE

In general, researchers noticed neighbourhoods which paid little resemblance to their expectations based on media coverage. The environment in these 'mean streets' looked far better than usually depicted and street life seemed lively in many places. Numerous people in the streets expressed their satisfaction with their living environment. When speaking to them about the fact that their neighbourhood was a designated 'problem area' people often seemed a bit surprised. One woman suddenly understood why her parents and some friends did not want to park their car in her area.

A woman who lived with her family in one of the most infamous parts of Rotterdam said: "When I stroll through the area, I know all the neighbours, they know me, I stay around a while, speak to people, yes. You know; every city has its positive and negative sides."

Many respondents do not ignore the problems, but simultaneously stress the liveliness and heterogeneity of their environment, what they appreciate. Respondent: "I like it that there is some noise; I do not want to live in a quiet

area." In a way, these respondents seem proud to be coping in a situation that others look down upon. Some respondents are more complacent: "I fear I have to stay here till I meet my end. Not really something to look forward to but it can always be worse." It must be noted, however, that many respondents take steps to adapt their daily routine through fear of antisocial behaviour or crime, for instance by avoiding certain streets or not going out at night or even during day times. Being street wise is considered both normal and necessary.

One aspect, which was observed, by researchers in many cases, was a domination of men and boys – often with an immigrant background – in public spaces and a high degree of group formation in the streets. Not only during the night, but also during daytime, men seemed to dominate public spaces. Although this was not something the research was actively aimed at, this gendered public space was persistently noticed by the research assistants and appeared to be an underestimated but potentially defining aspect of living in the selected neighbourhoods. Another recurrent and less anticipated theme was the media attention, or rather media obsession with antisocial behaviour in the neighbourhoods concerned. Respondents continuously mentioned this phenomenon which was a finding in line with earlier results from Elffers and De Jong (2005). These two researchers asked youngsters in problematic urban areas their response to this unwanted media attention and they were told that some of them had started to ask for money when being interviewed.

In this study many respondents did not seem to have a clue about how they could use the media attention in simple ways that would benefit them more. They responded rather cynically to questions about attempting to use the media to express their own opinions. The media are predominantly seen as looking for sensation and reinforcing the negative stereotypes of the neighbourhoods.

5.1 Discourses on ASB

During all conversations we tried to find out how local inhabitants and key informants perceive (potential) problems in their neighbourhoods, and to what extent they observe and experience different forms of ASB. It is known to be a highly confusing concept and experiences of people will be combined with what they have heard from others, what they have seen, heard or read through the media, as well as with their more general outlook on life. When spontaneously providing examples of different forms of ASB, respondents listed a wide variety of behaviours such as hanging around, abusive language, pestering the elderly, junkies, vandalism, graffiti, road rage, loud noise, trashing windows, intimidating behaviour, cursing, car thefts, shoplifting and setting fire to cars. Evidently, experiences differ widely. Respondents all had ideas about it, and a first observation is that many of them mentioned criminal as

well as sub-criminal behaviour under the same heading. A resident replied; "ASB? Once in a while a window is broken, and some houses are burglarised. But the biggest problem is the yobs hanging around."

Others focused on criminal behaviour. "Just now, before you came, a foreign boy hit a police man in the face. Their was a fight with the police. This looked really sensational. Last week the same incident occurred. Those things happen every week." Another respondent added; "A few months ago they drove through the neighbour's front window and took the TV." In sum, there is no clear distinction made between crime and ASB, but people living in more deprived areas seem to associate the term ASB with more extreme forms of behaviour, such as intimidation, abusive behaviour, and violence.

5.2 Street terror?

Although we explicitly selected areas where problems were expected to be highly pressing, respondents in eight (out of eleven) neighbourhoods did not spontaneously mention street terror or related terms and issues in their accounts. Only in three neighbourhoods ASB strongly dominated the conversation. In these areas respondents warned researchers and urged them to be careful. An older woman related ASB to fear of victimisation: "At night you should not walk here all alone, gal!" In one instance researchers were guided by the police when going through certain streets, and occasionally they felt threatened by groups of young people. In several cases, people referred to the fear of intimidation or repercussions, which has stopped them from reporting antisocial behaviour and others have experienced intimidation or threats in the past.

So, although we selected eleven extreme cases, street terror was only seen as a pressing issue in a minority of the studied areas. For many local respondents, ASB in the sense of street terror was not an issue to be at the forefront of their concerns. On the other hand, in three neighbourhoods there are reports of problems that severely affect the quality of life.

In these three areas, inhabitants and key figures for instance reported a struggle for power between rowdy youths and the police which echo concerns about street terror. A school headmaster: "By way of reprisal they set fire to cars, terrorised people and wrecked parks. The residents are really afraid and keep quietly to themselves. The youngsters are no longer confronted with their acts. Even a local police man said: "Fear reigns and the boys are in control". Residents tell how they learned to stay silent. "The community does not speak out. There are a few troublemakers, my son had a row with them, but if you interfere, your windscreen will be broken the next day (...). And then the next time you will keep quiet." Many respondents talked about these situations in a resigned manner. They seemed to accept the situation, to some extent, as normal or at least unavoidable. Yet, they also referred to the fact that

problems like these have their own dynamics and after a while the problems will shift to another place, or another issue will come to the fore.

5.3 Identifying trouble makers

The interviews and conversations highlighted how people associate the term ASB with a range of factors, including wider cultural and societal issues (such as lack of respect and education, moral decline and lack of community spirit), as well as with particular types of individuals, cultures and perpetrators, often focussing on young people as trouble makers. Interviewees generally touch upon the issue of small children who are not properly raised and not sufficiently supervised. For example: "According to me, the main problem is people having too many children. They cannot control them. The children get bored and misbehave. They cause distress. Sometimes I feel: the younger children, worse the problems. I was spat in the face by a ten-year old boy, for no reason."

A second recurrent theme is youngsters hanging around in groups in public spaces. In more than half of the neighbourhoods, immigrants are said to be the main problem makers with the emphasis on Moroccan youngsters. "The boys hanging around are not waiting for the tram. (...) Especially the Moroccans I find scary. They are shouting."

In three areas with many Moroccan teen-agers, their behaviour is considered normal juvenile behaviour and the streets are believed to be safe. A man who lived in his ethnic, diverse neighbourhood for 25 years said: "People think it is dangerous here (...) but that is not true." On the other hand, many respondents were young people from all backgrounds, who felt wrongly accused. They agree that they spend a lot of time in the streets, and they complain about feeling bored. They feel disconnected from the rest of the residents and like to defy the police. According to different youngsters the police react aggressively at the slightest provocation. A Moroccan social worker describes it as follows: "Especially the younger policemen, well, they really act like they are in the army, like they are at the Gaza strip or so."

Summarizing the local discourse on ASB, we can conclude that the assumed state of street war was not depicted by the majority of the inhabitants and key figures, although some policemen act like they are working in such a condition. In three out of eleven neighbourhoods, discourses do echo concerns on street terror, in the other eight to a much lesser extent. In most cases, problems with youngsters played a dominant role. In half of the neighbourhoods, including those with the strongest complains, problems are associated primarily with Moroccan youth.

6 RESULTS: LOCAL SUPPORT FOR TOUGHER MEASURES?

Apart from studying perceptions, the next research question was how respondents expect the government to react. A first observation is that awareness of existing measures to tackle ASB tends to be high, with many respondents mentioning that so much is done already. They bring up CCTV (closed-circuit television) and more police supervision and often stress that there is enough government interference. Many of them also mention improvements which they have experienced themselves. A local inhabitant states; 'In the past there were troubles yeah, and that bad reputation stuck, but that is not correct anymore.' Our findings are in contrast with English research done by Ipsos Mori (2010) where awareness of measures to tackle ASB tends to be low, with most survey respondents (59%) saying they do not feel informed about what is being done to tackle ASB in their area. This rises to 64% among those who think ASB is a problem in their local area.

Overwhelmingly, the English survey respondents believe that it is the police who are (solely or jointly) responsible for dealing with ASB (90% of the respondents mentioned this), with the local council coming a distant second (36%). After the police and the local council, it is felt to be the responsibility of families, local communities and individuals themselves to deal with ASB.

In the Dutch study at issue here, respondents see a less dominant role for the police. This is not the same as a lack of support for repressive policies or strict policing. For example, there is some sense among respondents that, in practice, the police and municipal agencies pay more attention to administration than to prompt responses to antisocial behaviour in the area. In the public's eye, the police do not always command enough respect in daily encounters. On the other hand respondents also mention effective police measures and refer to crucial intermediaries between the public and the authorities, such as street coaches: "Street coaches are the eyes and ears of a neighbourhood. When late at night there are small children on the street, a street coach escorts them back home, to their parents."

Although the police and other agencies are seen as being (partially) responsible for successful reactions, many interviewees also point to parental responsibilities. A local school teacher: "So many things go wrong because of bad parenting. Parents are often not even interested. It is not difficult to predict that their child will take the wrong path."

Even though, some social workers address the issue of nature as opposing nurture ('It is all about character and predisposition to ASB'), the majority agrees that focusing on welfare provisions and social measures, like preventing truancy, are more effective than repressive measures. As one respondent explained: "More police interference can lead to more stigmatisation of youngsters, especially those of Moroccan descent."

In two areas, respondents mentioned explicitly that social cohesion was low, and that it should be improved to counter ASB. A local teenager expressed

this idea as: "When I do not know the guys on the street I am afraid, but if I know at least one of them, then it is okay."

Of all categories of respondents, retailers favour repressive measures the most, but they also stress the effectiveness of already existing instruments like dispersal powers and in some cases doubt if more instruments are needed.

7 CONCLUSIONS

Given our selection of extreme cases of deprived urban neighbourhoods, and given the intensity of the research it is remarkable that only in a minority of the research sites respondents see severe antisocial behaviour as a pressing problem. Other than we expected, only in three out of the eleven neighbourhoods we came across more persistent stories of intimidation and threats that seem to be in line with the much more general claims made by politicians.

Reviewing the eleven research sites we must conclude that findings and experiences in the selected neighbourhoods were highly diverse and in many cases, far less dramatic than frequently described. Taking into account the nuanced picture that arises from the observations and interviews, both formal and informal, we can conclude that – contrary to what we expected – we did not unveil a major hidden issue. The popular image of deprived urban areas that resemble war zones in which the streets are terrorised by groups of immigrants has not been corroborated. This is not the same as denying certain problems, as observed in three out of eleven research sites, but, which were to a much lesser extent also recognised elsewhere. A certain level of acceptance of social problems and disorder that would not be accepted in more well-to-do areas has also been noticed, in line with earlier findings. Furthermore the feelings towards ethnic minority youngsters as the main perpetrators of ASB are mixed. Some inhabitants blame them for the troubles others downplay their role and warn for the danger of stigmatisation.

Secondly, we looked at local support for repression. When summarizing the highly diverse accounts of respondents in our research, the attraction of repressive measures was considerably lower than expected. Although there was a certain level of support for ASBO-inspired laws and regulations, in particular, with retailers and shop owners, the attraction appears far greater for national politicians than for most people locally concerned. Surprisingly, many residents were well aware of existing policies and many claimed to have witnessed improvements rather than deterioration over the years prior to our research. In contrast to British findings (Ipsos Mori, 2010) where the English public overwhelmingly points to the police as the institution to deal with antisocial behaviour, many of the Dutch respondents framed solutions in general welfare state terms and terms of family responsibilities. Educational support and community centres were often stressed and street coaches acting as intermediaries between the police and communities were highly praised.

The view that things already turned in the right direction as a result of intensive policy making was not an exception. We can even hypothesise that going further down the road of ASBO-style repression and intensifying the role of the police, might threaten or even erase these feelings of collective responsibility. In the UK, there is a growing awareness of this counter-effect of the ASBO even to the point that in July 2010, Home Secretary Theresa May announced her intention to reform or even abolish the ASBO in favour of alternative 'community-based' social control policies (*BBC*, 29 July 2010).

Although we started our search with the intention to shed light on the discrepancies between the available quantitative data – which does not show an increase in ASB- and the public debate which paints a grim picture, we came across another pressing discrepancy. Our research disclosed a wide gap between the cluster of media/political debate on the one hand, and community experiences on the other. If we would use our study as an indicator for the public discourse and public demands within the neighbourhoods concerned, we can conclude that the public voice is often represented in a highly biased and incomplete way. Many national as well as some local politicians claim that 'something must be done', without knowing against 'what' or 'who' the actions should be taken according to whom. Without having clear ideas about what 'something' amounts to, the debate becomes highly dependent on media representations and stereotypes.

Many inhabitants see their neighbourhoods problems being used both for political gain and for the search for sensationalism by the media and the public. Symbolic policies, which treat immigrants and street youths in a harsh way, are thought to appeal to autochthonous voters (cf. Body Gendrot, 2000). When politicians respond primarily to sensational media representations, a spiralling dynamic of media-attention and politicians tapping into that will not help to solve the actual problems in these neighbourhoods. We found that many local agencies and actors are far from happy with these developments and point to their downside. They favour a combination of several strategies over a one-sided tough approach. This shows that next to differences between countries, which are often recognized in the literature, differences between policy levels (in this case national versus local) can also be salient. These unexpected outcomes call for even more in-depth knowledge of local experiences and perceptions. This information will help improve the effectiveness of government and public agencies in maintaining social order in disadvantaged urban areas. Not only to supplement traditional quantitative surveys but also to counter-balance skewed media representations and to include local policy experiences.

6 | Assimilation of results and Conclusion

1 SUMMARY OF THE RESULTS

When studying crime policies, an analysis of governmental rationales underpinning them, should be inevitable (Rose, 2006). This thesis examines the implicit reasoning behind the measures fighting the so-called antisocial behaviour by youngsters on the street (in this thesis ASB in short). At first sight, there appears to be a consensus on certain developments concerning this kind of ASB. New and often more repressive policies are introduced to tackle the assumed problem. These policies often presuppose rising crime rates, more ASB and more public anxiety, as also Garland (2001) identified.

It is important to scrutinise these patterns concerning crime and ASB. After all, patterns are easily taken for granted. Particularly with respect to regulating youthful behaviour, underlying rationales appear to go unchallenged. In this context, ASB is believed to wreck communities and to constitute a pathway to criminality (e.g. Burney, 2009; Crawford, 2009). Increasingly, deviant subcultures are thought too robust to be changed by means of rehabilitative strategies (Young, 2007; van Stokkom, 2007). The introduction of the ASBO in the UK is an example of this frame of mind.

In this thesis, the rationales underlying the policies to address ASB were identified within the Dutch discourses and compared on critical points to the British situation. Both the British and Dutch discourses (legal, political, media and public debate) on ASB were analysed. The objective of this study is to discuss these rationales of ASB policies, within the context of a Culture of Control. Analysing the discourses helps explain the emergence and construction of a problem. In other words, analysing how we talk about policy (in politics, media and public) and how certain conduct is socially built. As the summary of the discourse analyses will show, this mixture of rationales is far more complex than is frequently assumed.

1.1 Rationales in legal discourse

In Chapter 2 the question *what kind of laws and measures were introduced to tackle ASB in the Netherlands and the UK and what are the possible effects*, was examined.

First, the debate around the implementation of the new measures like the British Antisocial Behaviour Order (ASBO) has been analysed. In short; ASBOs

have a minimum duration of two years, can last indefinitely and contain prohibitions believed to be necessary to prevent repetition of the behaviour. A civil court, -via, for example, the Social landlord- imposes the ASBO; and breaching is a criminal offence.

Secondly, the recent Dutch law (Measures to Combat Soccer Vandalism and Severe Antisocial Behaviour; henceforth *law to combat severe ASB*) addressing ASB was studied (see appendix II and III). This law also grants more power to local authorities. For instance, mayors can issue restraining orders, without the interference of a judge and for a longer period of time than before.

The analysis demonstrated, that, although the ASBO is a mixture of civil and criminal law rather than administrative and criminal law, as is the case in the Netherlands, the policy rationales behind them are very similar.

First, in both countries, improving the living conditions for inhabitants of rough urban neighbourhoods was said to be the starting point of the ASB policies. The ASBO and the recent Dutch law was introduced to make these areas more liveable and raise the feelings of security in the public domain. Secondly, in both cases, local authorities are accorded more responsibilities. This is in line with Garland's responsibilisation strategy, in which community agencies complement and extend the more formal control of state agencies in the fight against crime. The primary objective of this approach is to spread responsibility for crime control onto agents outside the criminal justice state. The recurrent message is that the state alone is not, and cannot, be responsible for controlling crime and ASB.

Furthermore, the measures are presented as an administrative (civil) not a criminal weapon against crime, ASB and feelings of insecurity. The idea is that by avoiding criminal law it is easier (faster) to address the problem.

The discourse analysis in Chapter 2, illustrated that the reforms and policy proposals have come under heavy criticism because of unexpected and paradoxical consequences. For instance:

- I In the UK, the strategy of off-loading the judicial system had a reverse effect. Ashworth (2004) and Steventon (2007) argue that it did not diminish the power of the state, but rather enhanced it. They refer to this effect as the net widening of the law. They motivate that more ASB is being addressed by the law, instead of by social policies. Indeed, research showed that, social measures addressing the root causes of ASB, such as parenting orders, are less likely to be used (Donoghue, 2008; Burney, 2009; Matthews, 2007).
- II The British ASBO and the Dutch restraining order are respectively a civil and an administrative order, but to breach either one is a criminal offence. The analysis demonstrated that in the UK this two-step approach had been fiercely criticized (in the Netherlands this method already exists). Especially, the idea of admitting hearsay evidence in the criminal proceedings has come under heavy criticism. As a result, researchers argue, these British administrative measures can be more far-reaching than those of criminal

sanctions, while the safeguards of due process are considerably less so (Burney, 2009). In 2004, the Commissioner for Human Rights Gil-Robes, expressed concern about this ASBO practice.

- III Another point of critique is that the ASBO in practice is not the silver bullet for the complex social issues that determine the living conditions in rough neighbourhoods. The day-to-day-reality is far more complex than the policy motivations suggested. For example, some teenagers wore the ASBO as a badge of honour. They were proud of this confirmation of their toughness. In addition, social workers complained youngsters are criminalised (seen as criminals by the neighbourhood) for otherwise typical juvenile behaviour.
- IV Furthermore, the definitions of the behaviour, activities, and situations that the measures aim to counteract are often vague, which can lead to a *net-deepening* of the law. In the UK, more behaviour that is otherwise lawful can be criminalised when the term of an ASBO is breached. A range of examples of how ASBOs have been applied confirm this thought. Such as restraining orders preventing prostitutes from standing on a street corner or carrying condoms, two young people banned from walking their local streets which effectively prevented them from attending school (e.g. Ashworth, 2004; Burney, 2009). The issue of legal certainty was also addressed by the Council of Europe on Human rights and the members considered the ASBO a cause for concern.

For Dutch politicians these points of critique could lead to the conclusion that 'the grass is not always greener on the other side of the fence'. As Chapter 3 demonstrated, the majority of interviewed politicians do not seem to take these issues into consideration.

In Chapter 2, not only a comparison between the UK and the Netherlands was made. In addition, a parallel within the Netherlands was drawn, with the application of the BIBOB tool¹ addressing organized crime. This tool, an administrative decision, is also said to be an effective method to reduce levels of crime, in this case organized crime, without bringing criminal law into play. The analyses demonstrated that the same paradoxical net-widening results came up and that rather than being autonomous instruments of crime control, the tools can be viewed as an extension of criminal justice. Thus the case of 'reactions to ASB' is not so unique in the current crime policy climate.

1 The BIBOB Act allows administrative authorities to refuse and withdraw licenses and subsidies.

1.2 Rationales in political discourse

The analysis of the Dutch political discourse (the breeding ground of policies) in Chapter 3 presented one very dominant rationale; the need to cater to the inferred anxieties of the voter. This is similar to the UK discourse. Almost identical ways of reasoning (see following rationales 1-5) and the same solutions (behavioural contracts) were observed in the political discourse. These rationales for addressing ASB can be grouped as:

1. Measures are needed because the present arsenal is not effective enough.
2. ASB is increasing. The problem is getting worse by the day.
3. Quality of life argument. ASB makes people fearful and miserable and therefore should be tackled.
4. The broken window theory. If ASB is left unattended, it leads to serious crime.
5. Economic reasons. By addressing ASB, the cycles of economic and social decline in neighbourhoods can be reversed.

These results appear to confirm the idea of a *common* Culture of Control. However, as stated in Chapter 1, in comparative research there is tendency of exaggerated claims, assumed from similarities in policy rhetoric. This discourse analysis shows that there are remarkable differences between the two countries as well.

- I Other than in the UK, in the Netherlands the motivations for introducing ASBO-type measures are tied up with difficulties with ethnic minorities. Interviewees from all political parties (left and right wing alike) link ASB to particularly (second generation) Moroccan youths. In the UK, ASB is less coupled with immigration issues. As stated in Chapter 3, a reason for this could be that the social problems in British inner cities are of a different order (considering the English class society). On the infamous housing estates unemployment, crime and ASB trouble all sections of the population; British and immigrants alike. However, ethnic and/or racial minorities are over-represented in the judicial systems of both countries. In paragraph 1.3 more attention will be paid to this issue.
- II Furthermore, the comparative research shows that most Dutch politicians stress 'legitimacy of the government' as a reason for tackling ASB. They feel that in order to keep (or restore) the faith of the people, new repressive actions against crime and ASB are vital. For the UK politicians this appears a less acute problem. This difference is significant because, in their statements, the Dutch respondents often use the ASBO as a legitimating power.

The disparity between the British and Dutch discourses on the issue of legitimacy of the government could originate from the so-called Pim-Fortuyn revolt in the Netherlands. Several scholars debated that after his murder and after attacks like 9/11 (and within the fight against terrorism) there is tendency

among Dutch politicians to react to crime problems with strong measures (e.g. Punch, 2005; van Swaaningen, 2008; Pakes, 2005). Almost all the Dutch interviewees confirmed this idea of following trends in harsher crime control, in order to keep the credibility of the government.

On the other hand the political discourse analysis showed that the *soft* practices of the historic strong social policies in Dutch neighbourhoods are not completely abandoned. Two left-wing politicians argued that the new stricter laws should be combined with more social community work, stressing that ASBO-inspired measures can only work when social agencies work together to address the root problems as well. However, nowadays in general, Dutch politicians focus more on repressive measures.

The discourse analysis demonstrated further that most politicians, Dutch and British alike, do not need real evidence for the effectiveness of the ASBO. Tackling ASB both embodies a personal gut feeling and an appeal to popular sentiments. The myth of its success is enough. Dutch policy transfer of anti-ASB measures, appears to be more a form of gaining inspiration than real lesson drawing. An explanation for this line of reasoning can be the idea of precautionary logic, as among others suggested by Pieterman (2008), where the lack of scientific evidence is not an excuse for inaction (see Chapter 3). Furthermore, this result is in line with Garland's ideas on the process of politicisation of crime policies, in which criminological knowledge is downgraded and ideas originating from individual experiences become the norm. In paragraph 2.2. these identified political rationales will be discussed further within the context of a Culture of Control.

1.3 Rationales in media discourse

In Chapter 4 it became clear that the media can be the prime movers of new policies but at the same time can also be the interpreter of political views (the seeds of the policies). The question *how the discourse on ASB developed in the British and Dutch media*, was addressed. The comparison between media discourses in the UK and the Netherlands showed that in both countries ASB is seen as a major problem that is on the rise, even though the ASB that is actually experienced is decreasing or remaining at the same level.

However, there is a blatant difference in the discourses as well. Although ethnic and/or racial minorities are over-represented in the judicial systems of both countries, the media approach to ethnic minorities is strikingly different. In the British media discourse on ASB, ethnic minorities hardly play any role at all. Instead, a link is drawn between this kind of behaviour and white youngsters from problem neighbourhoods. In the Netherlands though, the recent focus on ruffians with a Moroccan background has mushroomed in the press and among national politicians.

This outcome raises another question; how can there be such a sizable difference between the British and Dutch media discourses on ASB on the street and the role of minorities when the problems and policies are so similar? In the Netherlands, the explanation given by various local politicians, policy-makers and researchers is that the image that has emerged of ASB in the media and political discourses is an erroneous one. Youngsters from Moroccan background are associated with ASB with disproportionate frequency and they are often better integrated than suggested.

Several studies (e.g. Blom, 2005; Jennissen & Blom, 2007) confirm that first and primarily second-generation immigrants from Morocco are more frequently crime suspects than native Dutch youngsters. The authors did not include any specific information on ASB. However, although they show that there is a problem with some young Moroccans, generalising statements about the link between ethnicity and crime are often incorrect or flawed (e.g. Engbersen, 2007). According to additional figures, on the whole ASB remains the same (or in some cases is decreasing) though the number of news items on ASB continues to grow.

The British respondents have also been asked to explain the difference. All of them indicate that British institutions and media are afraid of being accused of racism. Due to the collective sense of guilt about the plight (as a result of the colonial past) of ethnic minorities in British society, troublemakers from this group are treated more like victims than as a kind of Folk Devils (Cohen, 1973), as is the case in the Netherlands, according to some respondents.

Certainly, there is nothing new about this observed sense of guilt. Various researchers (Isal, 2006; Matthews, 2007; Millie, 2006; Spalek, 2006) have noted the great sensitivity in UK when it comes to matters of ethnicity and crime/ASB. This description of guilt is interesting because of course the Netherlands has a colonial past as well, but Dutch media nowadays exercise less restraint.

Another explanation can be that the British situation in the inner cities in essence, cannot be equated with the Dutch. Due to a mixture of reasons – as discussed in Chapter 4 – the socio-economic differences between the neighbourhoods are much greater than in the Netherlands. There is a larger group of white people whose socio-economic position is poor and British cities are more segregated than Dutch ones. As suggested in Chapter 4 perhaps British institutions and media are aware of how explosive the situation can be in the cities and exercise a form of self-censorship on this subject. Considering the, in general, aggressive British tabloids, this form of restraint is less likely.

1.4 Rationales in public discourse

The measures of regulation to fight the so-called street terror are often legitimatised with a supposed public anxiety, as also Garland identified. The study in Chapter 5 showed a more nuanced and mixed local public debate

on this shifting policy landscape than politicians would like us to believe. The research took place on eleven sites in the four largest Dutch cities (Amsterdam, Utrecht, Rotterdam and The Hague) from the official list of the so-called *40 districts approach*. The focus was on these largest cities because they play a prominent role in the political and media debates. The areas can be seen as extreme cases with an expected concentration of ASB problems. Although these problem areas were explicitly selected, only in three urban areas ASB strongly dominated the public debate. The popular picture of neighbourhoods that resemble ghetto's where groups of immigrants terrorise the locals, has not been supported. This is not the same as denying problems of disorder, but only in three out of the eleven neighbourhoods more persistent stories of intimidation and threats that seem to be in line with the claims made by politicians, rose to the surface.

When summarising the highly diverse accounts of respondents, the attraction of tough and repressive measures was considerably lower than expected beforehand. Although, there was a certain level of support for ASBO-inspired laws and regulations in particular with retailers and shop owners, the attraction appears far greater for national politicians (see Chapter 3) than for most people locally concerned. Many residents were well aware of policy measures that were taken already and many claimed to have witnessed improvements rather than deterioration over the years prior to the research.

This is in line with earlier research that demonstrated the well established position of the Dutch government in disadvantaged areas (Burgers, 2009). On the other hand it was in contrast to British findings, where awareness of measures to tackle ASB tends to be low, with most survey respondents (59%) saying they do not feel informed about what is being done to tackle ASB in their area. This rises up to 64% among those who think ASB is a problem in their local area (Ipsos Mori, 2010).

Chapter 5 showed a wide gap between the cluster of media/political debate on the one hand and local experiences on the other. It became clear that the views of the public (the roots of the policies) that are frequently used as a justification for crime policies are translated by politicians. The analysis of the public discourse and public demands within the neighbourhoods concerned, shows that the public voice is often represented in a biased and incomplete way. Several inhabitants explained this gap by claiming their neighbourhood is being used for political gains.

1.5 Overview of the rationales found in the discourses

The above discussed analyses presented a construction of the problem of ASB. In every separate discourse specific assumptions underlying the policies were recognised. In order to assess these rationales within the context of a Culture of Control, an overview is presented. The six main rationales as identified in

Chapter 3 serve as a guideline for this summary, with further motivations for ASB policies as found in the four discourses, completing the picture.

Table 6.1 – Summary of presented results

<i>Dutch political rationales for tackling ASB as identified in Chapter 3</i>	<i>Additional results found in the discourse analyses of this thesis</i>
1. One loud public call for tougher action	The public discourse is more diverse than politicians appear to believe. The media do articulate this call for necessary action.
2. Individual experiences are important in political debate	Politicians and media downgrade criminological findings.
- a. ASB is a growing issue	Politicians and media dismiss the research that shows ASB on the street is not rising. Some (local and national) politicians suggest that maybe <i>attention</i> for ASB is increasing, not so much the <i>actual</i> problem.
- b. especially tough measures are necessary	Politicians and media dismiss the research that shows that repressive measures alone are not effective. In day-to-day practice the more 'soft' approach still exists.
3. New and more action is necessary, otherwise the credibility of the government will be undermined	Respondents in deprived urban neighbourhoods mention so much is done already.
4. Close link ASB and particularly Moroccan youths	Confirmed by all politicians, regardless of their political affiliation. Equivocal statistics on possible over-presentation of young Moroccans regarding ASB. Several local key figures (police and politicians) claim ASB problems get disproportionate amount of attention. In general, the figures on ASB remain the same, but number of news items keeps growing.
5. Close link ASB and crime	The legal discourse showed ASB definitions are vague and sometimes include criminal behaviour. More ASB than before is criminalised ² and more (young) people are stigmatised.
6. Cycle of economic and social decline should and can be reversed	Is politically linked with ideas on restoring community feelings and importance of social capital.

2 Criminalising not in the sense of penalising behaviour but of labeling behaviour as criminal.

2 THEORETICAL IMPLICATIONS

In order to answer the overarching research question, *which rationales underlying the policies to address antisocial behaviour by youngsters on the street can be identified within the Dutch discourses and how can these rationales be assessed within the context of a Culture of Control*, the following step is to combine these identified rationales within the context of a Culture of Control.

Intrinsic to this research question and chosen research methods, are complex and detailed results. This complexity is sometimes overlooked in publications which confirm the Culture of Control, although Garland stressed before, the field of crime policies is multifaceted, and often has a contradictory character. This thesis, as will become clear in following paragraphs, undeniably identified a complex network of policy rationales. This is in part in line with Garland's so-called schizophrenic crime control complex. To prevent any lack of clarity in discussing these complicating and sometimes conflicting results, first an overview of the primary observations will be presented.

Table 6.2 – Overview of assessing rationales within the context of a Culture of Control

Garland's observations of selection of changes (as addressed in Chapter 1)	<i>In relation to rationales as identified in the Dutch discourse analyses in this thesis</i>
<i>Changes in emotional tone of crime policy discourse.</i>	Identified in political and media debate, but public is less angry and fearful than Garland described (see I in following paragraph).
<i>Protecting the public as a perennial concern of crime policy.</i>	Indeed public fear is presented as motif by politicians (although more often in practice the media is their main concern) (see I).
<i>Politicization of crime policies and the new populism.</i>	ASB appears a tool for political gain (I & III) Criminological knowledge is more and more ignored, populism in politics is still rising although public more nuanced (II).
<i>Expanding infrastructure of crime prevention and community safety (including civil society).</i>	Partly identified in local areas (VII).
<i>A continuous sense of crisis.</i>	In political and media analyses a strong rise in attention for ASB is identified (IV).
Policy responses to change according to Garland (Chapter 1)	<i>In relation to rationales as identified in the Dutch discourse analyses in this thesis</i>
1. <i>adaptation</i>	
- <i>responsibilisation strategy.</i>	In line with Garland; community agencies, other than the state agencies, help to fight crime (V).
- <i>defining deviance down.</i>	Policy discourse showed more ASB than before is criminalised (III).
- <i>focus on effects of crime rather than its causes.</i>	In the four discourses causes for ASB appear less relevant.

<i>2. non-adaptive responses</i>	
- denial of described predicament and reinstate myth of strong state (net-widening).	This process occurs, although ASB policies in some respect also more socialised (for instance, parental support) and are in practice often not that tough (V & VII).
- government acting out (symbolic policies; in relation to concept of moral panic).	Politicians introduce measures as new and tough (acting out) but often policies are not brand new but fine-tuned. Although elements of concept of moral panic are present; there is not a <i>massive</i> call for tough action (VI).
In Chapter I identified discrepancies in Garland's analyses of Culture of Control (CofC)	<i>Thesis results</i>
1. Actors in policy process did not get equal attention in his study.	By addressing four discourses a more complete picture of differing reactions and views on ASB policies arose; also undercurrents in the CofC identified. <i>Not-so rational</i> rationales come into view (I – IX).
2. Assumption <i>new social fact of high crime rates</i> difficult to judge on empirical level.	Judging the results, high (sub) crime rates have not become a social fact in all discourses, especially in the public discourse a more subtle approach to the problem was identified (I-IX).
3. Empirical evidence for statement on level of influence of the media is poor.	It is not so much the supposed rising rates of ASB and crime that changed how people think, but more the media and politicians that produced these changes.
4. Not many comparisons between Anglo Saxon situation and European countries.	Different divergences (more populism and social exclusion) than Garland expected (IX).
In Chapter 1 identified discrepancies in possible Dutch version of CofC	<i>Thesis results</i>
1. Uniqueness of role of young immigrants is not questioned.	Dutch media and politicians pay more attention to ASB & young immigrants (compared to the British situation) and attention is of a different, more stigmatising, nature (VIII).
2. Little empirical research on the role of media and politicians in construction of the problem of ASB.	Media discourse analysis demonstrated that intensive media attention for ASB leads to policy changes and introduction of new laws (i.e. law to combat severe ASB). Politicians consider the media to be the spokespersons of the public, only the public and local politicians do not feel represented by the media (IV & VIII).

Of course this summary can not be complete. To identify the reasons behind the policies for and construction of ASB, the results in the above presented overview will be discussed in more detail in the next two paragraphs. This approach makes the necessary differentiations possible and will shed light on the different shades of meaning.

2.1 Discrepancies in the debate on the Culture of Control

As was argued in Chapter 1 and presented in table 6.2, it is difficult to support or contradict some claims made by Garland. Several ideas such as the reemergence of punitive sanctions, expressive justice, the return of the victim and politicisation of crime issues are widely supported. Others, like for instance, the level of social acceptance of high crime rates are criticised. Garland himself makes critical remarks on his own study too. He acknowledges that he focuses more on the established policies than on the one that failed to gain support and that a study of patterns in defined locales could provide more evidence for the structural developments he identified (Garland, 2004).

Some of his statements are indeed difficult to judge on an empirical level. For example, Garland did not provide much empirical evidence for his statement on the level of influence of the media and politics. Also his basic assumption of 'high crime rates becoming a social fact'³ is actually not so explicitly grounded. He did not clarify the term 'social fact' and left questions like whether the crime rates were ever doubted or were just assumed to be true, unanswered. He also did not study in detail the construction process of this problem becoming a social fact.

Furthermore, his idea on the Culture of Control having a wide appeal for countries besides the USA and the UK, was not empirically tested. This study of the Dutch situation unraveled the way people, politicians and media talk about, discuss and construct views on ASB on the street, outside the Anglo Saxon world. Analysing these British and Dutch discourses shed light on the possible (dis) similarities in responses to ASB in the two different countries.

2.2 Complex policy patterns within the context of a Culture of Control

I

As pointed out in Chapter 1, the distinction between discourses is a heuristic device; in reality, discourses are not that uniform. The actors involved do not form the same views, along the same lines. It is therefore not surprising to find a variety of ideas within one particular discourse. However, this study showed that politicians tend to ignore this diversity of opinions within the

3 For more discussion see paragraph 4.2.

public debate. They claim, or at least suggest, that there is one loud call for tougher action, especially in crime-ridden urban areas.

Although Dutch politicians– at least the one's that were interviewed– motivate their repressive approach to ASB with reference to widespread public opinion, in fact the public discourse is far more diverse than politicians appear to believe. This discrepancy is one of the more salient results of the discourse analyses in this present study.

The political rationale of 'acting tough because the public asks for it' confirms Garland's observation of the changes in the emotional tone of crime policies. He identified a fearful, angry public that has a direct impact on politicians and policy- and lawmaking.

However, in this study it became clear that the public debate, at any rate in the Netherlands, displays a wide range of opinions. Even in rougher neighbourhoods, many respondents do not take an extreme position on how to tackle the problem. The attractiveness of tough and repressive measures was considerably lower than expected beforehand. Across the board these reactions do not resemble Garland's picture of a fearful, angry public. In the political discourse in the Netherlands, these nuances within the public discourse do not trickle through. In the interviews, Dutch politicians explained that they feel they have to respond to outcries in a) the media– although in essence the media are a second-hand source of information, they are often the primary source for politicians; and b) to the requests of voters who email them. Forms of direct contact with neighbourhood residents is limited.

This information gap could be the reason for a rather limited political understanding of the public debate, and allows political motives to gain the upper hand in the construction of the problem. For example, respondents from the more conservative parties (VVD and PVV) claimed young Moroccans are the biggest problem where ASB is concerned. Although they were not the only politicians to say so, one of them explicitly linked this to their political issue of restricting immigration, stating that for those troublemakers sending them back to Morocco was an option.

In short, the analyses of the public and political discourses demonstrated that in some cases, the problem of ASB is framed in a way that makes it possible to exploit it as a tool for political gain. This charged political climate surrounding ASB creates an opportunity to further inflate the problem. Garland and other criminologists (Loader & Sparks, 2010; Simon, 2007) observed that crime politics and the policy debate around crime in general are heating up. However, the results in this study showed that not only the debate is heating up, but also the problem itself is actually getting warmer. Thus, by framing a problem in a certain way– in this case ASB – the problem actually does increase, because of the media and political attention it receives. Here the well-known principle of the sociologist William Thomas (1928) comes to mind: 'If men define situations as real, they are real in their consequences'. This does not imply that the problem of ASB does not exist but that the political inter-

pretation and the media's framing of the problem act to accelerate the action. This process will be explicated further in the following analysis.

II

Garland argued that in this process of politicising crime policies, criminological knowledge is downgraded and commonplace notions become the norm. This was unmistakably true for the political discourse in question. Both British and Dutch politicians rejected the importance of thorough scientific research and confirmed their preference for action. Accordingly, they dismissed research showing that the problem of ASB on the street is not growing, and that repressive measures alone are not effective. The respondents value political advantage over the views of experts and the evidence of research. The majority of the politicians argued that they know from their *own* experience that ASB is a major problem that has to be addressed.

This political undervaluation of research is relevant in the context of public criminology; that is, in the debate about what role criminologists can play in pursuing a better (in the sense of better informed) politics of crime (Barak, 2001; Braithwaite, 2005; Uggen & Inderbitzin, 2006; Tittle, 2004; Burawoy, 2005; Groombridge, 2007; Loader & Sparks, 2010).

According to this idea of a public criminology, criminologists are supposed to supply ready-to-use information on how to deal with crime and ASB. Public criminology, from this perspective, is not a debate about whether criminologists should try to engage a broader non-academic audience, but whether and how criminological knowledge can contribute more successfully to the public debate, given the hot climate in which it must operate. Thus, Loader and Sparks (2010) see public criminology as a possible cooling device for the hot political climate. Tonry (2010) rightly points out that certain kinds of criminology research have evidently had influence on crime policy. For example, governments have clearly followed findings of research that focused on crime prevention (particularly situational prevention).

However, the analyses in this thesis demonstrated that even if the information on crime developments is accurate and available, politicians only tend to use it for their own political goals. The hot political climate surrounding crime is not cooled down effectively by (fairly) credible statistical evidence (for example the not proven effect of ASBOs or figures that do not endorse the general idea of a major problem of ASB).

In general, the effort to rationalise politics ignores the cultural sources of crime politics, such as the potential political benefits and the role that media attention plays for politicians. It simply assumes that crime and ASB are what they are, rather than being attentive to how ASB is constructed and framed as a social subject in the different discourses.

From an evidence point of view, ASB on the street is a relatively minor threat (in the sense of growth and scale) and one that is already targeted by various crime-reducing policies. However, the heated media reports and

political discourses on the effects of the ASB have little to do with the facts, and cannot easily be cooled down by more facts. For example, when confronting the politicians in the interviews with more evidence on the unchanging status of ASB, they simply dismissed it with the argument that from their own experience they know it is a growing problem and that social science is often inconclusive. They argued that not reacting to the problem would undermine the credibility of the government and therefore the introduction of the new law to combat severe ASB was justified.

What do these results mean for public criminology? In theory, criminologists should probably take the more 'emotional' elements of politics into account in their efforts to cool down the hot crime issues. But this is easier said than done. It is nearly impossible for researchers, when presenting research results, to deliberately weigh their potential effect on the construction of the problem. It could even undermine the academic impartiality of criminologists if they do consider the effects of their research.

A more effective approach could be to enhance the public role of criminologists. They should not only make more knowledge available for politicians and policymakers but also provide facts and data on crime to the media. In other words, they might educate the media so as to contribute to a cooler politics of crime; for example by organising special crime issue groups where scientists and media representatives come together to discuss outcomes of recent criminological research. Consequently, the media will be better positioned to interpret the results and to contribute constructively to policy-making.

Although in essence perhaps a somewhat naive suggestion, this may still prove a more effective way to influence the course of events. After all, as emerged through the discourse analyses, the media appear to be prime movers in this debate.⁴

III

To sum up I and II, Dutch politicians base their arguments on a) a public outcry that is more diverse (as the field work showed) than they seem willing to acknowledge and b) a feeling of urgency that is not corroborated by statistical data on increasing ASB problems. This is a relevant observation, especially because – as the legal discourse analysis revealed – deviance is defined down, as Garland also identified. More behaviour is being criminalised⁵ than before and more (young) people are stigmatised as a result. Garland described this

4 In the US, a start has been made by founding an organisation (The Campbell Collaboration) devoted to collecting relevant evaluation research (not only on crime) and making this available to policymakers and media sources. In the Netherlands this initiative was followed with the founding of the *Erkenningscommissie Gedragsinterventies Justitie*.

5 Criminalising, not in the sense of actually penalising behaviour but of labeling behaviour as criminal.

adaptive response to these (sub) crimes as well; only he did not relate this to the political rationales as discussed above. If the two observations, a) more behaviour is criminalised on b) ill-founded motivations are combined, a rather bleak picture of Dutch policy processes and political motives in the field of ASB emerges.

The picture is clouded further by the fact the majority of the interviewed Dutch politicians (regardless of their political orientation) stick to the view that more repressive measures are still necessary to tackle ASB and at the same time right-wing politicians in the UK acknowledge the undesirable course that ASB policies have taken and are suggesting a return to a more rehabilitative and restorative approach (all the more remarkable since it is generally the leftist political parties that advocate this 'softer' approach to crime). It should be noted that the reason for these differences between the two countries could be that the UK embarked on its anti-ASB policies much earlier, and that these policies have simply worn out. This idea will be discussed further in paragraph 6.3.

Garland's observation that a tough approach to (sub) crime policies is no longer restricted to right-wing political parties can in part be derived from the political discourse analysis as well, although this is even more ambiguous than Garland already presumed. Left-wing politicians still indicated their preference for policies with a social character but explained that these had to be coupled to more repressive measures, such as the new law to combat ASB; again a demonstration of the so-called *adaptive* responses to crime.

IV

The analysis of the media discourse has theoretical implications as well. As was mentioned earlier, in both countries ASB is seen as a major problem that is on the rise, even though the ASB that is actually experienced is decreasing or remaining steady. A major disparity between the two countries is the media approach to ethnic minorities. In the British media discourse on ASB, second-generation immigrants do not appear on the front-page. In the Netherlands however, media attention for rascals from Moroccan backgrounds has exploded.

Garland explicitly desists from only pointing the finger at media attention for the complex system of crime policies. He states that the media did not produce this change but tapped into it. Garland blames 'the social fact of high crime rates', that is, the social acceptance of supposedly *higher* crime rates, for the schizophrenic crime policies. According to his line of thought, high crime rates are interpreted as signs that crime control is based on a model that is inadequate to its tasks. Consequently, he argues that the public has lost confidence in the criminal justice system and in the politicians that are responsible for it.

Nevertheless, in the case of ASB (and of crime, for that matter) the general picture is one of unchanging figures; so this is probably not the primary cause

of the above-identified political rationales. It thus looks like the Dutch media play a bigger role in the described political climate than Garland assumed in his theory. A letter to Parliament from Wim Cornelis, Mayor of Gouda, a city with much publicised cases of street terror, confirms this line of thought. He states that the media are overly negative about how Moroccan teenagers in his city terrorise people on the streets, and that they are publishing increasingly alarming articles on the problems (letter dated 7 October 2008). As a result of this alarmist tone in the media, political reactions are 'out of proportion', according to Cornelis. Police Chief in Central Holland, Jan Stikvoort, similarly accused Parliament of blowing the problems with Moroccans out of proportion; 'When people including politicians make rash statements without any qualifications and are quoted in the media, a whole unwarranted media hype is created. Things are improving and there has been a decrease in the number of criminal charges that are filed. This is not the same as denying there is a problem, but it is not nearly as serious as people say' (*de Volkskrant*, 4 October 2008). These quotes (among others see Chapter 4) point to a mediatisation of politics, as will be discussed further in the next paragraph (3). Earlier criminological research already revealed that the media indeed tend to exaggerate the proportions of crime (e.g. Jewkes, 2004; Carrabine, 2008; Greer, 2010). It is generally acknowledged that the risk of crime as portrayed in the media is both quantitatively and qualitatively more serious than the official statistically recorded picture (Matheson, 2005; Vasterman, 2005; Scheufele, 2007). The analyses of the media discourse demonstrated that intensive media reactions can have far-reaching policy consequences. Politicians consider the media to be the spokesperson of the public; even if the public and local politicians do not feel represented by the media.

V

These latter observations of local politicians echo earlier findings on the tension between national and local politics. Local practitioners translate national policies in a variety of ways. This result relates to Garland's claim that national crime control strategies are accompanied by on-going, low-key local efforts to build up the social control within neighbourhoods. He attributes this *adaptive* (*acknowledging the changes and adjusting to them*) policy response more to the administrative machine of the state (for example, the street level bureaucrats who are faced with various forms of deviance on an everyday basis and have more pragmatic approaches to crime control) (2001, p. 112).

Other researchers (Jacobson, 2008; Crawford, 2009) also identified this gap between policy intent and its implementation on the ground. Crime policies are set at the national level but the actual fight against nuisance and insecurity takes place at a local level. This process is also referred to as local governance of crime (van Swaaningen, 2005). Local authorities have continued to pursue social policies in spite of their tough rhetoric. This is not surprising, as also Uitermark and Duyvendak (2005) argued, since new policies are introduced

within the context of the former ones. Despite the fact of a shift in politics, at the actual implementation level policies are far more practical, for example at the level of local civil servants. This is particularly so because the old programmes are not disqualified officially and seem to work in practice.

Thus, although the interviewed national politicians want to expand the options in tackling ASB, local practitioners and politicians tend to stick to the already available possibilities. This is probably due to the fact that the day-to-day local problems are far more complex than the policymakers at national level (can) take into consideration. Although several *local* politicians do not deny that there are problems with these groups, they also state that numbers are decreasing.

With this in mind, some respondents argued that more repression in small urban communities could lead to more ASB problems (see Chapter 5). To some extent local authorities fear that the new measures and laws like to one to combat severe ASB, may undermine police-community relations and leave young people feeling resentful and unfairly stigmatised, and they will therefore prefer to stick to the old ones.

VI

In this present study, politicians claim they heed the wishes of the people, but as became clear, they appear to be conditioned by the alarmist media reactions. This is in line with Garland's argument that there is a tendency to focus on politicians as the prime movers in bringing about penal change, but in reality they are often the final movers rather than the primary ones. In this situation the concept of a *moral panic*, as Garland also suggested (2008), comes to mind. The literature around this issue has many dimensions and not all are important for this study (e.g. Cohen, 1973, 2002; Waddington, 1986; McRobbie & Thornton, 1995; Thompson, 1998; Ungar, 2001). Furthermore, although this concept is often more an observation than an explanation and has attracted a number of recurring criticism (e.g. Goode & Ben Yehuda, 1994) it still can be relevant for this study. Especially because several respondents claimed that the size and tone of the reactions to ASB contain elements of a moral panic (see chapter 4 and 5).

However, one of the main conditions of a moral panic, a moral public *outrage* as described by Stanley Cohen (1973; 2002), was not found in the analyses. Undeniably, dissatisfaction with various forms of ASB was noted in the public discourse, but a *massive* call by the Dutch public for tough action was not detected. Consequently, other qualities of exaggeration and alarm, often provided by moral panic analyses, are also not relevant for this study. Because when a problem is all in all not perceived as alarming the often discussed question of (dis) proportion of the reaction is beside the point. In other words when the public does not feel the extent of the conduct or the threat it poses is a major predicament, the reaction can never be an exaggeration.

Nevertheless other defining elements of a moral panic do flow from the analyses. For instance, the relevant behaviour, in this case ASB;

- 1) *has existed for some time but suddenly appears in the limelight.*
ASB has always been a part of daily life but now is at the centre of political and media attention (see Chapters 2, 3 and 4).
- 2) *becomes defined as a threat to societal values and interests.*
ASB is politically linked to crime, economic and social decline, the credibility of the government and problems with the integration of minorities (see Chapter 3).
- 3) *is presented in the mass media in a stereotypical fashion.*
The analyses of the media discourse illustrated that ASB was often dubbed 'street terror'. ASB became a symbol of societal decay. Media reports left little room for differentiation or counter-voices (see Chapter 4).
- 4) *leads to real changes in legal and social policy.*
Several new measures and laws, were introduced to tackle ASB, although some older forms of policies were left relatively unchanged (see Chapter 2).

These last four points are more or less true for the Dutch case of ASB. But again, one of the main conditions of a moral panic, a wide public *outcry*, in the sense of a massive outrage over the scale of ASB, could not be detected in the public discourse. The media and the politicians (triggered by media reports) claim a public moral outcry, but the public itself leaves more room for nuances and mixed approaches to the problem of ASB. The public reaction is less consensual, and more or less divided. These mixed views do not always trickle through in the media, which could lead to a distorted picture of events, with several politicians believing that some Dutch streets are terrorised by youngsters.

To conclude, on the one hand the *broad* social reaction can not be described as a *classic* consensual moral panic, and as Garland (2008) mentioned, these are perhaps decreasingly common in complex contemporary societies. While on the other hand, the social reaction in a *limited* sense (restricted to the political and media reaction) does contain many qualifications of a *classic* moral panic. Thus, one can argue that for the establishment of a moral panic an outraged public is not longer a necessity.

VII

Another noteworthy result from the analyses is that the policies tackling ASB are not as tough as the political rhetoric suggests. The various continuities/discontinuities in crime policies that have been identified not only exist at a general level between different policy domains, but also out on the street, in their implementation. On the one hand, the results demonstrate how social policy is becoming criminalised, in the sense of 'using' social institutions, such as social services and local departments of education, in the fight against crime and ASB (see paragraph 2.2.2).

On the other hand, there is evidence of crime policy becoming socialised. This means that what is defined by the political and media discourses as a crime problem (ASB), is also addressed through strategies and technologies associated more with social policy. For example, the approach of the 'Foundation to Address ASB in Amsterdam' (Stichting Aanpak Overlast Amsterdam; SAOA) combines street surveillance (essentially a crime-fighting instrument) by especially trained locals (*straat coaches*) with house visits by official care providers (originally social services). These two strategies are also the spearheads of official policies introduced by the collaboration of 22 city councils to tackle problems with Dutch Moroccan youths (Ministerie van VROM, 2009).

What is more, several Dutch policies to tackle ASB did not intrinsically change, but were more or less fine-tuned. For instance, the new law to combat severe ASB gives *more* power to local authorities. Mayors can issue restraining orders for people who have displayed ASB, without the interference of a judge and for a *longer* period of time than the current law permits. The restraining order can be issued for a year and must be reviewed every three months.⁶ If the order is breached, it becomes a criminal act (on the basis of the *already existing* article 184 Sr) and the case can be brought before a criminal court.⁷ This is more about expanding the possibilities of tackling ASB than introducing entirely new measures. These adjustments were presented in the media and political discourse as necessary and significant changes. The existing measures were dismissed as ineffective and insufficient. The general idea is that 'politicians have to do something', and that this *acting out* emphasises the capacity of the government to control crime.

VIII

The Dutch public discourse analysis illustrated that the groups that are most affected by the newly adapted policies and laws, are the ones that lack political power. In half of the observed neighbourhoods, including those with the strongest complaints, problems are associated primarily with Moroccan youth. These young immigrants do not have voting rights yet and feel in a way isolated from Dutch society. According to some interviewed youngsters the police react aggressively at the slightest provocation.

This observation is in line with Garland (2001, p. 135). He argues that the *denial* strategy (the government acting out) is possible because of these targeted groups that lack political power. He states that they are portrayed in the media as dangerous and undeserving. The newly introduced policies effect them, but according to him, they do not have the (legal) means to react or protest. Garland described them as vulnerable, but considering their sometimes strong language and obvious presence on the streets, probably exposed is a better description.

⁶ Or one can be ordered to report at certain times.

⁷ A prison sentence up to three months or a fine can be the end result.

The media discourse analysis demonstrated how in the Netherlands, ethnic youngsters are indeed frequently portrayed as dangerous in the newspapers and are linked with supposed societal developments like neighbourhoods falling into disrepair or the general coarsening of manners. In addition, while analysing the political discourse it became clear that they often are the targets (although not always explicit) of new policies.

These results are, besides confirming Garland's ideas, also in line with Cohen (1973; 2002) who described similar marginalised groups in the centre of reactions and debates around crime and named them Folk Devils. He stated that the concept of a Moral Panic and their Folk Devils have interactive relationships. He described a looping effect of deviance amplification that occurred when media attention and increased control lead to the hardening of the original deviance.

The public discourse analysis in this thesis demonstrated that some of the targeted youngsters indeed tend to behave accordingly to the media image. Several young respondents complained about negative media attention and they did not seem to have a clue about how they could use the media attention in ways that would benefit them more. They responded rather cynically to questions about attempting to use the media to express their own opinions. The media are predominantly seen as 'looking for sensation' and 'reinforcing the negative stereotypes of the neighbourhoods'. A few of the interviewed Moroccan youngsters expressed feelings of isolation and stigmatisation. Some of them mentioned that they did not bother to adapt their ASB because the police would keep addressing them as troublemakers anyway (see Chapter 5).

IX

Another line of inquiry of this thesis involved comparing the Dutch and British situation. Garland argued that crime control strategies in different Western countries are in many ways the same. Indeed, the overall currents of change, like those in the emotional tone of crime policy and the politicisation of crime polices, appear similar on the surface. However, at a 'lower' (local) research level, differences became clear. For example, the previously mentioned content of media discourses differs considerably, as does the implementation of policies between the two countries.

This is again in line with Garland who argues that despite a rather limited variety of adaptive patterns, there may well be differences between European and Anglo-Saxon nations in their versions of the Culture of Control. Only the differences are not the ones he expected. According to Garland, European nations typically have omnipresent state bureaucracies and multiple-party political systems and are therefore less exposed to popular pressure and so less susceptible to punitive populism. He states that – thanks to their educa-

tional system – (especially northern⁸) European countries do not produce underclass populations excluded from the social and economic mainstream the way Anglo-Saxon nations do. However, the discourse analyses showed that populist views on ASB (and crime) have a wide appeal in the Netherlands as well and that social exclusion sometimes is a day-to-day reality (although on a different scale than in the UK).

So to conclude, several elements of the Culture of Control can be recognised in the Dutch discourses as well, but all in all they appear even more ambiguous. Media attention plays a bigger role in Dutch ASB (crime) politics than Garland described for the UK; high ASB (crime) rates are less of a social fact; politicians not only ignore but almost despise criminological research, and they claim to act on behalf of a public outcry that in reality is not that loud. Adaptive and non-adaptive policies on paper coexist but in daily practice the more pragmatic *soft* approach is often preferred. Minorities are more frequently connected to ASB in Dutch discourses than in the UK. This consequently leads to processes of isolation, in some cases resulting in a looping effect, with youngsters tending to behave in accordance with the media image. This behaviour could further deteriorate if control (new/adapted laws and measures) is tightened further.

The following paragraph compares more recent developments in the two countries and will expose more differences between these two.

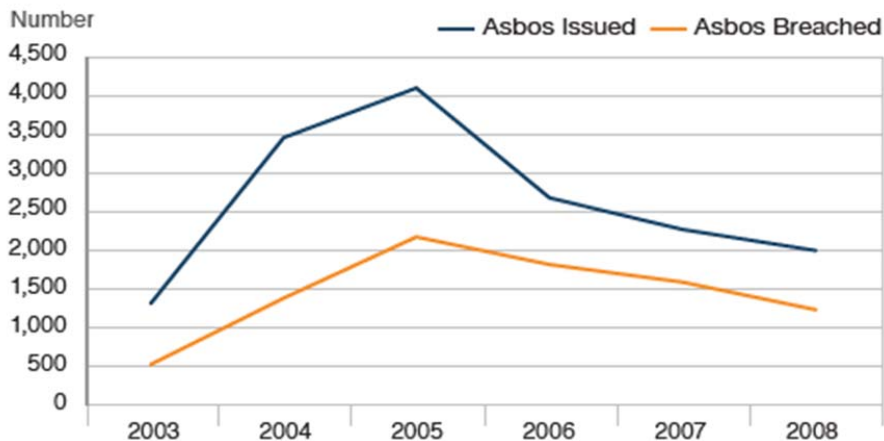
3 RECENT DEVELOPMENTS AND DISCUSSION

The articles, as presented in the different chapters, have been published in a two years period, from 2008 till 2010. In these years, ASB turned out to be a hot political, media and public topic. The debate on the issues concerned did not suddenly stop in mid-June 2010. Therefore it is relevant to give a short overview of the more recent developments including some points of discussion.

I) As became clear in Chapter 2, the ASBO promised much but, in the eyes of the new British conservative government (installed in 2010), has delivered little. With the ASBO, right at the heart of the New Labour project, the idea was that one could stop young thugs in their tracks before they became career criminals. After the introduction in 1998, the ASBO developed into a mixture of measures aimed at nipping community disorder in the bud. People clearly liked the theory, but the problem turned out to be in the actual practice (see Chapter 3). British Ministry of Justice figures show 55% of the almost 17,000 ASBOs issued between June 2000 and December 2008 were breached, leading to an immediate custodial sentence in more than half of the cases.

8 In this context he refers directly to Scandinavia and Germany, and indirectly to the Netherlands (2004).

Asbos issued and breached in England and Wales 2003-2008



Source: Home Office

(Home Office, 2010 (as seen at BBC news, July 28, 2010))

In reaction to these figures, the home secretary Theresa May, has suggested an end to the use of ASBOs in England and Wales (BBC news, 28 July 2010). May said punishments should be 'rehabilitative and restorative', rather than 'criminalising'. However Labour, which devised ASBOs, said they had made a 'huge contribution' to cutting crime. Shadow home secretary Alan Johnson (Labour) said there was no doubt that the introduction of the ASBO has made a huge contribution towards tackling crime and ASB. Thus tackling this behaviour is still at the top of the UK's political agenda despite the absence of empirical data on the nature and extent of the problem and the lack of correct evaluation of the measures introduced (Parr, 2009).

In the Netherlands, the discussion on ASB is still an actuality as well, although the line of approach is completely different. Here, the repressive measures are not abandoned. On the contrary, in November 2010 the new rightwing government (installed in September 2010) introduced a new bill in parliament extending the period of restraining orders imposed by a judge for ASB from three months to two years (Kamerstukken, 2008).⁹

Therefore, although in both countries new conservative governments were installed, their rationales are diverse in character. While the British Conservative party focused on returning to policies of a rehabilitative and restorative nature because of the criminalisation effect of the new repressive measures, the Dutch cabinet still believed in a more repressive approach to tackle ASB. In reactions in the media¹⁰ (8 November 2010) and in a debate in parliament

⁹ Mayor already has the power to impose this (law to combat severe ASB).

¹⁰ <http://nos.nl/artikel/196770-wijkverbod-voor-lastige-jongeren.html>

(15 December 2010) the Minister of Justice and Security Ivo Opstelten defended the new law with arguments like 'the government must be capable of addressing ASB' and 'the people say enough is enough'. These are in line with earlier identified rationales like legitimacy of the government and enhancing the equality of life.

An explanation for the recent divergent developments- between the Dutch and British crime politics- could simply be that the Culture of Control in the UK is changing because it started earlier. In crime policies, such as in other societal developments, several successive and sometimes ambiguous trends can be identified. Within criminology, long-term alternating conjunctures from repressive to more lenient approaches to crime have been observed, also referred to as control waves (e.g. Prior & Spalek, 2008; van Swaaningen, 2005; Garland, 2008). Perhaps, in the UK, the time for a repressive mood in politics is altering. In addition, from a Conservative perspective, these policies needed a new approach, because these measures were symbols of former Labour politics.

In general, a period of lesser control develops in juxtaposition to the preceding decade of strong crime policies. Then a tough approach becomes less popular and the UK being the trendsetter for Dutch politics (as became clear in Chapter 4) is an early adapter (or instigator) of this new trend.

Various scholars identified a tendency among Dutch politicians to swiftly pick up new trends from abroad (Devroe, 2008; van Swaaningen, 2008; Pakes, 2005). If this is indeed true, than softer crime policies on a national level can be expected to be on the rise soon in the Netherlands as well. On a local level these developments can already be identified. For example, the local 5 years-action plan for ASB in Rotterdam presented in 2010, sticks to combination of restrictive and preventive policies but in addition adds softer approaches (Gemeente Rotterdam, 2010). For instance, the introduction of a talk group where elderly citizens and youngsters can discuss local issues. The aim of this monthly get-together is to enhance mutual understanding and create more tolerance on the street.

Notwithstanding these new local social policies, the original ideas on prevention and social policies to prevent crime and ASB were not dead in the first place, as has been discussed in the former paragraph. Only these policies were not emphasised by national politicians, probably out of fear of being characterised as soft.

II) The mediatisation of politics as identified in the former paragraph has developed further. For example, as Uitermark and Gielen (2010) in their study on the role of the Islam in the local politics also argued, conflicts over the actions of young migrants in Western societies have become increasingly mediatised.

The here presented analysis of the media discourse confirmed this mediatising of the debate on ASB by young Moroccans. Events concerning

ethnic youth are brought to the public's attention by means of alarming headlines, as the ones quoted earlier.

More and more, the media have become a prime battle ground for political struggles concerning ASB. Politicians claim they have to react to confirm the capacity of the government to control crime. Garland states that these *non-adaptive* measures can be best described as 'the government *acting out*', with for example, symbolic police actions to impress. The very fact of acting is enough. The capacity of the government to control crime, however doubtful, is constantly emphasised. Crawford (2009) also refers to this symbolic role of ASB legislation. He states that in the UK, to keep the faith of the public in the democratic process, action against ASB was necessary and extensively discussed in the media.

Although these policies are not surprising, -did a government ever admit that they could not control crime? -, the foundation of them changed. Symbolic policies, in the sense of acting out because the public demands it, are not new but in the creation of them the media play a bigger role than Garland assumed. The discourse analyses demonstrated the influence of the way a topic is constructed in the media and its effect on policymakers and politicians.

As was also argued in Chapter 1, the described discourses overlap, because players such as politicians, journalists and city residents constantly react to each other's statements and influence one another. How these lines of influence actual function was not an object of this study and the lines are often empirically difficult to disentangle, but the analyses demonstrated their intertwinement.

At first sight, politicians emerge as the primary actors in the construction process of ASB on the street, legitimising their action by referring to the assumed public outcry as presented in the media. However, these media representations do not one-on-one reflect local realities and public views. The results show that consequently, the increasing attention for ASB in the media transformed the logic of politics. By giving ASB much attention (far more than a decade ago, although the statistics do not justify this change) the media 'stimulated' politicians in taking harsher measures than probably necessary and by that potentially escalating the conflict. This process makes politicians followers rather than movers of change.

In 2004, (3 years after his book *The Culture of Control*) Garland described the solutions that materialize out of such a complex construction process as *rational-within-views*, meaning that every solution is based upon a perception of the problem it addresses. Political actors patch together workable solutions to problems they encounter, coping with their workload, pleasing their voters, in other words; doing the 'best' job concerning the circumstances. This can be identified within the Dutch discourses as well.

4 CONCLUSIONS

4.1 General research question

The study showed, in short, how policies addressing ASB on the street and its perpetrators (troublesome youth) are constructed and addressed within the different discourses and in different settings. It answered the question which rationales can be identified within the Dutch discourses and how these rationales can be assessed within the context of a Culture of Control.

The analyses showed that both British and Dutch governmental rationales focus on the need for tough action and new measures, in response to a media outcry and a purported public outcry. Young people are potentially criminalised on account of the anxieties generated among the public by groups congregating in public places. However, the local Dutch public discourse presented a more nuanced and mixed view on this shifting policy landscape than politicians would like us to believe.

To sum up, the concept of unprecedented proportions of ASB, as is constructed in the media and political discourse, is used to preserve the idea 'of the capacity of the government to control crime'. This is completely in line with Garland's ideas of the Culture of Control and his views on adaptive and denial crime policies. However, the discourse analyses also demonstrated that the Dutch (crime) policy culture is even more complex than Garland assumed. Media exposure plays a bigger part in Dutch ASB (crime) politics; ASB (crime) rates are less of a social fact; politicians prefer own experience above scientific results and claim to act on behalf of a public outcry that in reality is not that loud. Tougher measures are introduced but in daily practice the more pragmatic soft approach is often favoured. Minorities are portrayed more negatively in Dutch discourses than Garland expected to see.

The empirical research also identified undercurrents in the Culture of Control. These currents include a public that does not dismiss social policies for addressing ASB, local politicians and civil servants travelling the same *softer* path, and British politicians turning away from repressive policies.

In conclusion, the construction process of ASB policies is more complex than one might expect within the context of a Culture of Control. The analyses identified a multifaceted field of actions, reactions, opinions and debates and demonstrated a very complicated process. As the four discourses showed, the Dutch actors have to deal with, for instance: 1) underlying conflicts (competing (political) interests), 2) chronic uncertainty (about effects of measures) 3) daily practice (old measures still work), 4) media attention (focusing on the ethnic youngsters) 5) current taboos (on issues like soft policies towards crime).

These *not-so rational* rationales do not easily surface with quantitative research approaches. Therefore, these results demonstrate the added value of the chosen qualitative methods. A triangulation of methods like content

analyses, interviews, observations and comparative research did justice to the complexities that characterise this construction process.

In conclusion, although the Culture of Control is certainly not gone, it is starting to mix with old and new policies, measures and actions. Furthermore, this thesis demonstrated that the high level of 'social acceptance of high (sub) crime rates' as a basic assumption for the Culture of Control, is questionable. Judging by the results, high (sub) crime rates have not become a social fact in all discourses. Not so much the (purported) high rates of ASB changed how people think or feel, but more the way the media and politicians have responded to ASB changed the public's views. Creating a looping effect; basic assumptions such as a 'public cry for new measures' were no longer questioned and eventually did result in the implementation of real new measures and laws.

Returning to the starting point of the thesis – local politician Verburg's claim that 'the ASBO helps in the fight against young people terrorising the street' – can be refuted in various ways. First, the problem of ASB is less a pressing issue than Verburg assumed. Secondly, although annoyed by ASB the public is not terrorised in the actual meaning of the word and thirdly, the effectiveness of British ASBO is questionable. These results demonstrate that when studying (sub) crime policies one should be aware of the underlying suppositions.

Dutch politicians should remember the well-known saying that the grass is not always greener on the other side of the fence. While working in the garden, one should not underestimate the quality of one's own lawn. The traditional Dutch situation with a combination of soft and hard policies tackling ASB is not such a bad approach after all. As Voltaire described in *Candide* (1759), cultivating our own garden (*il faut cultiver notre jardin*) is, although a modest goal in life, not a less rewarding and effective one.

In conclusion, this thesis focused on local developments, drew international parallels and consequently identified divergent undercurrents. These and similar empirical comparative studies are essential for recognising nuances in general trends.

4.2 Future research

The *critical* aim of this thesis was to prompt readers to think differently about the Culture of Control and to identify the range of choices and actions actors in the different discourses have and follow. The *analytical* aim was (in line with Garland, 2004) to enable readers to see beyond policymakers and politicians to the social and cultural conditions that structure political decisions. The *practical* aim was to examine the assumptions on ASB and to present a balanced picture of this alleged urgent problem.

I wanted to show that a historical approach in combination with criminological theory and methods can yield more insight into the rules of thought and action that shape crime policies. As an historian one should be a dispassionate observer, meaning an observer with a passion for the subject but at an appropriate distance to enable one to identify the complexities. As a criminologist one should be a crime myth buster, meaning a critical observer of the rationales of crime policies, making more knowledge available for politicians, policymakers, public and media alike. A combination of these two disciplines could lead to more analyses of crime policy constructions. Relatively newly identified crime problems like some financial crimes, crimes against the environment and crimes against humanity could benefit from discourse analyses of their construction processes.

Another path to explore in a future study is how the lines of influence between the discourses actually function. The extent of mutual influence was not a subject of this thesis. The intertwinement of the discourses was obviously discussed but how exactly these lines work needs more exploration. However, how these lines of influence actual function is empirically difficult to analyse. A suitable method to examine this further would be to analyse several case studies. For example, one could study in detail how a number of events concerning ASB evolved over the last decade. Which event triggered a media hype around the problems of ASB? In what way did the actors in the discourses react to each other? The concept of a moral panic or in some cases the concept of a Culture war could be useful analytical tools (Garland, 2008). How the media reconstruct these problems strongly determines what people consider to be an appropriate reaction to the problem.

The present thesis did not give full attention to situations where the problems of ASB developed differently. For example, one could compare the Dutch situation to a country where at first sight there appears to be no problem with ASB at all, for instance Singapore. Here, harsh crime policies, (half) censored media coverage and a tighter social control create a totally different research field.

Another path that could be explored is to compare the British and Dutch situation with countries where the problem of ASB actually got out of hand. For example, in France the problems of ASB and ethnic minorities escalated in 2005. The coverage of the events by French journalists has been criticised. One of the mayor complaints was the overuse of sensationalism by journalists and the simplification of the causes of ASB (Begag, 2007). Research questions could be: How did the role of the media develop? How did politicians react and what are the similarities and differences with the Dutch discourses?

The answers to these questions will provide valuable insights for future ASB policy makers and will further elucidate the sometimes opaque ways in which social construction processes and general crime trends develop.

Samenvatting

DE OORLOG TEGEN ANTISOCIAAL GEDRAG.

De beweegredenen voor beleid tegen antisociaal gedrag op straat. Britse en Nederlandse discourses vergeleken.

Overlast door antisociaal gedrag op straat (ASB)¹ wordt de laatste twee decennia door de Nederlandse samenleving als een steeds omvangrijker en ingrijpender probleem ervaren. Natuurlijk is ASB geen nieuw fenomeen. Twintig jaar geleden kwam ASB net zo goed voor. Maar in die tijd was *gedogen* de heersende norm. Tegenwoordig lijkt *bestrijding* het toverwoord. Bovendien wordt in Nederland ASB nu vaak gekoppeld aan de problemen met jonge (Marokkaanse) immigranten in probleemwijken.

Uit het politieke debat blijkt regelmatig dat de bestaande regelgeving en de handhavingpraktijk als niet toereikend worden ervaren. Mede daarom worden geregeld repressievere alternatieven ingevoerd, zoals de nieuwe *Wet maatregelen bestrijding voetbalvandalisme en ernstige overlast*. Bovendien spreken Nederlandse gemeentelijke en landelijke politici over het succes van strenge Engelse maatregelen ten aanzien van ASB zoals de *anti-social behaviour order* (ASBO).

Deze constatering passen in het beeld dat wordt geschetst door invloedrijke theoretici (o.a. Garland, 2001; Young, 2007; Simon, 2007) over strenger criminaliteitsbeleid in Westerse landen. Hoewel er verschillen zijn in de focus op en benamingen van de maatschappelijke ontwikkelingen, is het overheersende idee dat er steeds repressiever wordt opgetreden tegen criminaliteit en ASB omdat de bevolking erom vraagt.

In dit proefschrift wordt deze geconstateerde macro-ontwikkeling op een meer lokaal niveau onderzocht. Daarbij staat de Culture of Control-theorie van Garland (2001) centraal. Garland (2004) suggereerde al dat de lange termijn patronen die hij beschreef, aandacht verdienen op plaatselijk niveau. De onderhavige studie naar ASB is een voorbeeld van dergelijk onderzoek. Als ASB al als een groeiend maatschappelijk veiligheidsprobleem wordt benaderd,

¹ Hoewel ASB geen Nederlandse afkorting is, is vanwege de consistentie binnen het proefschrift kozen die term toch voor de rest van deze Nederlandse samenvatting toe te passen.

wat zegt dat dan over het algemene klimaat van het Nederlandse criminaliteitsbeleid?

Het doel van dit proefschrift is om de vraag te beantwoorden *welke beweegredenen om antisociaal gedrag op straat (ASB) aan te pakken kunnen worden vastgesteld binnen de Nederlandse discoursen en hoe deze kunnen worden beoordeeld binnen de context van de Culture of Control*.

Een discoursanalyse is kort gezegd een methode die de discussies in de samenleving (of een deel ervan) rond een bepaald onderwerp onderzoekt (Althoff, 2002). De term discoursanalyse staat geregeld ter discussie en is inmiddels een containerbegrip geworden waaronder verschillende vormen van kwantitatieve en kwalitatieve onderzoeksmethoden en technieken vallen. Hier is gekozen voor een kwalitatieve analyse van heersende ideeën en concepten in een relatief homogene groep binnen de maatschappij.

Discoursen en methoden

Deze studie heeft een sociaal constructivistisch perspectief. Met andere woorden ASB wordt benaderd als een concept dat vorm en betekenis krijgt door de sociale en politieke context. Een dergelijk wetenschappelijk uitgangspunt biedt de mogelijkheid de continu veranderde ideeën over het probleem van ASB te onderzoeken. Voor deze vorm van onderzoek is het belangrijk de verschillende discoursen waarbinnen het ASB beleid vorm krijgt, te bestuderen. Hier is gekozen voor analyses van de vier meest relevante;

- politiek discours (de broedplaats van beleid²). De beweegredenen van het beleid ten aanzien van ASB worden onderzocht.
- media discours (de kiem van het beleid). Media kunnen het politieke debat over ASB aanjagen en/of interpreteren.
- publiek discours (wortels van het beleid). De ideeën die leven in de maatschappij over ASB worden vaak gebruikt als rechtvaardiging voor beleid.
- juridisch discours (het netto resultaat van het beleidsproces). Hierbij worden beleid en andere regelgeving om ASB aan te pakken besproken.

Natuurlijk is deze verdeling slechts een heuristische methode en zijn de groepen en discoursen in de realiteit meer divers. Om dit probleem van (mogelijk) onderbelichte diversiteit te ondervangen is voor een milde vorm van triangulatie gekozen: naast inhoudsanalyses (als onderdeel van een discoursanalyse) zijn andere onderzoeksmethoden zoals surveys en semi-gestructureerde interviews gebruikt. Bovendien is de Nederlandse situatie rond ASB vergeleken met de Engelse. Redenen voor dit internationaal vergelijkende invalshoek zijn onder meer dat Nederlandse politici verwijzen naar de Engelse situatie en dat Garland ook de Engelse situatie beschrijft.

2 Beleid is hier een overkoepelend begrip (m.a.w criminaliteitsbeleid en andere regelgeving).

Juridisch discours

In de nieuwe wet *maatregelen bestrijding voetbalvandalisme en ernstige overlast* (Gemw art 172a) krijgen de burgemeester en de Officier van Justitie extra bevoegdheden om preventief in te grijpen bij ondermeer aanhoudende ernstige overlast. Burgemeesters hebben de bevoegdheid een gebiedsverbod op te leggen van maximaal drie maanden, met de mogelijkheid van verlenging tot een jaar als iemand herhaaldelijk groepsgewijs de openbare orde heeft verstoord. Overlastplegers is het dan niet toegestaan in een bepaalde buurt of straat komen. Een overtreding hiervan kan strafrechtelijk worden vervolgd (op basis van het al bestaande art 184 Sr).

Deze wet komt in de buurt van de Engelse ASBO (anti-social behaviour order). Deze maatregel werd in Engeland in 1998 door Labour ingevoerd. Het betreft een civielrechtelijke procedure waarbij de rechter beperkingen aan het gedrag in een bevel kan vastleggen, bijvoorbeeld in de vorm van gebiedsverboden, met als doel herhaling van ASB te voorkomen. Het vervolgens overtreden van de ASBO is een strafbaar feit en kan leiden tot maximaal vijf jaar gevangenisstraf voor meerderjarigen en twee jaar voor minderjarigen.

Door de discoursanalyse wordt duidelijk dat tussen de Britse en Nederlandse maatregelen enkele opvallende overeenkomsten zijn, zoals een langdurig gebiedsverbod voor relatief lichte vergrijpen, gekoppeld aan een mogelijke gevangenisstraf bij overtredingen van het gebod. Er vallen echter ook essentiële verschillen te constateren.

In eerste instantie was de Engelse ASBO niet specifiek gericht op jongeren, maar eerder op asociale huurders. Pas in de loop van de tijd werd het merendeel van de ASBO's opgelegd aan jongeren (Matthews & Easton, 2007). De Nederlandse wet is geformuleerd om jongerenoverlast aan te pakken, maar gaat niet zo ver om jonge kinderen (vanaf tien jaar) ook bevelen op te leggen wat in Engeland wel kan. Een tweede verschil is dat als een betrokkene een ASBO heeft gekregen, dit door affiches bekend wordt gemaakt in de buurt. In Nederland gebeurt dat niet.

Uit het onderzoek blijkt verder dat enerzijds Nederlandse gemeenten een divers palet aan maatregelen kunnen aanspreken in hun strijd tegen ASB en dat aan nieuwe bevoegdheden maar beperkte behoefte is. Anderzijds tonen studies en ervaringen in Engeland aan dat de invoering van de ASBO niet aan de verwachtingen heeft voldaan. Zo kan een afname van ASB (en indirect het verminderen van criminaliteit) niet worden aangetoond.

Verder is er veel kritiek op de juridische constructie van de ASBO, vooral de vage omschrijving van overlast die veel ruimte laat voor eigen uitleg en toepassing, wordt bekritiseerd. Critici twisten ook over de disproportionaliteit van ASBO's die aan sociaal zwakkeren en jongeren worden opgelegd, waarbij eigenlijk vooraf al vast staat dat ze zich er niet aan kunnen houden (Hudson, 2003; Burney, 2009). Dat zou onbedoelde effecten in de hand werken zoals onnodige criminalisering en daarmee isolering van probleemjongeren.

Het politieke enthousiasme in Engeland voor de ASBO zelf lijkt dan ook af te nemen. Vanaf 2006 wordt de ASBO aanzienlijk minder opgelegd en krijgt sociaal beleid meer prioriteit (Matthews & Easton, 2007).

Politiek discours

Uit de analyse van het politiek discours (aan de hand van o.a. interviews met politici) komt als belangrijkste beweegreden om ASB aan te pakken naar voren; de gevoelde noodzaak te reageren op de angsten van stemmers.

De analyse van het Engelse en het Nederlandse politiek discours maakt vijf dezelfde beweegredenen voor een hardere aanpak van ASB zichtbaar;

- Er zijn maatregelen nodig want het huidige arsenaal is niet voldoende.
- ASB neemt toe. Het probleem wordt dagelijks erger.
- ASB moet worden aangepakt want het bedreigt de kwaliteit van leven van inwoners van grote steden.
- De *Broken-window* theorie. Als ASB niet wordt aangepakt dan leidt het tot ernstige vormen van criminaliteit.
- Door ASB aan te pakken kan het economisch en sociale verval van wijken worden gekeerd.

De analyse toont ook opvallende verschillen tussen de twee landen aan. In Nederland koppelen alle geïnterviewde politici ASB aan problemen met Marokkaanse jongeren (van de tweede generatie). In Engeland speelt het migratiedebat nauwelijks een rol bij de aanpak van ASB. Een verklaring kan zijn dat Nederlandse en Engelse achterstandswijken moeilijk met elkaar te vergelijken zijn. In de van oudsher Engelse klassenmaatschappij is de sociale achterstand van bepaalde buurten groter. Bovendien is de opbouw van de problemen anders. Er is een grotere groep blanken met een sociale achterstand. Dit is mede ontstaan door het de-industrialiseren van bepaalde haven- en mijnbouwsteden en de daarbij komende massale werkloosheid.

Verder blijkt uit de analyse dat vooral Nederlandse politici de mogelijke ondergraving van de legitimiteit van de overheid noemen als belangrijke beweegreden om harder in te grijpen bij ASB. Om geloofwaardig te blijven als overheid zijn volgens hen meer repressieve maatregelen noodzakelijk. Mogelijk speelt in het geconstateerde verschil met Engeland de zogenaamde Pim-Fortuyn opstand en de nasleep daarvan mee.

Uit de discoursanalyse komt ook naar voren dat in Nederland het bestaan van sociale beleid ten aanzien van ASB in de praktijk nog steeds wordt gewaardeerd en gehanteerd. En een ander opvallend resultaat was dat zowel Engelse als Nederlandse politici weinig fiducia hebben in wetenschappelijk criminologisch onderzoek. Hun persoonlijke ervaringen en intuïtie spelen een belangrijke rol bij hun beslissingen over het te vormen beleid.

Media discours

In de Nederlandse schrijvende pers wordt straatoverlast vaak gekoppeld aan Marokkaanse jongeren. Uit het vergelijkende onderzoek (vanaf ruwweg 1990) met het Engelse media discours blijkt dat daar de media de overlastproblematiek niet stelselmatig verbinden met migranten, maar eerder met autochtone jeugd.

Wat verder bij de vergelijking opvalt is dat zowel in Engeland als in Nederland ASB door de media als een groot en groeiend probleem wordt aangemerkt, terwijl de daadwerkelijk ervaren ASB daalt en of gelijk blijft. Bovendien zijn in beide landen minderheden in het justitiële systeem oververtegenwoordigd (duidelijke cijfers over een vergelijkbare situatie bij ASB ontbreken).

Het blijft opvallend dat de benadering ten aanzien van minderheden in de schrijvende pers in Engeland zo sterk afwijkt van die in Nederland. De verklaring van enkele geïnterviewde lokale Nederlandse politici, beleidsmakers en onderzoekers is dat het beeld rond ASB dat is ontstaan in het media discours niet klopt. Marokkaanse jongeren worden onevenredig vaak in verband gebracht met ASB.

De Engelse respondenten geven als verklaring aan dat Engelse instituties en media bang zijn om van racisme te worden beschuldigd. Redenen hiervoor zouden zijn: eerder geconstateerd institutioneel racisme bij de Londense politie en de Britse koloniale geschiedenis. Door een collectief schuldgevoel over de achterstand van minderheden zouden overlastveroorzakers uit deze groep eerder als slachtoffers behandeld worden dan als een soort 'folk devils' zoals volgens sommige respondenten in Nederland gebeurt. Bovendien zou er weinig belangstelling in de politiek en media voor zijn omdat de ASBO-maatregel op zichzelf al omstreden genoeg is en daar de meeste aandacht naar uit gaat.

Dit geconstateerde schuldgevoel is niet nieuw maar wel boeiend gezien het vergelijkbare Nederlandse koloniale verleden (hoewel recenter andere migratiestromen dan in Engeland zijn ontstaan). Daarnaast is relevant dat Engelse steden sterker zijn gesegregeerd en dat de economisch en sociale verschillen tussen de buurten groter zijn dan in Nederland. Wellicht zijn Engelse media zich bewust van de mogelijke explosiviteit in de steden en hanteren zij een vorm van zelfcensuur. Gezien het, over het algemeen genomen nogal agressieve karakter van de Engelse tabloids lijkt deze vorm van terughoudendheid niet waarschijnlijk.

Publiek discours

De maatregelen om ASB harder aan te pakken worden vaak gelegitimeerd door te verwijzen naar de publieke angst voor ASB en de groei van het probleem. Maar uit de analyse van het publiek discours komt naar voren dat het publieke debat genuanceerder en meer gemengd is dan politici doen voorkomen.

Het onderzoek is uitgevoerd in elf probleemwijken in Amsterdam, Utrecht, Rotterdam en Den Haag. Voor de locaties is gekozen omdat deze wijken in het media en politieke debat een belangrijke rol spelen. Deze gebieden kunnen worden omschreven als zogenaamde 'extreme gevallen' waar een hoge concentratie van ASB verwacht kan worden.

Maar uit het onderzoek blijkt dat slechts in drie van de elf wijken ASB het publieke debat beheerst. Het populaire idee van wijken die te vergelijken met zijn met getto's waar groepen van jonge immigranten buurtbewoners terroriseren wordt door het onderzoek niet bevestigd. Dit betekent niet dat er geen problemen zijn maar de omvang van ASB en de angst hiervoor onder de respondenten zijn niet in lijn met de beweringen van politici.

De analyse van de reacties van respondenten toont aan dat harde en repressieve maatregelen minder worden gesteund dan vooraf werd verwacht. Hoewel er bij winkeleigenaren wel enige sympathie is voor op de ASBO-geïnspireerde maatregelen, vinden veel buurtbewoners dat er al voldoende wordt gedaan om ASB aan te pakken en constateren ze eerder verbeteringen in hun wijk dan dat deze door ASB achteruit gaat.

Deze analyse belicht dus een opvallende kloof tussen wat buurtbewoners zelf ervaren en wat politici en media daarover berichten. Enkele respondenten suggereren dan ook dat de problemen in hun buurt worden gebruikt voor politiek gewin.

Bevindingen en conclusies binnen de context van een Culture of Control

Garland constateert in *The Culture of Control* verschillende maatschappelijke ontwikkelingen (zie hoofdstuk 1). Zo omschrijft hij veranderingen in de emotionele toon van het discours rond criminaliteit en benoemt hij de bescherming van het publiek als het belangrijkste thema voor het te voeren beleid. Volgens hem is het beleidsproces van criminaliteit sterk gepolitiseerd en populistisch.

In reactie op deze veranderingen reageren beleidsmakers volgens hem op een enigszins ambivalente manier. Zo constateert hij zogenaamde *aanpassingsstrategieën*, waarbij bijvoorbeeld de grens van wat criminaliteit is, wordt teruggeschroefd. Maar hij benoemt ook *strategieën van ontkenning*; waarbij het beschreven ernstig dilemma van hoge criminaliteitscijfers wordt ontkend. Bovendien is het beleid gericht op het (her)installeren van de mythe van een sterke staat door als regering streng op te treden.

Wat opvalt in Garland's theorie is dat de actoren in het beleidsproces geen gelijkwaardige aandacht krijgen. Vooral de rol van media lijkt wat onderbelicht. Ook de aanname dat hoge criminaliteitscijfers een sociaal feit zijn geworden, is empirisch niet zo grondig onderbouwd. Bovendien besteedt Garland niet veel aandacht aan vergelijkingen tussen de Angelsaksische en Europese situatie, waardoor bijvoorbeeld de positie van jonge immigranten onderbelicht is.

In deze studie is aanvullend onderzoek gedaan naar de benoemde tekortkomingen in de theorie van Garland. Zo blijkt uit de discoursanalyses dat zowel de Engelse als de Nederlandse politici een harde aanpak van ASB legitimeren aan de hand van een vermeend dringend publiek en media verzoek hiertoe. Deze uitkomst komt in grote lijnen wel overeen met Garland's ideeën over de Culture of Control en zijn visie op de aanpassings- en ontkenningsstrategieën van de overheid.

De discoursanalyses demonstreren echter *ook* dat het Nederlandse beleidsproces (met betrekking tot ASB) zelfs nog complexer is dan Garland al aannam. Zo speelt de media-aandacht een grotere rol bij de tot standkoming van ASB beleid dan hij verwachtte; de aanname dat hoge criminaliteits (en ASB-) cijfers een sociaal feit zijn geworden werd door het empirisch materiaal niet gesteund; bovendien vertrouwen politici nog meer op hun eigen ervaringen dan op wetenschappelijke resultaten en zeggen ze te handelen namens een dringend verzoek van de bevolking, dat in feite niet zo urgent is. Verder worden strengere maatregelen ingevoerd maar in de praktijk wordt de pragmatische zachtere aanpak vaak nog geprefereerd. Bovendien worden minderheden negatiever neergezet in het Nederlandse politiek en media discours dan Garland had verwacht.

Het empirisch onderzoek toonde tevens verschillende *onderstromen* binnen de Culture of Control aan. Zo blijken de meeste bewoners in probleemwijken naast de repressieve ook de sociale maatregelen om ASB aan te pakken te steunen en zijn er ook politici en ambtenaren in die wijken die hetzelfde 'softere' pad (willen) bewandelen. Bovendien zijn er steeds meer Engelse politici die een repressief beleid ten aanzien van ASB verwerpen.

Concluderend: de totstandkoming van het ASB beleid is complexer dan binnen de context van een Culture of Control verwacht kon worden. De vier discoursanalyses toonden aan dat Nederlandse actoren/ partijen te maken hebben met: 1) onderliggende (concurrerende) politieke belangen, 2) chronische onzekerheid over de consequenties van voorgesteld en ingevoerd beleid, 3) de dagelijkse praktijk van de nog actieve en effectieve oude maatregelen, 4) media-aandacht die zich richt op allochtone jongeren, 5) huidige taboes met betrekking tot kwesties zoals 'softe' maatregelen tegen criminaliteit.

Dergelijke minder rationele beweegredenen komen met kwantitatieve onderzoeksmethoden vaak niet boven water. De complexe resultaten uit de discoursanalyses bevestigen dus de toegevoegde waarde van de gekozen kwalitatieve methodes. Hoewel uit de analyses blijkt dat de Culture of Control zeker nog niet is verdwenen, begint deze zich dus te vermengen met oude en nieuwe beleidslijnen, maatregelen en handelingen.

Deze studie toont verder aan dat een hoge mate van sociale acceptatie van hoge criminaliteitscijfers als basis voor de Culture of Control betwistbaar is. Uit de discoursanalyses blijkt dat niet in elk debat de hoge criminaliteitscijfers een sociaal feit zijn geworden. Zo hebben bewoners van probleemwijken ASB niet massaal als feit aanvaard en roepen ze niet en masse om meer repressieve

maatregelen. Het is eerder de manier waarop de media berichten over ASB waardoor lijkt het alsof ASB een sociaal feit is geworden. Met een zogenaamd *looping effect* tot gevolg; basisaannames zoals een 'luide publieke roep om nieuwe maatregelen' worden niet langer betwist maar zorgen uiteindelijk wel voor nieuw beleid.

Deze resultaten geven aan dat onderzoek naar het ontstaan van criminaliteitsbeleid rekening moeten houden met de onderliggende beweegredenen in de verschillende discoursen. Immers het probleem rond ASB blijkt minder dringend dan menig Nederlands politicus aanneemt, en hoewel Nederlanders zich storen aan ASB voelen ze zich niet geterroriseerd in de letterlijke zin van het woord. Bovendien toonde dit onderzoek aan dat de effectiviteit van de Engelse ASBO op zijn minst discutabel is.

Kortom, hoewel het gras bij de buurman altijd groener lijkt moet de kwaliteit van het eigen gazon niet worden onderschat. De van oorsprong typische Nederlands combinatie van sociaal beleid en repressief reageren wanneer dit echt noodzakelijk is, is zo gek nog niet. Zoals Voltaire in *Candide* (1759) beschreef; het onderhouden van de eigen tuin (*il faut cultiver notre jardin*) is hoewel een bescheiden levensdoel niettemin lonend.

Toekomstig onderzoek

Dit proefschrift richt zich op lokale ontwikkelingen, trekt internationale vergelijkingen en stelt vervolgens uiteenlopende *onderstromen* vast. Deze en soortgelijke empirische comparatieve studies zijn ook in de toekomst van essentieel belang voor het vaststellen van nuances in maatschappelijke ontwikkelingen op macroniveau.

Als criminologe en historica wil ik laten zien hoe een historische aanpak in combinatie met criminologische theorieën en methodes meer inzicht kan geven in de denkprocessen en de handelingen die het criminaliteitsbeleid bepalen. Een historicus moet een onbevooroordeelde waarnemer zijn, dat wil zeggen een waarnemer met een passie voor het onderwerp maar met een gepaste afstand om te kunnen reflecteren. Criminologen moeten criminaliteitsmythes ontkrachten door de beweegredenen achter criminaliteitsbeleid kritisch te analyseren. Een combinatie van deze twee disciplines kan tot interessante analyses van de tot standkoning van criminaliteitsbeleid leiden.

Het *kritische* doel van dit proefschrift is lezers een andere blik te bieden op de Culture of Control en om de verschillende keuzes en handelingen te benoemen die actoren in de vier discoursen hebben en (kunnen) ondernemen.

Het *praktische* doel is de aannames over ASB te onderzoeken en een genuanceerd beeld van dit vermeend urgent probleem te presenteren.

Het *analytische* doel tenslotte is (overeenkomstig Garland, 2004) de beweegredenen van beleidsmakers en politici bloot te leggen en de sociale en culturele omstandigheden die aan politieke beslissingen ten grondslag liggen te benoemen. In de hoop in de toekomst onnodig, ineffectief of zelfs contraproductief beleid te voorkomen.

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Appendices

Appendix I

List of abbreviations

ASB (<i>in this thesis</i>)	Antisocial behaviour by youngsters on the street
ABC	Acceptable Behaviour Contract
ASBO	Anti-Social Behaviour Order
CDRP	Crime and Disorders Reduction Partnership
CRASBO	Crime ASBO
ESRC	Economic & Social Research Council
NAO	National Audit Office
NCSN	National Community Safety Network
SAOA	Stichting Aanpak Overlast Amsterdam

Appendix II

New British ASB-related enforcement powers and tools

Power	Legislative basis	Type ¹
Acceptable Behaviour Contract (ABC)	none	
Anti-Social Behaviour Order (ASBO)	Crime & Disorder Act 1998	(Hybrid) court imposes prohibitions which become an offence if breached
Individual Support Order	Criminal Justice Act 2003	Support element attached to ASBO for juveniles
Drug Intervention Order	Drug Act 2005	Support element attached to ASBO for adults
Housing injunction	Housing Act	Civil injunction
Parenting Contract	ASB Act 2003	<i>Voluntary</i> agreement
Parenting Order	Crime & Disorder Act 1998	Court imposed requirement to attend counseling or parenting sessions
Penalty Notice for Disorder	Criminal Justice & Police Act 2001	Administrative fine with summary powers
Demoted Tenancy	ASB-Act 2003	Reduced tenancy rights; rendering eviction easier
Family Intervention Tenancy	Housing & Regeneration Act 2008	Insecure tenancy with support agreement for family intervention project accommodation
Housing Benefit Sanction	Welfare reform Act 2007	Reduction to housing benefit linked to grounds of antisocial behaviour
Child Curfew Order	Crime & disorder Act 1998	Power to impose curfew no direct penalty
Dispersal Order	ASB Act 2003	Police direction to disperse from designated area, offence if breached

¹ Order of the measures was taken from the ESRC-report, but tells nothing about the chronology of the measures or the order of imposition.

Power	Legislative basis	Type¹
Designated Public Places Order	Criminal Justice & Police Act 2001	Exceptional two-step prohibition- police direction
Drinking Banning Order	Violent Crime Reduction Act 2006	Court imposed banning order, offence if breached
Alcohol related Directions to Leave an Area	Violent Crime Reduction Act 2006	Police direction becomes an offence if breached (two-step prohibition)
Crack House Closure Order	ASB Act 2003	Temporary closure of premises regardless of tenure
Premise Closure Order	Criminal Justice & Immigration Act 2008	Temporary closure of premises regardless of tenure

Source: Economic & Social Research Council (ESRC) (2009). Situating Anti-social behaviour and respect

Appendix III

Dutch ASB-related enforcement powers & tools

I Measures to Combat Soccer Vandalism and Severe Anti-Social Behaviour Act (*Wet maatregelen bestrijding voetbalvandalisme en ernstige overlast*) (1-9-2010)

Gemeentewet	Local Government Act	Further explanation
Artikel 172a	Notification duty, Restraining orders (Gebiedsverbod, groepsverbod & meldingsplicht)	<i>Mayor can impose restraining orders at local level. The jurisdiction (derived from article 172) is primarily focused on local causes of ASB in the public domain.¹</i>
Artikel 172b	Parenting order for children under 12	<i>Order not to leave children unaccompanied in certain areas</i>

Wetboek van strafvordering	Code of Criminal Procedure	
Artikel 509hh	Notification duty, restraining orders & requirement to attend counseling (Gedragsaanwijziging door de OvJ gebiedsverbod, contactverbod, meldingsplicht, hulpverlening ondergaan)	<i>Public prosecutor authorized to impose behavioral prohibitions</i>

¹ Ministerie van Binnenlandse Zaken en Koninkrijksrelaties (2010). *Handreiking Wet maatregelen bestrijding voetbalvandalisme en ernstige overlast*. Den Haag; Ministeries van BZK en Justitie.

Wetboek van Strafrecht	Titel VIII. Misdrijven tegen het openbaar gezag	<i>Criminal code</i>
Artikel 184	Hij die opzettelijk niet voldoet aan een bevel of een vordering, krachtens wettelijk voorschrift gedaan door een ambtenaar met de uitoefening van enig toezicht belast of door een ambtenaar belast met of bevoegd verklaard tot het opsporen of onderzoeken van strafbare feiten, alsmede hij die opzettelijk enige handeling, door een van die ambtenaren ondernomen ter uitvoering van enig wettelijk voorschrift, belet, belemmert of vrijdelt, wordt gestraft met gevangenisstraf van ten hoogste 3 maanden of geldboete van de tweede categorie.	(shortened translation) <i>He who intentionally does not comply with an order or a claim, under legal requirement made by authorized officials is punished by imprisonment not exceeding 3 months or a fine of the second category.</i>

II Other Dutch administrative ASB-related enforcement powers and tools

Dutch terminology	Further English explanation
Gebiedsverboden op grond van artikel 172 Gemw of Algemene Plaatselijk Verordening (APV)	<i>Restraining order on basis of APV (General Local Regulation); local councils' own municipal byelaws (which by definition are offences under Dutch law).</i>
Samenscholingsverbod	<i>In (APV) dispersal/congregation order issued by mayor for designated area.</i>
Bestuurlijke ophouding	<i>Local Government Law (Gemw) articles 154a and 176a, the mayor is authorized to detain groups temporarily.²</i>
Wet bestuurlijke boete overlant in de openbare ruimte	<i>Local council (mayor)³ may impose an administrative fine when autonomous regulations (article 154 of Gemw) are breached (other than APV). For instance; urinating in public, the wrong provision of garbage and graffiti.⁴</i>

2 Brouwer, J. & A. Schilder (1999). Het wetsvoorstel bestuurlijke ophouding, een verkenning van de rechtsstatelijke grenzen, NJB, 1640-1648.

3 <http://www.eerstekamer.nl/9370000/1/j9vvhwbtbnzpbzcc/vh5ll12xt0we>
http://wetten.overheid.nl/BWBR0023480/geldigheidsdatum_10-04-2009

4 Cachet, L. (ed.) (2008). Governance of security in the Netherlands and Belgium. Den Haag: Bju legal publishers.

III Examples of Criminal law instruments

In general within Dutch criminal law there is the possibility of different types of behavioral prohibitions, or in the phase prior to a trial, as conditions combined with a detention on remand (article 180 sr) or after trial as extra with a suspended sentence (article 14 c SR). See below for some examples.

Dutch terminology	Further English explanation
Halt-traject (& STOP for 12 minners)	Police direction for slight offences offers children (STOP; younger than twelve) the opportunity to avoid a criminal record. ^{5/6/} ⁷ Via agency dedicated to preventing youth crime (Bureau Halt). ⁸
Gedragsaanwijzingen in het kader OM-afdoening	The public prosecution service settlement law (art. 257, 3 ^e lid SV). <i>The public prosecutor and other civil servants are authorized to impose penalties for certain punishable offences. This decision is an out-of-court settlement and the suspect must declare its readiness to comply with the instructions.</i>

5 Stokkom, B. van (2007). Regulering van antisociaal gedrag. Aanpak van persistent Overlast-gevende jongeren in Engeland en Nederland. *Tijdschrift voor veiligheid*, (6) 3, 36-50.

6 Kruissink, M. & C. Verwers, (1989). *Halt: een alternatieve aanpak van vandalisme. Eindrapport van een evaluatieonderzoek naar Halt-projecten*. Arnhem: Gouda Quint.

7 Ferwerda, H, e.a. (2006). *Halt: het alternatief? De effecten van Halt beschreven. Onderzoek & beleid nr 244*. Den Haag: WODC/Boom juridische uitgevers.

8 Nauta, O. & L. Loef (2011). *Evaluatie pilot landelijk instrumentarium jeugdstrafrechtken*. Den Haag: WODC.

Curriculum vitae

At the end of 2006 Monique Koemans Msc (1968) graduated cum laude, specialising in forensic criminology at Leiden University. In her final paper *Moral panic or de-escalation?* she discussed the social construction of terrorism. Earlier in 1992, she graduated for the first time in American History at the same university. Her professional life began as a journalist with the national daily newspaper *Het Parool* (1993-1997) and until 2001 she was working abroad (Sydney, Singapore and London) as a freelance correspondent. Since January 1st 2007 Monique is working as a PhD-Fellow at the Institute for Criminal Law & Criminology at Leiden University. Her PhD-research took place within the context of the research program Criminal Justice: Legitimacy, Accountability and Effectivity. She taught introductory courses on criminology and was participating in the Research School of Safety and Security in Society (OMV). Besides this, she carried out a research project for the Police Science and Research Programme which focused on the question whether introduction of the English ASBO is advisable for the Netherlands. Monique lives with her husband Gerard and sons Benk, Taco and Niels in The Hague.

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- MI-169 P.P.J. van der Meij, *De driehoeksverhouding in het strafrechtelijk vooronderzoek*, (diss. Leiden), Deventer: Kluwer 2010, ISBN 978 90 1407 158 0
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